



# FACT

FOUNDATION FOR  
ACCOUNTABILITY  
AND CIVIC TRUST

November 21, 2019

Omar Ashmawy  
Chief Counsel  
Office of Congressional Ethics  
U.S. House of Representatives  
425 3rd Street, S.W., Suite 1110  
Washington, DC 20024  
Email: [oce@mail.house.gov](mailto:oce@mail.house.gov)

Dear Mr. Ashmawy,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interest over the interests of the public good. We request that the Office of Congressional Ethics (“OCE”) immediately investigate Representative Elaine Luria for campaigning in violation of Department of Defense regulations and House ethics rules.

A Member “shall conduct himself at all times in a manner that shall reflect creditably on the House.”<sup>1</sup> This rule requires compliance with all laws and regulations applicable to Members when acting in an official capacity and campaigning.<sup>2</sup> Members who are also retired military members are required to abide by the Department of Defense rules on political activity and campaigning. Under those rules, retired military members who campaign for political office cannot use past military service in any manner that would indicate the Department of Defense approves or endorses their candidacy or political positions.<sup>3</sup> Campaign materials may only reference military service within certain restrictions: Rank or service may be referenced in general biographical data, but must be accompanied by a proper disclaimer.<sup>4</sup> A photograph of the Member in military uniform cannot be the primary representation and “must be accompanied by a prominent and clearly displayed disclaimer that neither the military information nor

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<sup>1</sup> House Ethics Manual, Comm. on Standards of Official Conduct, U.S. House of Reps., at 12 (2008 ed.) (available at [https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008\\_House\\_Ethics\\_Manual.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf)) (quoting House Rule 23, clause 1).

<sup>2</sup> House Ethics Manual, at 15-16.

<sup>3</sup> Department of Defense Directive 1344.10 (available at <https://www.fvap.gov/uploads/FVAP/Policies/doddirective134410.pdf>).

<sup>4</sup> For instance, if the retired military member states their rank, they “must clearly indicate their retired or reserve status.” Directive 1344.10, sec. 4.3.1.1.

photographs imply endorsement by the Department of Defense or their particular Military Department ...”<sup>5</sup>

Unfortunately, Representative Luria has issued campaign materials directly in violation of the Defense Department Directive and House ethics rules. This month Luria issued a two-and-a-half minute campaign ad focused on her time in the Navy.<sup>6</sup> Luria’s ad contains numerous references to the military and her service in the Navy, including stating “I also didn’t spend 20 years in the Navy to allow our Constitution to be trampled on,” and showing numerous military images and photographs of her and other service members in military uniform.<sup>7</sup> Not only does the entire ad generally use military service inappropriately, but none of the required disclaimers are used in the ad. It is precisely this type of campaign materials that imply military approval and are prohibited by the Department of Defense.

Members who are retired military members must abide by both Department of Defense regulations and House Ethics rules when campaigning. Luria committed a clear violation of the Defense Department directive and consequently House Ethics rules, and we therefore urge the Committee to immediately investigate Representative Luria and impose any required penalties.

To the best of my knowledge and ability, all evidence submitted was not obtained in violation of any law, rule, or regulation. Further, I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Kendra Arnold  
Executive Director, Foundation for Accountability & Civic Trust

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<sup>5</sup> Directive 1344.10, sec. 4.3.2.1, 4.3.2. An example of the required disclaimer is also provided in the Directive: “John Doe is a member of the Army National Guard. Use of his military rank, job titles, and photographs in uniform does not imply endorsement by the Department of the Army or the Department of Defense.” Directive 1344.10, sec. 4.3.1.2.

<sup>6</sup> Andrew Duehren, *In Swing District Democrat Fundraises on Impeachment*, The Wall Street Journal, Nov. 12, 2019 (available at <https://www.wsj.com/articles/in-swing-district-democrat-fundraises-on-impeachment-11573565319>); “Elaine Luria – Oath,” Team Elaine, Youtube, Nov. 11, 2019 (available at <https://www.youtube.com/watch?v=ObQ4Bj2kg2U>).

<sup>7</sup> *Id.*