

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LUCAS CALIXTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
THE ARMY, *et al.*,

Defendants.

Civil Action No. 18-1551 (ESH)

ORDER

Based on the arguments of counsel and for the reasons stated on the record during the Court's status conference of November 14, 2018, it is hereby

ORDERED that by **Friday, November 16, 2018 at 5 p.m.**, defendants shall file a report describing:

- a. Whether *all* former DEP and DTP MAVNIs who were separated prior to July 20, 2018, on the basis of an unfavorable MSSD will be offered reinstatement pursuant to paragraph 5 of the October 26, 2018 memorandum, ECF No. 50-1, or if, in the alternative, only a subset of that group will receive this offer (*i.e.*, only those whose unfavorable MSSD was due to a documented counterintelligence concern). If only a subset of MAVNIs discharged prior to July 20, 2018, due to an unfavorable MSSD will receive this offer of reinstatement, defendants should describe how that subset will be identified.
- b. Whether the procedures described in the October 26, 2018 memorandum—regarding soldiers who receive an unfavorable MSSD in the future—will be applied to all DEP

and DTP MAVNIs with an unfavorable MSSD, or if these procedures will only apply to a subset of that group (*i.e.*, only those who receive an unfavorable MSSD due to a documented counterintelligence concern).

- c. Whether the Army or the Department of Defense (DOD) is required to notify the Department of Homeland Security (DHS) of a soldier's offer of reinstatement or actual reinstatement into the Army—as is expected to occur for some group of former MAVNIs pursuant to paragraph 5 of the October 26, 2018 memorandum. If the Army or DOD is required to make such notification, defendants should specify at what stage of the reinstatement process notification will be provided; it is further

ORDERED that by **Friday, November 16, 2018 at 5 p.m.**, defendants shall file the following documents with the Court:

- a. Memorandum “Military Accessions Vital to the National Interest Pilot Program,” June 21, 2017
- b. Memorandum, Assistant Secretary of the Army (Manpower and Reserve Affairs), 17 July 2017, subject: “2017 Military Accessions Vital to the National Interest (MAVNI) Pilot Program”
- c. Memorandum, Under Secretary of Defense (Personnel and Readiness), 5 April 2016, subject: “Military Accessions Vital to the National Interest Pilot Program Suitability”; it is further

ORDERED that by no later than **Friday, November 16, 2018**, plaintiffs' counsel shall provide defense counsel with the names of no more than **15** potential named plaintiffs. By no later than **Tuesday, November 20, 2018**, defense counsel shall inform plaintiffs' counsel whether each of the potential named plaintiffs is subject to the procedures outlined in the

October 26, 2018 memorandum; it is further

ORDERED that the deadline for plaintiffs to file a second amended complaint, and/or a motion for a preliminary injunction or a TRO, and/or a renewed motion for class certification is extended to **Wednesday, December 5, 2018 at 12 p.m.**



Ellen S. Huvelle

ELLEN S. HUVELLE
United States District Judge

Date: November 15, 2018