

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

LUCAS CALIXTO, *et al.*,

Plaintiffs,

vs.

DEPARTMENT OF THE ARMY, *et al.*,

Defendants.

Civil Action No. 18-1551 (ESH)

**DEFENDANTS' STATUS REPORT**

In accordance with the Court's Order entered on August 13, 2018 (ECF No. 23), Defendants respectfully submit this bi-weekly status report.

1. The Court ordered Defendants to file bi-weekly status reports with any updates regarding the Army's policy on administrative separation procedures applicable to Delayed Entry Program ("DEP") and Delayed Training Program ("DTP") members, as well as any intention to separate any DEP or DTP member in accordance with this policy. Order (ECF No. 23) at 2.

2. In accordance with the Court's Order entered on October 17, 2018 (ECF No. 46), on October 31, 2018, Defendants filed a copy of the Army's new policy memorandum dated October 26, 2018 (ECF No. 50-1) on administrative separation procedures applicable to members of the DEP and DTP who received or will receive an unfavorable Military Service Suitability Determination ("MSSD").

3. As of the date of this report, no administrative separations have been initiated in accordance with the October 26, 2018 policy memorandum.

4. The Army has offered reinstatement for the purpose of receiving the administrative due process described in paragraph 5 of the October 26, 2018 policy memorandum to former members of the DEP and DTP who were discharged or separated before July 20, 2018 due to an unfavorable MSSD resulting from a documented Counterintelligence concern.

5. In accordance with paragraph 3 of the October 26, 2018 policy memorandum, on January 3, 2019, the Army sent out the first group of notifications to individuals who received unfavorable Military Service Suitability Recommendations (“MSSRs”). As of the date of this report no additional notifications have been sent, but the Army expects to resume this process in the coming weeks.

6. The Army has received inquiries from some MAVNIs requesting further information in reference to the notifications they received. The Army will provide an appropriate response to each inquiry and will give each MAVNI sufficient time to submit their matters once the Army responds to their request for more information. No MAVNI who is subject to the October 26, 2018 memorandum will be separated prior to being afforded the process outlined therein.

Dated: February 19, 2019

Respectfully submitted,

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United States Attorney

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Chief, Civil Division

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**CERTIFICATE OF SERVICE**

I certify that on this 19th day of February 2019, I served the foregoing Defendants' Status Report upon counsel for Plaintiffs by filing said document using the Court's Electronic Case Filing System.

Dated: February 19, 2019

/s/ Roberto C. Martens, Jr.  
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