



SUPERINTENDENT
VIRGINIA MILITARY INSTITUTE

14 May 2021

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By Email to Meena.Sinfelt@btlaw.com

Re: Overview of VMI DEI Initiatives

Dear Ms. Sinfelt:

As requested, the Virginia Military Institute (“VMI”) is timely providing a description of the Institute’s initiatives in the areas of diversity, equity, and inclusion (“DEI”). This letter expands on the points outlined in our prior correspondence to the State Council of Higher Education of Virginia (“SCHEV”).

VMI has undertaken significant measures – over a period of time – to promote DEI, and for many years has fostered a supportive culture for all members of the Institute’s community.

The information summarized below is not intended to be an exhaustive survey of each and every VMI activity touching upon these crucial endeavors and has been prepared for Barnes and Thornburg (“B&T”) at its request. The Institute’s support for DEI initiatives in the Commonwealth (and beyond) is an ongoing process, and VMI’s efforts will continue to expand and evolve with practices and standards in the DEI realm.

VMI conducts all of its operations in strict compliance with all federal and state legal requirements. Moreover, VMI has always obtained and followed legal advice from its designated counsel in the Virginia Office of the Attorney General (or specially-appointed counsel, as appropriate) with regard to sensitive matters such as race, gender, equal opportunity, and Cadet discipline. Once a suspected infraction or legal violation has been reported to the Institute, VMI ensures that all complaints are handled promptly, fairly, sensitively, and consistently – across all members of the Institute’s community. Moreover, appropriate regulatory notifications are adhered to in this regard.

Finally, we remind you that VMI has produced voluminous documents in the course of this audit and investigation, including policies, procedures, training materials, rosters, disciplinary records, statistics, and spreadsheets – most, if not all, of which bears on

DEI matters across a broad spectrum of initiatives. With a few exceptions noted below, we have not attached those VMI documents here, for sake of brevity. Your full understanding of the Institute's efforts and progress must include a review of VMI's printed materials, as well as publicly available data regarding the Institute and other institutions of higher education.

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Expanded Enrollment of Cadets of Color and Under-Represented Populations

- Between 1992 and 2020, VMI has improved the enrollment of Cadets of color from 12.7% to 23.4% of each class.
- Total enrollment of Under-Represented Populations ("URP") increased from 29% in 2014 to 35% in 2020.

Recruitment and Improved Retention of Female Cadets

- Between 2009 and 2018, VMI has improved its 6-year graduation rates for female Cadets from 65% to 79%.
- Female students make up approximately 12-15% of each incoming class, with a high of 17% in 2018.

Recruitment and Retention of Diverse Academic Faculty and Coaching Staff

- 34% of full-time, tenure track faculty members are female.
- 2 (out of 15) department heads are female, as of August 2021.
- 11% of full-time, tenure track faculty are persons of color.
- Between 2013 and 2020, VMI increased its Intercollegiate Athletics Department staffing from 4 to 11 women, and from 5 to 11 ethnic minorities.
- VMI's ongoing initiatives to promote and increase diversity recruitment are detailed below.

Chief Diversity Officer

- VMI will soon announce the hiring of its first Chief Diversity Officer, reporting directly to the Superintendent.
- VMI conducted a national search, and the search committee included the various classifications of employees on Post as well as an external advisor, the Chief Diversity Officer from The Citadel.
- Target start date is July 1, 2021.

Appointment of New VMI Superintendent

- Maj. Gen. (MG) Cedric Wins (one of the signatories to this letter) was confirmed as the 15th VMI Superintendent in April 2021, by a unanimous vote of the VMI BOV. MG Wins served as interim Superintendent effective November 2020.
- Prior to assuming the role of interim Superintendent, MG Wins spent 34 years as an officer in the U.S. Army. In his final command, MG Wins was the first Commanding General of the U.S. Army Combat Capabilities Development Command. He holds two master's degrees, one in management from the Florida

Institute of Technology and one in national security and strategic studies from the National War College.

- During his time as a Cadet at VMI, MG Wins was a standout basketball player who finished his basketball career as one of the top five scorers in school history. In 1985, he graduated with a Bachelor of Arts in economics and business, and MG Wins commissioned into the Army as a field artillery officer.
- MG Wins spent much of the first three months of his tenure as VMI's interim Superintendent conducting an assessment of the culture, policies, and procedures currently in place.
- In spring 2021, MG Wins conducted at least 24 "listening sessions" with the VMI community (Cadets, faculty, staff, and alumni) on key issues, including race and gender relations, and gathered input on VMI's path forward. Themes during the staff sessions tended to focus on issues of compensation, career advancement, and working conditions. Faculty themes focused on pay, shared governance, and diversity hiring. Cadet themes centered on racism, sexism, treating all people with dignity and respect, the division between athletes and non-athletes, time management, and the importance of the honor code.
- MG Wins has identified five outcomes for the Institute moving forward:
 1. Honor. The VMI Honor Code must continue to be a way of life for each and every Cadet and alumnus.
 2. Diversity and inclusion. VMI must ensure that every Cadet, regardless of race, gender, religion, or nationality, feels a part of the VMI legacy.
 3. The VMI brand. The outward face of VMI should be built around young leaders of character who exemplify honor, civility, and service above self.
 4. Competing and winning. VMI Cadets must compete to win in the classroom, on the drill field, and on the field of competition.
 5. One VMI. VMI's strength is in its diversity of experiences, thought, abilities, and backgrounds. No single Cadet's challenge is greater than another's. It is through the reliance on their fellow Cadets that the Corps succeeds.

Appointment of the First Female Regimental Commander

- Cadet Kasey Meredith '22 has been named VMI's next Cadet First Captain and Regimental Commander, the highest-ranking position a Cadet can earn, for the 2021-2022 academic year. She is the 188th regimental commander and the first female in VMI's 182-year history to hold the position
- Cadet Meredith is an International Studies major, with a minor in Spanish, and she is a member of the Marine Corps ROTC program. Cadet Meredith plans to commission in the U.S. Marine Corps after graduation.
- As regimental commander, Meredith will be the military commander of the Corps of Cadets, responsible to the Commandant of Cadets for the training, appearance, discipline, health, welfare, and morale of the Corps.
- Cadet Meredith has taken on increasingly responsible leadership positions during her cadetship. She currently serves as the 1st Battalion Sergeant Major and has served as a Color Guard corporal, as well as a fire team leader in the Marine Corps ROTC Detachment.

On Post Success by Cadets of Color and Female Cadets

- Using a snapshot from the decade that preceded the promotion of Cadet Meredith, VMI is actively encouraging gender and racial diversity in Cadet leadership roles:
 - Regimental Executive Officers (2)
 - Battalion Commanders (4)
 - Battalion Executive Officers (2)
 - Regimental Staff Captains (18)
 - Company Commanders (19)
 - Honor Court Members (10)
 - Class Officers (4)
- In addition, between 2016 and 2020, the percentage of Institute awards earned by Cadets of color and female Cadets increased from 29% to 35% (of the total awards).

Long-Term Benefits from VMI Diversity Conference

- In 2013, VMI hosted a weekend long Diversity Conference, with several focus groups including the female, African American, and NCAA athlete Cadets.
- These focus groups provided tremendous feedback to the Institute, and resulted in a revised and expanded marketing campaign to reach a more diverse population of female, African American, and Latinx Cadet prospects.
- As a direct result of the feedback obtained at its inaugural Diversity Conference, VMI achieved a 43% increase in inquiries over a five-year period. Further, the Institute achieved a 100% increase in female early decision applicants and a 46% increase in all female applicants since 2006.

Celebrating the 50th Anniversary of VMI Integration

- In 2019, VMI hosted a panel discussion to commemorate the 50th anniversary of integrating the Institute.
- The Institute welcomed back members of the Class of 1972, the inaugural integrated class (each of whom matriculated in 1968).
- The panel discussion video is available at <https://vimeo.com/337319081>.

The Foundational Principles in the Five Pillars Plan

- As released in July 2020, VMI firmly disavows a culture that tolerates or promotes racism or discrimination.
- VMI has and will continue to act swiftly when such incidents occur.
- The five pillars: Education; the VMI Corps of Cadets; Promoting Increased Commissioning; VMI Symbology; and VMI Alumni.
- The full text is available at <https://vmi.app.box.com/v/GeneralPeayLetter-29July2020>.

- Expansion and updates of the Five Pillars are being undertaken by the Superintendent.

DEI Committee of the VMI Board of Visitors (“BOV”)

- DEI Committee formed in October 2020 to oversee and monitor all race and gender related matters.
- Includes members of the BOV, two non-voting members of the VMI staff, and one non-voting Cadet member.
- Inaugural meeting held in November 2020, and included all BOV members, the Commonwealth’s Chief Diversity Officer, the Secretary of Education, and the Deputy Secretary of Education.
- Committee charter adopted by the BOV, and the committee has been incorporated into the BOV by-laws.
- Recent meetings have included detailed reports on the Institute’s diversity dashboard, diversity recruitment planning document (draft), updates on the hiring of VMI’s Chief Diversity Officer and the *ONE Virginia Plan*.

General Adoption of Delegate Jennifer Carroll Foy’s Seven Guiding Principles on DEI

- At the October 2020 BOV meeting, Delegate Carroll Foy’s (VMI ’03) Seven Guiding Principles were adopted into the VMI Specified and Implied Task list, as follows:
 1. Updating the policies, procedures, plans, and goals to include a diverse constituency.
 2. Developing a culture where racism of any kind is not tolerated.
 3. Racism, sexism, and bullying should be handled by the Cadet run General Committee, and elevated to the same level as the Honor System – single sanction.
 4. Ongoing diversity training for the Leadership, Staff, and Faculty – conducted on a semi-annual basis.
 5. Mandatory diversity education for the entire corps.
 6. A fully funded Diversity & Inclusion office that works with the Cadet Equity Association.
 7. Partnership with organizations with proven track records of identifying qualified minority applicants who are seeking careers in civil and/or military service.
- The BOV recommended that principle #3 be further studied by the new DEI Committee with a recommendation to the full BOV.
- Additionally, the BOV recommended that principle #7 be reviewed by the DEI Committee for recommendation to the full BOV after further development and consideration.

Diversity Dashboard

- Launched in October 2020 to monitor admissions, graduation rates, and hiring at all levels of the Institute, to encourage and enhance DEI initiatives.
- Developed with input from the Teaching and Research Faculty, Administrative and Professional Faculty, Classified Employees, the Commonwealth's Chief Diversity Officer, and DEI professionals from James Madison University.
- Modeled on the Diversity Dashboard at The College of William and Mary.

Ceremonies and Memorials Naming and Review Committee of the BOV

- Formed in October 2020 to review and make recommendations to the Board regarding all confederate iconography and make recommendations going forward for naming. Specific actions approved at May 2021 BOV meeting include:
 - Removing the name of General "Stonewall" Jackson from Jackson Memorial Hall and the arch that is the main entrance to the Old Barracks.
 - Virginia Mourning Her Dead to honor all former Cadets who have died in wars and military conflicts from 1839 to present day, not just VMI Cadets who died in the Battle of New Market.
 - New Market Battle mural to be preserved and possibly moved to a new location. Contextualization of the mural is to be deployed.

Relocation of Stonewall Jackson Statue

- In October 2020, the VMI BOV voted unanimously to remove the statue of confederate General Thomas J. "Stonewall" Jackson from the Post.
- The statue was relocated to an appropriate storage location and will be erected at the New Market Battlefield in the summer of 2021.

Modification of the New Market Ceremony

- All alumni/Cadets who have sacrificed their lives in military service are remembered, across all wars, without naming any specific alumna/alumnus or Cadet, or focusing on any particular war or conflict.
- This ceremony is now known as the Memorial Parade, and it was held for the first time today, May 14, 2021.

Changes to New Cadet Orientation

- Relocated the new Cadet oath ceremony from New Market battlefield to the VMI Post and discontinued the re-enactment charge on the New Market battlefield by new Cadets.
- The theme of these events remains perseverance, determination in overcoming seemingly impossible obstacles, and the class unity.
- VMI is assessing conducting "staff rides" at the New Market battlefield in order to educate the Cadets on military tactics, and the significance of this battle to the Corps.

Relocation of Flag Poles

- Centering the Parade Ground flagpoles on New Barracks (Marshall Arch).
- Previously, the flagpoles were centered on the statue of Stonewall Jackson (since removed) and Old Barracks.
- Target completion date is August 2021.

Refurbishing the Jonathan Daniels Courtyard

- Jonathan Daniels was a VMI alumnus and valedictorian of the Class of 1961.
- Mr. Daniels was killed while protecting two black teenagers during a Civil Rights protest in 1965.
- In 1997, the VMI BOV established the Jonathan M. Daniels '61 Humanitarian Award in order to emphasize the virtue of humanitarian public service and to recognize individuals who have made significant personal sacrifices to protect or improve the lives of others.
- Previous recipients of the Daniels Award include former President Jimmy Carter, who received the inaugural award in 2001; former U.S. Ambassador to the United Nations Andrew Young, honored in 2006; international humanitarian worker Paul Hebert '68, in 2011; Georgia congressman and civil rights leader John Lewis in 2015; and children's rights activist Carolyn Miles in 2019.
- A courtyard honoring the life and memory of Jonathan Daniels is located adjacent to the VMI Barracks.
- Important enhancements include physical markers to denote key dates in Daniels' life, additional quote(s), and enhanced landscaping.

Enhanced Racial Sensitivity Training for Cadets, Faculty and Staff

- A Cadet-led Cultural Awareness Training program is currently in development. The goal of this training is to enhance the Corps of Cadets' understanding of cultural differences amongst members of the Corps and to promote civility and respect amongst the same.
- Assistance provided to the Cadets by the Assistant Commandant for Cadet Government, and the program will be enhanced by the upcoming appointment of VMI's Chief Diversity Officer.
- Resources used in this program development include input from VMI alumni, the U.S./ Department of Defense Equal Opportunity Management Institute, the VMI Alumni Association's Diversity and Inclusion Committee, ongoing focus groups with Cadets/faculty and current Cadet leadership.
- In addition, Cadet Government organizations (Officer of the Guard Association and the Cadet Equity Association) implement sensitivity/cultural awareness training in addition to punitive actions when applicable.

VMI Academic Curriculum

- Including the U.S. civil rights movement (“American Civic Experience”) as part of a new core curriculum course to be required of all Cadets. Syllabus encompasses numerous key Supreme Court cases from the Civil Rights era, as well as essential Constitutional principles.
- Expanded search for a new Chair in American Constitutional History (a privately funded, fully endowed faculty position).
- Reviewing history elective coursework for revisions to focus and syllabus, including The Civil War and Reconstruction, History of the South from 1865, 19th Century South Africa, Africa in Pre and Modern Times, The Old South and The African-American Experience.

Other DEI Coursework Components and Institute Resources

- Please see summary of VMI ROTC lessons and training in DEI matters, attached as **Exhibit A**.
- The Army, Navy, Marine Corps and Air Force ROTC academic course include DEI components across a variety of forums and tools.
- In addition, the VMI Commandant’s Office, Title IX Office, Department of Human Resources, Academic Faculty, Office of Institutional Research and Assessment, and the Center for Leadership and Ethics are engaged in training and resource development.
- For example, VMI conducts focus groups to raise awareness around unconscious bias, designing role play and discussion points to build communication skills and understand micro aggressions, creating self-assessment tools in advance of training to prepare for uncomfortable discussions, providing educational remedies to facilitate conflict resolution, and organizing reverse mentoring relationships to create awareness, opportunities for inclusion, and shared purpose.

Review and Enhancement of the Human Resources Diversity Hiring Program

- To be adopted consistent with the goals of the *ONE Virginia Plan*, the SCHEV “Pathways to Opportunity: The Virginia Plan for Higher Education,” and the Virginia Department of Human Resource Management “Navigating Pathways to Workforce Excellence” plan.
- To be finalized concurrent with the hiring of VMI’s Chief Diversity Officer.
- Expand advertising to increase diverse applicants (race, gender, veterans, and disabled).
- Revise training for hiring committee members, e.g., to address bias and discrimination.
- Include an equity coordinator on each hiring committee, and increase diversity in committee membership.
- Review hiring, onboarding and orientation processes.
- Note increase in female full time, tenure track faculty from 18% to 34% over last 10 years.
- Revise employee training, e.g., civility, diversity, discrimination, and bias in the workplace.

- Embrace an environment where every employee is aware of and responsible for advancing diversity, equity and inclusive excellence.
- Identify, evaluate and eliminate institutional barriers to inclusion.

Expansion of Cadet Recruiting Diversity Initiatives

- Building on the core goal of fostering an inclusive community of minority, female, first generation college students, and other underrepresented populations.
- Expand targeted recruiting activities within and beyond the Commonwealth (in-person, digital, direct mail, etc.).
- Tap resources in the Cadet, alumni and staff populations to help identify underrepresented populations and assist in recruitment of prospective Cadets.
- Participate in regional and national college fairs and other recruiting programs that focus on attracting students of color, females, and other underrepresented groups.
- Identify regional and Virginia high schools that enroll a high percentage of students of color and conduct admissions recruiting visits to these schools on a regular basis.
- Conduct information sessions targeting Junior ROTC programs regionally and within Virginia.
- Develop partnerships with schools, programs, and associations that work within communities to assist first generation, low-income and other underrepresented students to achieve academic success and provide opportunities for these students to educate them about the educational opportunities of higher education.
- Establish an “advisory” group comprised of Cadets, faculty, staff, and alumni to provide suggestions, feedback and guidance related to recruiting activities and other admissions functions geared toward the established goal.
- Pursue membership in the Coalition for College organization. This organization consists of a group of more than 150 colleges and universities in efforts to increase higher education access among underrepresented students and ensuring that all students have equal access to college-planning tools.
- Evaluating use of the Common Application as a means to identify, recruit, and enroll underrepresented groups.
- Expand the existing direct mail campaign to increase the number of underrepresented populations that are part of this method of identifying potential Cadets.

Consistent Implementation of Title IX Training and Compliance

- In 2017, VMI successfully completed a monitor program implemented by the U.S. Office for Civil Rights (“OCR”) of the U.S. Department of Education.
- As part of this review, VMI conducted a comprehensive assessment of the effectiveness of its efforts to prevent and address sexual harassment and sexual assault and to promote a non-discriminatory climate, and submitted this documentation to OCR.
- OCR reviewed VMI’s complete case files and determined that VMI’s responses to the reports were adequate under Title IX’s prompt and equitable standards. OCR concluded that “VMI has fulfilled the requirements of the Agreement and

that no further monitoring of VMI's compliance with the Agreement is required. We are therefore closing our monitoring of this complaint effective the date of this letter."

- VMI's policies against harassment and discrimination, including its Title IX policy, are available in multiple locations throughout Post, listed on the VMI website and distributed to Cadets and staff. In addition, Cadets are given a laminated card at the beginning of each academic year with information on VMI's Title IX policy, where reports can be made and support services available
- VMI continues to deliver and invest in training enhancements to broaden our community's understanding beyond Title IX protections and prohibited behaviors. VMI's Title IX training programs are designed not only to communicate and identify behaviors that negatively impact our community but also to create a learning experience that is intended to result in the growth and personal understanding of individual responsibilities on the part of all members.
- VMI's current training is comprehensive in describing the Institute's response to reports of misconduct and strives to educate Cadets and employees on the process of recognizing and reporting impermissible acts of discrimination, harassment, and sexual misconduct, including sexual harassment, sexual violence, intimate partner violence, and stalking.
- These trainings, in addition to being interactive and engaging, are based in research and around best practices for building healthy learning communities and promoting the value and dignity of each individual. Through a combination of internal and external programs, we deliver a wide range of training, facilitated by trained peer educators and professional staff.
- VMI's programs are delivered both in large group classes, which have included breakout sessions to practice skills, and in small group settings allowing for interaction and in-depth discussions prompted by scenarios of consent, components of healthy relationships, implicit bias, bystander empowerment, supporting survivors, and understanding various types of violence, harassment, and discrimination.
- Through an ongoing review of these Title IX educational initiatives and involving a cross-section of our Cadet and employee leadership, VMI seeks to foster a culture of empathy, trust, and psychological safety, thereby sustaining an equitable and inclusive learning environment.
- Please see document titled "IG/Title IX Coordinator- Sponsored/Related Training," attached as **Exhibit B**, which provides a month-by-month synopsis of the expansive training offered on Post.
- All Cadets complete online Anti-Harassment training.
- Cadets and staff receive annual Title IX training presented by the Inspector General/Title IX Coordinator.
- At the beginning of the academic year, Cadet leadership receives a full day of Discrimination, Harassment and Investigations training presented by Woods Rogers PLC, as well as sexual assault awareness training presented by the VMI Police, the Cadet Counseling Center and Project Horizon.
- Each Cadet class is briefed separately on Title IX at the beginning of each academic year.
- Each sophomore completes Bystander Intervention Training facilitated by the Cadet Equity Association with staff oversight in fall semester.

- Each spring semester, all cadets (organized by class) attend Sexual Assault Prevention training conducted by Campus Outreach Services.
- Each freshman completes Bystander Intervention Training in the spring semester.
- VMI is a member of the State University of New York-Student Conduct Institute (SUNY-SCI). All VMI faculty/staff participants in the Title IX grievance process to include Title IX Coordinators, investigators, decision makers, and informal resolution facilitators receive relevant Title IX and other investigation/adjudication related training through SUNY-SCI.
- VMI Title IX investigators are also provided with Title IX Coordinator and Investigator Training from Stafford & Assoc., ATIXA Investigator Training, and Virginia Office of the Attorney General Title IX Training.

The Crucial Roles of the Cadet Equity Association and Bystander Intervention Training

- The purpose of the Cadet Equity Association (“CEA”) is to provide education on equity to the Corps of Cadets, according to the guidelines established by the Superintendent’s Statement on Equity at VMI, and to maintain a post wide climate of respect and equitable treatment for Cadets.
- The mission of the Cadet-led CEA is to receive reports of incidents concerning sexual harassment and discrimination, to investigate these matters when appropriate, and to protect the privacy of the individuals involved insofar as it is possible.
- Cadets serving on the CEA receive training in procedures related to investigations and legal issues that involve gender, racial, religious, and ethnic discrimination. Sexual harassment infractions, depending on their magnitude, will be handled through the appropriate agency.
- CEA representatives facilitate Bystander Intervention Training for all freshman and sophomore class members.
- VMI fosters a culture of “see something, say something.”
- VMI also participates in the “Step Up” program developed by the University of Arizona, in partnership with the NCAA. Step Up is a prosocial behavior and bystander intervention program that educates students to be proactive in helping others.

Examples of VMI Policies Against Discrimination and Sexual Misconduct

- Superintendent’s Statement on Equity at VMI (General Order 13, January 2021), attached as **Exhibit C**.
- Discrimination, Harassment and Sexual Misconduct Policy (General Order 16, August 2020), attached as **Exhibit D**.
- Retaliation Policy (General Order 90, August 2020), attached as **Exhibit E**.
- Existing Virginia Department of Human Resource Management policies are also applicable to the Institute. See generally information available at <https://www.dhrm.virginia.gov>.

VMI's Support for Small, Woman-Owned and Minority ("SWaM") Owned Businesses

- VMI is committed to increasing participation in procurement opportunities for SWaM owned businesses.
- VMI has exceeded its goal (and the state averages) for SWaM spending in each year of the initiative. The last six fiscal years of data provided are strong evidence of the Institute's commitment to supporting historically disadvantaged businesses in the Commonwealth.
- SWaM champions have been designated to promote and support VMI's buyers as well as supporting vendor registration.
- VMI mandates SWaM goals for both prime contractors and professional service providers working with the Institute.
- See "Annual SWaM Procurement Plan FY 2021," as presented and adopted by the VMI BOV, attached as **Exhibit F**.

Enslaved Ancestors College Access Scholarship and Memorial Program

- Established by the Commonwealth of Virginia "for the purpose of reckoning with the history of the Commonwealth, addressing the long legacy of slavery in the Commonwealth, and acknowledging that the foundational success of several public institutions of higher education was based on the labor of enslaved individuals." Va. Code § 23.1-615.1(a)
- VMI, along with four other public colleges and universities, will execute this Program – without using tuition, fees or state funds – "by annually (i) identifying and memorializing, to the extent possible, all enslaved individuals who labored on former and current institutionally controlled grounds and property and (ii) providing a tangible benefit such as a college scholarship or community-based economic development program for individuals or specific communities with a demonstrated historic connection to slavery that will empower families to be lifted out of the cycle of poverty." Va. Code § 23.1-615.1(b).
- SCHEV hosted the initial work group meeting with VMI and four other schools on May 12, 2021. The other designated institutions are Longwood University, the University of Virginia, Virginia Commonwealth University and The College of William and Mary.

On a final note, the VMI Alumni Agencies – a separate 501(c)(3) organization that is independent from the Institute, and which encompasses the VMI Alumni Association, Keydet Club and Foundation – have also undertaken a very active slate of DEI initiatives, such as:

Diversity Discussions and Seminars with VMI Alumni

- Between June and December 2020, the Alumni Agencies held diversity discussions with alumni in response to the issues the nation was facing in the summer of 2020 following the George Floyd tragedy. The discussions were successful, with thirty to forty alumni participating in each session.
- In addition to these diversity discussions, the Agencies are hosting an Alumni Engagement Conference on July 22-24, 2021. One of the two keynote speakers

at the conference will focus on diversity and inclusion as well as three of the eight breakout sessions planned.

Established VMI AA Board of Directors DEI Subcommittee

- This subcommittee represents racial diversity, gender diversity, religious diversity, and LGBTQ considerations. The subcommittee holds weekly meetings, which began in November 2020. The subcommittee authored and distributed engagement surveys to minority alumni.

Supporting DEI Training Efforts

- The Alumni Agencies' DEI Subcommittee chairman works with the Commandant staff to support the Cadet Equity Association (CEA) and the Officer of the Guard Association (OGA).
- While the CEA and OGA are run by VMI and managed by the Commandant's office, the Agencies act in an advisory role to bring alumni in as appropriate.

Partnered with The Citadel Diversity Office for Best Practices and Programming Advice

- Following the establishment of its DEI Subcommittee, the VMI Alumni Agencies reached out to the Chief Diversity Officer of The Citadel to seek counsel and mentoring as the subcommittee began its efforts.
- The Chief Operating Officer of the VMI Alumni Association met with The Citadel Chief Diversity Officer in early 2021 and one of the Agencies' DEI Subcommittee members regularly sits in on The Citadel's DEI Subcommittee meetings.
- The Citadel's Chief Diversity Officer will address the VMI Alumni Agencies' DEI Subcommittee in May 2021.
- The VMI Alumni Agencies have also collaborated with The Citadel's Alumni Association and meet monthly with its DEI committee chair.

Establishing VMI Cadet-Alumni Mentoring Program

- The Alumni Agencies have a dedicated Cadet mentoring program for athletes and are working to establish a similar program for commissioned officers in all branches of the U.S. military and various academic departments.
- The Alumni Agencies have facilitated several virtual meetings to connect alumni with Cadets seeking assistance and guidance as they go through their cadetships and enter the work force as alumni.

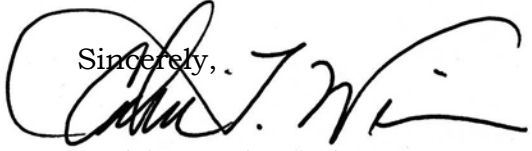
Support for Cadet Recruiting Efforts

- The DEI Subcommittee has assisted with the development of a minority recruiting brochure for VMI Admissions.
- Generally, the Agencies have established "Red/Yellow Officers" to support VMI admissions. These officers are dedicated alumni in various locales across the country who help to shepherd prospective Cadets through the admission process. They also assist Cadets preparing for matriculation.

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Thank you for the opportunity to make this submission highlighting several pertinent DEI initiatives. Please let us know if you have any further questions or comments.

Sincerely,



Cedric T. Wins '85
Major General, U.S. Army (Retired)
Superintendent, VMI



Mr. John William Boland '73
President, VMI Board of Visitors

cc: Members, VMI Board of Visitors
Cynthia H. Norwood, Esq.
Matthew B. Kirsner, Esq.
Anthony F. Troy, Esq.

EXHIBIT A



5 May 2021

MEMORANDUM

From: ROTC Commands and Units, Virginia Military Institute (VMI)
 To: Brigadier General R.W. Moreschi, Dean of Faculty, VMI

Subj: ROTC DATA CALL: LESSONS AND TRAINING IN DIVERSITY, EQUITY,
 AND INCLUSION

1. The following table summarizes Army ROTC academic courses and topics. Diversity, Equity, and Inclusion (DEI) information is included in the notes.

COURSE + (VMI Class)	Topic	Notes
MSL101 (4th)	The Profession of Army	Course indirectly addresses DEI.
MSL101 (4th)	Seven Army Values	Course specifically addresses DEI.
MSL102 (4th)	Army Leadership	Leadership, core values & character. Course indirectly addresses DEI.
MSL201 (3rd)	Theories of Leadership	Leadership, core values & character. Course indirectly addresses DEI.
MSL201 (3rd)	Leadership Analysis	Leadership, core values & character. Course indirectly addresses DEI.
MSL201 (3rd)	Cultural Awareness	Course specifically addresses DEI.
MSL201 (3rd)	Applying the Army Values to a Tactical Problem I	Leadership, core values & character. Course indirectly addresses DEI.
MSL202 (3rd)	Applying the Army Values to a Tactical Problem II	Leadership, core values & character. Course indirectly addresses DEI.
MSL202 (3rd)	Team Building	Course indirectly addresses DEI.
MSL202 (3rd)	Counseling Practical Exercise	Course indirectly addresses DEI.
MSL202 (3rd)	Counseling & Coaching Methods	Course indirectly addresses DEI.
MSL301 (2nd)	Leadership Behavior and Peer Evaluations	Leadership, core values & character. Course indirectly addresses DEI.
MSL302 (2nd)	Bases of Power and Influencing Others	Course indirectly addresses DEI.
MSL302 (2nd)	Motivating Soldiers	Course indirectly addresses DEI.
MSL302 (2nd)	Managing Conflict/Negotiations	Course specifically addresses DEI.
MSL302 (2nd)	The Army Professional Ethic - Honorable Living	Leadership, core values & character. Course indirectly addresses DEI.
MSL302 (2nd)	Direct Level Leadership	Leadership, core values & character. Course indirectly addresses DEI.
MSL302 (2nd)	Emotional Intelligence + Meyers-Briggs	Course indirectly addresses DEI.
MSL401 (1st)	Developing Others I	Course indirectly addresses DEI.
MSL401 (1st)	Developing Others II (Counseling)	Course indirectly addresses DEI.
MSL401 (1st)	The Army's Equal Opportunity Program	Course specifically addresses DEI.
MSL401 (1st)	The Uniform Code of Military Justice	Course specifically addresses DEI.

MSL401 (1st)	The Army's SHARP Program (Sexual Harrassment, Assault/Rape Prevention)	Course specifically addresses DEI.
MSL401 (1st)	Ethical Decision Vignette - Ordinary Soldiers (entire class focused on managing these issues at platoon level)	Leadership, core values & character. Course indirectly addresses DEI.
MSL401 (1st)	Comprehensive Soldier & Family Fitness (CSF2)	Course indirectly addresses DEI.
MSL401 (1st)	Cross Cultural Competency	Leadership, core values & character. Course indirectly addresses DEI.
MSL402 (1st)	Platoon Leadership	Leadership, core values & character. Course indirectly addresses DEI.
MSL402 (1st)	Taking Charge I (Expectations & Responsibilities)	Leadership, core values & character. Course indirectly addresses DEI.
MSL402 (1st)	Preventing Toxic Leadership	Course specifically addresses DEI.

2. The following table summarizes required Service-Specific Army training and topics related to Equal Opportunity and Diversity, Equity, and Inclusion.

Forum	Topic	Notes
Online Instruction	Equal Opportunity Training	All Army Cadre must complete the 1-hr online instruction once per year. Completion certificates maintained at the program level. (Mr. JB)
Online Instruction	Anti-Harassment Training	All Army Cadre must complete the 1-hr online instruction once per year. Completion certificates maintained at the program level. (Mr. JB)
In-Person Conf	Army Combating Extremism	COL Brannon and SGM Reed attended combating extremism training led by our higher HQs in Charlotte, NC on 19 March.
Team Meeting	D&I + Extremism Training	All Army Cadre conducted 1-hr training on 24 March IAW SECDEF Directive.
Canvas / In-Person	D&I + Extremism Training	All Army Cadets received the same training as Cadre, with the Cadre leading the discussions. Our HQs mandated that 100% Army cadets receive the training NLT 1 April. Army ROTC was complete on 30 March.

3. The following table summarizes current Army ROTC "command climate" assessment efforts that address the issues of Equal Opportunity and Diversity, Equity, and Inclusion.

Tool	Notes
Climate and Team Dynamic Survey	AROTC volunteered for a climate and team dynamic survey from Air Force PACE (Profession of Arms Center of Excellence) in 2020-2021.
Army Command Climate Survey	Command climate surveys are initiated within 90-days of a Commander assuming command, and once per year thereafter. As the PMS billet is not a "command" billet for the Army, this survey is completed by our HQs at

	Fort Knox. The most recent was completed 30 April 2021. All VMI Army ROTC Cadre participate in the survey and the results are shared to the PMS and SGM for action, if warranted. Status: Results pending.
DEOCS	AROTC uses the DEOCS portal like the other services. Our HQ's Commander changes on 11 June 2021, and a new survey will be generated at that time.

4. The following table summarizes Naval ROTC academic courses and topics. Diversity, Equity, and Inclusion (DEI) information is included in the notes. In addition, the XO conducted Equal Opportunity training during the first lab period of the academic year. The Command Senior Chief (CMDCS) conducted mandatory (annual) sexual harassment/sexual assault training. The CMDCS also conducted two Diversity town halls with staff and cadets (one per semester).

COURSE + (VMI Class)	Topic	Notes
NS100 (4th)	Emphasis: Core Values & Basic Leadership Training	Leadership, core values & character.
NS101 (4th)	Intro to Naval Science	Leadership, core values & character. Course indirectly addresses DEI.
NS102 (4th)	Seapower and Maritime Affairs	Naval History, leadership, core values & character. Course indirectly addresses DEI.
NS111 (4th)	All-hands NROTC Leadership Lab.	Topics cover the gambit of USN & USMC real-life Leadership application, to include: Service-specific Core Values, Leadership & Followership as a Commissioned Officer within a diverse and ever-changing cultural community, and ensuring equal and unbiased training and selection for promotion & retention within the ranks. Course specifically addresses DEI.
NS112 (4th)	All-hand NROTC Leadership Lab	
NS200 (3rd)	Emphasis: Human Relations & Managing Diversity as a Naval Officer	
NS203 (3rd)	Leadership & Management I	Leadership, core values & character. Course specifically addresses DEI.
NS205 (3rd)	Ship Navigation	Not Applicable.
NS206 (3rd)	Evolution of Warfare I	Not Applicable.
NS211 (3rd)	All-hand NROTC Leadership Lab	Topics cover the gambit of USN & USMC real-life Leadership application, to include: Service-specific Core Values, Leadership
NS213 (3rd)	All-hand NROTC Leadership Lab	

NS216 (3rd)	All-hand NROTC Leadership Lab	& Followership as a Commissioned Officer within a diverse and ever-changing cultural community, and ensuring equal and unbiased training and selection for promotion & retention within the ranks. Course specifically addresses DEI.
NS300 (2nd)	Emphasis: Leading Diverse Organizations	
NS303 (2nd)	Fundamentals of Maneuver Warfare	Not Applicable
NS304 (2nd)	Leadership, Weapons, and Tactics	Leadership, core values & character. Course indirectly addresses DEI.
NS308 (2nd)	Naval Engineering	Not Applicable
NS309 (2nd)	Naval Weapons Systems	Not Applicable
NS313 (2nd)	All-hand NROTC Leadership Lab	Topics cover the gambit of USN & USMC real-life Leadership application, to include: Service-specific Core Values, Leadership & Followership as a Commissioned Officer within a diverse and ever-changing cultural community, and ensuring equal and unbiased training and selection for promotion & retention within the ranks. Course specifically addresses DEI.
NS314 (2nd)	All-hand NROTC Leadership Lab	
NS318 (2nd)	All-hand NROTC Leadership Lab	
NS319 (2nd)	All-hand NROTC Leadership Lab	
NS400 (1st)	Emphasis: Leading Diverse Organizations	
NS402 (1st)	Leadership and Ethics	Leadership, core values & character. Course specifically addresses DEI.
NS403 (1st)	Evolution of Warfare II	Course indirectly addresses DEI.
NS408 (1st)	Naval Operations and Seamanship	Not Applicable
NS411 (1st)	All-hand NROTC Leadership Lab	Topics cover the gambit of USN & USMC real-life Leadership application, to include: Service-specific Core Values, Leadership & Followership as a Commissioned Officer within a diverse and ever-changing cultural community, and ensuring equal and unbiased training and selection for promotion & retention within the ranks. Course specifically addresses DEI.
NS412 (1st)	All-hand NROTC Leadership Lab	
NS413 (1st)	All-hand NROTC Leadership Lab	
NS414 (1st)	All-hand NROTC Leadership Lab	

5. The following table summarizes required Service-Specific Navy and Marine Corps training and topics related to Equal Opportunity and Diversity, Equity, and Inclusion.

Forum	Naval Program	Notes
USN Directive In-Person Instruction	"Task Force One Navy"	USN-directed training to identify and remove racial barriers, improve inclusion efforts, create new opportunities for professional development, and eliminate obstacles to enter the Navy. Schedule: TBD
USMC Directive In-Person & online Instruction	USMC Equal Opportunity	USMC-directed annual training that covers Marine Corps policy, procedures, & responsibilities for preventing and responding to prohibited conduct involving sexual harassment, discrimination, harassment, hazing, bullying, dissident and protest activities, and wrongful distribution or broadcasting of intimate images.

6. The following table summarizes current Naval ROTC "command climate" assessment efforts that address the issues of Equal Opportunity and Diversity, Equity, and Inclusion.

Tool	Notes
DEOCS	Each year all Naval ROTC Units are required by the Naval Service Training Command (NSTC) to conduct a Command Climate Survey through the DEOCS portal. The VMI NROTC conducted their last DEOCS in November 2020. The next survey will be in Oct-Dec 2021. Results of the 2020-2021 DEOCS survey are provided via SEPCOR.

7. The following table summarizes Air Force ROTC academic courses and topics. Diversity, Equity, and Inclusion (DEI) information is included in the notes.

COURSE + (VMI Class)	Topic	Notes
AS100 (4th)	Core Values (Values Exercise)	Leadership, core values & character. Course indirectly addresses DEI.
AS200 (3rd)	Human Relations	Leadership, core values & character. Course specifically addresses DEI.
AS300 (2nd)	Leading Diverse Organizations	Leadership, core values & character. Course specifically addresses DEI.
AS400 (1st)	Religious Accommodation	Course indirectly addresses DEI.

8. The following table summarizes required Service-Specific Air Force training and topics related to Equal Opportunity and Diversity, Equity, and Inclusion.

Forum	Topic	Notes
Team Meeting	D&I Unconscious Bias Training	AFROTC conducted 60min training 01Apr21; Training consisted of an Air Force "Neurons & Narratives" video & guided discussions. Course specifically addresses DEI.

9. The following table summarizes current Air Force ROTC "command climate" assessment efforts that address the issues of Equal Opportunity and Diversity, Equity, and Inclusion.

Tool	Notes
Command Climate and Dynamic Survey	AFROTC volunteered for a climate and team dynamic survey from Air Force PACE (Profession of Arms Center of Excellence) in 2020-2021.
DEOCS	All Air Force ROTC Units are required to conduct a Command Climate Survey through the DEOCS portal. Survey and results for the 2020-2021 AY are pending.

10. Please contact COL Brannon, Col Streeter, or Col. Cooper if you have any questions regarding Army, Navy/Marine Corps, or Air Force Equal Opportunity and/or Diversity, Equity, and Inclusion classes and training.

//S//
 COL J.S. Brannon
 Army ROTC, VMI

//S//
 Col C.H. Streeter
 NROTC, VMI

//S//
 Col. P.J. Cooper
 Air Force ROTC, VMI

EXHIBIT B

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

DATE	TIME	PLACE	TOPIC	AUDIENCE	TRAINER
JUNE/JULY	ALL DAY	VIRTUAL	ATIXA LEVEL ONE TITLE IX INVESTIGATORS TRAINING COURSE	NEW TITLE IX ASSISTANTS	ATIXA PRESENTERS
JUNE/JULY	1600-1630	CORMACK HALL	TITLE IX & SAFETY BRIEFING	SUMMER TRANSITION PROGRAM COUNSELORS & STAFF	IG/TITLE IX COORDINATOR
STP START DATE JUNE/JULY	1600-1630	MALLORY HALL	IG & TITLE IX BRIEFING	SUMMER TRANSITION PROGRAM STUDENTS & STAFF	IG/TITLE IX COORDINATOR
JULY/AUGUST	ALL DAY	HOST COLLEGE	THE FOUR CORNERS OF TITLE IX REGULATORY COMPLIANCE	IG STAFF AND COMM STAFF MEMBERS	DCJS PRESENTERS
AUGUST	1000-1030	TURMAN ROOM/PRESTON LIBRARY	OC/AOC TITLE IX TRAINING	OC/AOC & COMPANY TAC OFFICERS	ASST IG/DEPUTY COMMANDANT/IG/TITLE IX COORDINATOR
AUGUST	2130-2230	NICHOLS ENGINEERING BUILDING	CADET GOVERNMENT TRAINING	GC/OGA/CEA/RDC CADET MEMBERS	ASST. IG /DEPUTY COMMANDANT
AUGUST	0900-0930	MARSHALL HALL	CADRE GUIDANCE	CADRE/CADET GOVERNMENT LEADERSHIP	SUPERINTENDENT
AUGUST	0930-1030	MARSHALL HALL	CADRE RULES & REGULATIONS	CADRE/CADET GOVERNMENT LEADERSHIP	COMMANDANT
AUGUST	1400-1600	MARSHALL HALL	CADET GOVERNMENT INVESTIGATIONS PROCEDURES	GC/OGA/CEA CADETS	ASST. IG/DEPUTY COMMANDANT

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

AUGUST	1600-1630	MARSHALL HALL	CADRE IG/TITLE IX BRIEFING	CADET CADRE & CADET GOVERNMENT LEADERSHIP	IG/TITLE IX COORDINATOR
AUGUST	0830-1630	PRESTON LIBRARY	DISCRIMINATION & HARASSMENT INVESTIGATIONS TRAINING	GC/OGA/CEA CADET LEADERSHIP	WOODS ROGERS PLC
AUGUST	0930-1000	MARSHALL HALL	NEW CLASSIFIED EMPLOYEE TITLE IX TRAINING	NEW CLASSIFIED & WAGE EMPLOYEES	IG/TITLE IX COORDINATOR
AUGUST	1945-2030	JM HALL	CADET GOVERNMENT CADRE BRIEFINGS	CADRE & CORPS OF CADET LEADERSHIP	GC, CEA & OGA CADET LEADERSHIP
AUGUST	0930-1030	PRESTON LIBRARY	TITLE IX TRAINING	GC/OGA/CEA CADET LEADERSHIP	VMI GENERAL COUNSEL
AUGUST	1030-1200	PRESTON LIBRARY	SEXUAL ASSAULT AWARENESS TRAINING	GS/OGA/CEA/EMT CADET LEADERSHIP	VMI POLICE, VMI CADET COUNSELING CENTER & PROJECT HORIZON
AUGUST	1300-1500	PRESTON LIBRARY	SAFE TALK/SUICIDE PREVENTION TRAINING	GC/OGA/CEA CADET LEADERSHIP	CADET COUNSELING STAFF
AUGUST	1015-1045	MARSHALL HALL	NEW FACULTY & STAFF TITLE IX TRAINING	NEW FACULTY & STAFF	IG/TITLE IX COORDINATOR
AUGUST	0830-900	PRESTON LIBRARY	SEXUAL ASSAULT RESPONSE PROTOCOL TRAINING	GC/OGA/CEA CADET LEADERSHIP	ASST. IG/DEPUTY COMMANDANT
AUGUST	0900-1200	PRESTON LIBRARY	BYSTANDER INTERVENTION TRAINING	OGA/CEA CADET FACILITATORS & STAFF FACILITATORS	ASST. IG/DEPUTY COMMANDANT & CEA CADET LEADERSHIP

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

AUGUST	1900-2000	JM HALL	SAFETY, HEALTH & WELLNESS BRIEFING	ENTIRE RAT CLASS	COMMANDANT/IG TITLE IX COORDINATOR & CADET GC/CEA/OGA/EMT LEADERSHIP
AUGUST	2000-2030	JM HALL	SAFETY, HEALTH & WELLNESS BRIEFING	FEMALE RATS	IG/INFIRMARY/COMM STAFF/CCC/ FEMALE CADET LEADERSHIP
JUL/AUG		PRE-MATRICULATION ONLINE COURSE	ALCOHOL ABUSE PREVENTION	ENTIRE RAT CLASS	E CHECKUP TO GO PRESENTERS
AUGUST	2030-2130	JM HALL	INTRODUCTION TO THE GC	ENTIRE RAT CLASS	ASST. IG/DEPUTY CDMT GC CADET OFFICERS & REPS
AUGUST	1300-1330	SMITH HALL	ATHLETIC DEPARTMENT IG/TITLE IX BRIEFING	NEW ATHLETIC DEPARTMENT STAFF	IG/TITLE IX COORDINATOR
AUGUST	1930-2100	JM HALL	INTRODUCTION TO THE CEA & OGA	ENTIRE RAT CLASS	ASST. IG/DEPUTY CDMT CEA/OGA CADET OFFICERS & REPS
AUGUST	0800-0915	MARSHALL HALL	CLASS BRIEFING	ENTIRE FIRST CLASS	SUPERINTENDENT & COMMANDANT
AUGUST	0800-0830	MARSHALL HALL	CLASS TITLE IX BRIEFING	ENTIRE SECOND CLASS	ASST. IG/DEPUTY CDMT CEA LEADERSHIP
AUGUST	0930-1030	MARSHALL HALL	CLASS BRIEFING	ENTIRE THIRD CLASS	SUPERINTENDENT & COMMANDANT
AUGUST	0930-1000	MARSHALL HALL	CLASS TITLE IX BRIEFING	ENTIRE FIRST CLASS	ASST. IG/DEPUTY CDMT CEA LEADERSHIP
AUGUST	1045-1200	MARSHALL HALL	CLASS BRIEFING	ENTIRE SECOND CLASS	SUPERINTENDENT AND COMMANDANT
AUGUST	1330-1400	MARSHALL HALL	CLASS TITLE IX BRIEFING	ENTIRE THIRD CLASS	ASST. IG/DEPUTY CDMT CEA LEADERSHIP

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

AUGUST	1600-1630	CORMACK HALL	TITLE IX BRIEFING	RAT CHALLENGE CADRE & STAFF	IG/TITLE IX COORDINATOR
SEPTEMBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION FACILITATORS' TRAINING	CADET & STAFF FACILITATORS	ASST. IG/DEPUTY CDMT AND CEA LEADERSHIP
SEPTEMBER	1600-1630	TURMAN ROOM/PRESTON LIBRARY	TITLE IX BRIEFING	CLUB COACHES & ADVISORS	IG/TITLE IX COORDINATOR
SEPTEMBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	1 ST BN THIRD CLASS CADETS	CEA/OGA CADET AND STAFF FACILITATORS
SEPTEMBER	1200-1300	VIRTUAL	NACUA WEBINAR: OCR RULE MAKING REVIEW	IG/TITLE IX COORDINATOR	NACUA PRESENTER
SEPTEMBER	1830-1930	PROJECT HORIZON	TITLE IX OVERVIEW	PROJECT HORIZON STAFF & VOLUNTEERS	IG/TITLE IX COORDINATOR
SEPTEMBER	1200-1400	VIRTUAL	NACUA WEBINAR: CREDIBILITY & INVESTIGATIONS	TITLE IX STAFF & HEARING DECISION MAKERS	NACUA PRESENTER
OCTOBER	2-3 HOURS	ONLINE COURSE	NOT ANYMORE HARASSMENT & SEXUAL ASSAULT PREVENTION TRAINING	ENTIRE RAT CLASS	STUDENT SUCCESS VIDEO PRESENTERS
OCTOBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	2 ND BN THIRD CLASS CADETS	CEA/OGA CADET AND STAFF FACILITATORS
OCTOBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	2 ND BN THIRD CLASS CADETS	CEA/OGA CADET AND STAFF FACILITATORS

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

OCTOBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	1 ST BN THIRD CLASS CADETS	CEA/OGA CADET AND STAFF FACILITATORS
OCTOBER	ALL DAY	WEST POINT, NY	USMA ANNUAL RELATIONSHIP SYMPOSIUM	ASST. IG AND CADET LEADERSHIP REPS	USMA PRESENTERS
OCTOBER	1200-1330	SCOTT SHIPP HALL	GO 16 SENIOR LEADERSHIP TRAINING	SENIOR LEADERSHIP	VMI GENERAL CONSUL AND IG/TITLE IX COORDINATOR
OCTOBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	2 ND BN THIRD CLASS CADETS	CEA/OGA CADET AND STAFF FACILITATORS
OCTOBER	1100-1130	MALLORY HALL	WELLNESS BRIEFING	ENTIRE RAT CLASS	CEA & OGA CADET LEADERSHIP
NOVEMBER	ALL DAY	VIRTUAL	NATIONAL ACADEMY OF SCIENCES ANNUAL CONFERENCE: SEXUAL HARASSMENT IN ACADEMIA	IG STAFF	NATIONAL ACADEMY OF SCIENCES PRESENTERS
NOVEMBER	1100-1130	JM HALL	RING FIGURE SAFETY BRIEFING	ENTIRE SECOND CLASS	ASST. IG/DEPUTY CMDT AND COMM STAFF
NOVEMBER	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	1 ST BN THIRD CLASS CADETS	CEA/OGA CADET & STAFF FACILITATORS
NOVEMBER	1100-1300	TURMAN ROOM/PRESTON LIBRARY	FACULTY/STAFF TITLE IX Q&A	FACULTY & STAFF	IG STAFF
JANUARY	1000-1030	PRESTON LIBRARY	OC/AOC TITLE IX TRAINING	OC/AOC & COMPANY TAC OFFICERS	IG/TITLE IX COORDINATOR
JANUARY	1000-1030	PRESTON LIBRARY	TITLE IX UPDATE TRAINING	ATHLETIC DEPARTMENT STAFF	IG/TITLE IX COORDINATOR

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

JANUARY	1 HOUR	ONLINE TRAINING	NOT ANYMORE TITLE IX COMPLIANCE TRAINING	ATHLETIC DEPARTMENT STAFF	STUDENT SUCCESS VIDEO PRESENTERS
JANUARY	0800-0900	MARSHALL HALL	SEXUAL ASSAULT PREVENTION TRAINING	ENTIRE RAT CLASS	CAMPUS OUTREACH SERVICES
JANUARY	0800-0900	MARSHALL HALL	SEXUAL ASSAULT PREVENTION TRAINING	ENTIRE FIRST CLASS	CAMPUS OUTREACH SERVICES
JANUARY	0930-1030	CORPS PHYSICAL TRAINING FACILITY	SEXUAL ASSAULT PREVENTION TRAINING	ENTIRE SECOND CLASS	CAMPUS OUTREACH SERVICES
JANUARY	0930-1030	MARSHALL HALL	SEXUAL ASSAULT PREVENTION TRAINING	ENTIRE THIRD CLASS	CAMPUS OUTREACH SERVICES
JANUARY	1600-1700	COCKE HALL	BYSTANDER INTERVENTION FACILITATORS' TRAINING	CADET & STAFF FACILITATORS	ASST. IG/TITLE IX COORDINATOR & CEA LEADERSHIP
JANUARY	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	1 ST BN RAT MASS CADETS	CEA/OGA CADET AND STAFF FACILITATORS
FEBRUARY	1945-2000	JM HALL	MIDWINTER FORMAL SAFETY BRIEFING	ENTIRE FOURTH CLASS	COMMANDANT
FEBRUARY	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	2 ND BN FOURTH CLASS	CEA/OGA CADET AND STAFF FACILITATORS
FEBRUARY	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	2 ND BN FOURTH CLASS	CEA/OGA CADET AND STAFF FACILITATORS

IG / TITLE IX COORDINATOR - SPONSORED/RELATED TRAINING

FEBRUARY	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	1 ST BN FOURTH CLASS	CEA/OGA CADET AND STAFF FACILITATORS
FEBRUARY	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	2 ND BN FOURTH CLASS	CEA/OGA CADET AND STAFF FACILITATORS
MARCH	1100-1200	MALLORY HALL & SCOTT SHIPP HALL	BYSTANDER INTERVENTION TRAINING	1 ST BN FOURTH CLASS	CEA/OGA CADETAND STAFF FACILITATORS
MARCH	ALL DAY	PORTSMOUTH, VIRGINIA	DCJS ANNUALCAMPUS SAFETY & VIOLENCE PREVENTION FORUM	IG/TITLE IX COORDINATOR AND IG STAFF MEMBERS	DCJS PRESENTERS
APRIL	ALL DAY	USNA, ANNAPOLIS, MARYLAND	ANNUAL DOD NAT'L DISCUSSION ON SEXUAL ASSAULT & SEXUAL HARRASSMENT AT AMERICA'S COLLEGES & SERVICE ACADEMIES	IG/TITLE IX COORDINATOR	DOD PRESENTERS
MAY	1145-1200	JM HALL	SUMMER SCHOOL SAFETY BRIEF	FIRST SESSION SUMMER SCHOOL STUDENTS	IG/TITLE IX COORDINATOR AND COMM STAFF
JUNE	1145-1200	JM HALL	SUMMER SCHOOL SAFETY BRIEF	SECOND SESSION SUMMER SCHOOL STUDENTS	IG/TITLE IX COORDINATOR AND COMM STAFF

EXHIBIT C

VIRGINIA MILITARY INSTITUTE
Lexington, Virginia

GENERAL ORDER)
NUMBER 13)

21 January 2021

Superintendent's Statement on Equity at VMI

Throughout its service to the nation, the Virginia Military Institute has sustained a noteworthy record of producing graduates who become leaders in the armed forces, public service, business, the professions, and many other venues. I believe the quality of the graduate of the Institute derives in no small measure from the historical culture of VMI that places all new cadets on the same level in the "rat line" and as they live together through four years in the closest of environments within the Corps of Cadets. This regimen develops individual and collective talents as a class as they learn and grow through the various programs of the Institute.

As Superintendent of the Virginia Military Institute, I expect us to maintain a culture of civility and mutual respect. Failure by any individual to treat any other member of the VMI community with respect and dignity may constitute a violation of this policy. The daily activities in the administration, the faculty, and the Corps shall be conducted in a manner that meets the highest standards for the equitable treatment of every individual. In pursuit of this goal, any question of impermissible discrimination, including harassment, based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, pregnancy, genetic information, or against otherwise qualified individuals on the basis of disability or based on any other status protected by law will be addressed with impartial process, efficiency and energy. A civil environment in the Corps, where every cadet should expect to bear the same burdens, meet the same expectations and enjoy the same benefits, depends upon each one of us. For instance, each one of us, in any position of authority--from coaches to cadre, from professors to the Commandant's staff--is responsible for application and enforcement of all VMI policies and regulations in a neutral, even-handed manner.

Pursuant to Virginia Code § 23.1-806, VMI employees must report knowledge of incidents of sexual violence directly to the Inspector General. Further, reports of any conduct potentially in violation of General Order 16, Discrimination, Harassment, and Sexual Misconduct, and General Order 90 Retaliation Policy, must be made to the Inspector General. I am available at any time to discuss and address issues related to impermissible discrimination directly. All reports of conduct in violation of the letter – or the spirit – of this Order, shall be reviewed and addressed in an impartial, thorough and efficient manner, and there shall not be any reprisal or retaliation for any such report.

It is my hope and expectation the environment of civility and mutual respect that is a necessary foundation for our success will be advanced by the direction, VMI organizational structure, procedures, and policies embodied in the following program elements: Superintendent's Open Door policy; General Order 16, Discrimination, Harassment, Sexual Misconduct, General Order 90, Retaliation Policy; and the Office of the Inspector General including the Inspector General's comprehensive training program for cadets and employees.

Cedric T. Wins
Major General, U.S. Army (Retired)
Interim Superintendent

DIST: E, Cadets

EXHIBIT D

VIRGINIA MILITARY INSTITUTE
Lexington, Virginia

GENERAL ORDER)
NUMBER 16)

14 August 2020

Discrimination, Harassment, and Sexual Misconduct

- 1. Policy.** The Virginia Military Institute is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. In pursuit of this goal, any question of impermissible discrimination on these bases will be addressed with efficiency and energy and in accordance with this policy and VMI's Grievance Procedures (Appendix A). VMI's Retaliation Policy, General Order 90, and the Grievance Procedures also address complaints or reports of retaliation against those who have opposed practices prohibited by this policy, those who have filed complaints or reports under this policy, and those who have testified or otherwise participated in enforcement of this policy. Questions regarding discrimination prohibited by Title IX of the Education Amendments of 1972, or other federal law, may be referred to the VMI Inspector General and Title IX Coordinator (collectively "IG"), Colonel (COL) Jeffrey Boobar, 212 Carroll Hall, 540-464-7072, boobarjr@vmi.edu, or to the U.S. Department of Education's Office for Civil Rights.
- 2. Purpose.** The purpose of this policy is to establish clearly and unequivocally that VMI prohibits discrimination, harassment, and sexual misconduct by individuals subject to its control or supervision and to set forth procedures by which such allegations will be filed, investigated, and adjudicated.
- 3. Applicability.** This policy applies to on-Post conduct involving VMI cadets, employees, faculty, and staff, visitors to Post (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange cadets, and other students taking courses or participating in programs at VMI), and contractors working on Post who are not VMI employees, and to VMI cadets, visiting students, employees, faculty, and staff participating in VMI-sponsored, recognized, or controlled activities off Post. Conduct by cadets in violation of this policy will be addressed in a manner consistent with other cadet misconduct that is subject to discipline under the Blue Book or as an honor offense. Allegations of violations of this policy should be reported to the IG in accordance with the guidance below and the Grievance Procedures.
- 4. Definitions**

 - A. Discrimination** is inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, pregnancy, genetic information, disability, or any other status protected by law – that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or

condition of an individual's employment, education, living environment, or participation in an Institute program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

- B. **Harassment** is a form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of his or her protected characteristics or statuses, by any member of the Institute community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Harassment violates this policy when it creates a hostile environment, as defined below.

- C. **Sexual harassment** is a form of discrimination based on sex. It is defined as unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

This policy prohibits the following types of sexual harassment:

- 1) Term or condition of employment or education. This type of sexual harassment (often referred to as "quid pro quo" harassment) occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment, or participation in an Institute activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in an Institute program or activity.

- 2) Hostile environment. Acts that create a hostile environment, as defined below.

- D. **Hostile environment** may be created by oral, written, graphic, or physical conduct that is sufficiently severe, pervasive, and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from the Institute's educational programs, services, opportunities, or activities or the individual's employment access, benefits, or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, pervasive, and objectively offensive and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved;

(d) the perspective of a “reasonable person” in the same situation as the person subjected to the conduct, and (e) the nature of higher education and the Institute's military training program.

- E. **Responsible employee** includes all VMI employees other than the following individuals who are designated as confidential employees: the Institute Physician and other medical personnel at the VMI Infirmary, counselors at the Cadet Counseling Center, and the VMI Chaplain. Contractors and their employees working at VMI are not considered responsible employees. A responsible employee must report to the IG all relevant information received about an incident or conduct that potentially is in violation of this policy as soon as practicable after addressing any immediate needs of the victim of such conduct.
- F. **Actual Knowledge** is present when an alleged violation of this policy is reported to the IG, a member of the IG/Title IX coordinator staff, or any responsible employee as defined above.
- G. **Sexual misconduct** includes sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking.
- 1) Sexual assault is non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent through the use of force, fear, intimidation, physical helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly); intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's genital area, groin, inner thigh, buttocks or breast; and non-consensual sexual intercourse, defined as anal, oral, or vaginal penetration with any object.
 - 2) Consent is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.
 - 3) Sexual coercion means the application of an unreasonable amount of pressure to gain sexual access. Continued pressure after an individual has made clear that he or she does not want to go beyond a certain point of sexual interaction can be coercive. In evaluating coercion, the Institute will consider: (a) frequency of the application of pressure; (b) the intensity of the pressure; (c) isolation of the person being pressured; and (d) duration of the pressure.
 - 4) Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or an STD to another, or exposing one's genitals to another in non-consensual circumstances.

- 5) Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- 6) Domestic violence is a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the laws of the Commonwealth of Virginia; or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family laws of the Commonwealth of Virginia. Domestic violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse.
- 7) Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling."

5. Retaliation

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, harassment, or sexual misconduct to include testifying, assisting, or participating in any manner in an investigation pursuant to this policy is strictly prohibited. Allegations of retaliation will be investigated per General Order 90 and the Grievance Procedures. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, harassment, or sexual misconduct. Retaliation prohibited by General Order 90 includes any harassment, intimidation, threat, or coercion against the IG, an Assistant Title IX Coordinator, or external investigator for the purpose of interfering with his or her job responsibilities.

6. Reporting

- A. Conduct allegedly in violation of this policy may be reported promptly by all cadets, employees, and visitors. VMI's IG serves as the Title IX Coordinator and is responsible for overseeing the investigation of all reports of alleged discrimination, harassment, or sexual misconduct in accordance with the Grievance Procedures (See Appendix B for Investigations Flowchart). Except for confidential employees, all employees receiving such reports or complaints must immediately notify the IG and must not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the IG.
- B. The VMI Inspector General and Title IX Coordinator is COL Jeffrey Boobar. The members of the Inspector General/Title IX Coordinator's staff are COL Samuel Allen, LTC Jessica Libertini, LTC Abbey Carrico, and Susan LeMert. Sergeant First Class (SFC) Christopher Bean, assigned to the Commandant's staff, serves as an Assistant Title IX Coordinator for cadets. Their contact information is listed below:

COL Jeffrey Boobar
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LTC Abbey Carrico
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carricoab@vmi.edu

SFC Christopher Bean
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beanacs@vmi.edu

- C. All employees, other than the confidential employees detailed in Section 8 of this policy, who receive information regarding a complaint or report of discrimination, harassment, or sexual misconduct must report any relevant information about the alleged incident to the IG as soon as practicable after addressing the needs of the victim. No VMI employee will undertake any independent efforts to determine whether or not the report or complaint has merit or can be substantiated before reporting it to the IG.
- D. Reports made by Cadets: Cadets may report alleged violations of this policy to the IG or a member of his staff, the Commandant or the Assistant Commandant for Cadet Government, or the Cadet Equity Association (CEA). Other than reports made to confidential employees in accordance with Section 8 of this policy, reports received by all other employees from cadets must be forwarded to the IG.
- E. CEA responsibility: Any member of the CEA receiving a report of alleged discrimination, harassment, or sexual misconduct may report it immediately to the Assistant Commandant for Cadet Government. Upon receiving a report from the CEA, the Assistant Commandant for Cadet Government must notify the IG without delay. Neither the CEA nor the Assistant Commandant for Cadet Government will undertake any independent efforts to determine whether or not the report or complaint has merit or can be substantiated before reporting it to the IG.
- F. Reports made by visitors or contractors: Visitors, including visiting students and employees of contractors working on Post, will report alleged violations of this policy to the IG or a member of the IG's staff listed above.
- G. All members of the VMI community are expected to provide truthful information in any report or proceeding under this policy and the Grievance Procedures. Submitting or providing false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy and the Grievance Procedures is prohibited and subject to honor charges for cadets or employee discipline under the appropriate policy. This provision does not apply to reports made or information provided in good faith, even if the facts as alleged are not later substantiated by a preponderance of the evidence.

7. Criminal Reporting

If a victim is in immediate danger or needs immediate medical attention, contact 911 (blue emergency lights on post connect directly to 911) or the VMI Police (540-463-9177). Some conduct in violation of this policy may also be a crime under Virginia law. Individuals are strongly encouraged to report incidents of sexual misconduct to law enforcement, even if the reporting individual is not certain if the conduct constitutes a crime. VMI will provide assistance to victims in notifying law enforcement if the victim so chooses. Crimes involving minors must be reported to law enforcement.

8. Confidentiality and Anonymous Reporting.

Institute officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to make a confidential report, it must be made to the Institute Physician and other medical personnel at the VMI Infirmary, counseling personnel at the Cadet Counseling Center, or the VMI Chaplain. These individuals will encourage victims to make a report to the VMI Police, the IG, or local law enforcement. Other Institute officials receiving reports of conduct in

violation of this policy are responsible employees and, thus, mandated reporters, but will maintain privacy to every extent possible without compromising the Institute's ability to investigate and respond in accordance with applicable law and regulations.

Notwithstanding a complainant's request that law enforcement not be informed of an incident, the Institute is required pursuant to Virginia Code § 23.1-806 to report information about an incident to law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act, 34 C.F.R. § 99.36, as detailed in the Sexual Violence Threat Assessment provisions of the Grievance Procedures (Appendix A). The IG may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the IG to conduct a meaningful and fair investigation. If the complainant requests confidentiality and does not file a signed formal complaint with the IG, the Institute also may be limited in the actions it is able to take and its ability to respond.

9. Timely Warnings

VMI is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the VMI community. The Institute will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the VMI community to make decisions to address their own safety in light of the potential danger.

10. Emergency Removal

A respondent may be removed from Post or other education program or activity on an emergency basis, provided that VMI undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any cadet or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. The VMI Threat Assessment Team will decide whether a situation warrants an emergency removal.

11. Sexual Misconduct Survivor/Victim Procedures and Services

- A. VMI will assist sexual misconduct survivors/victims in a supportive manner, implementing the procedures set out herein. Because of the potential seriousness and sensitivity of the investigations involved, it is important to undertake these investigations properly. Preserving the evidence is often a key step of successful investigation of alleged sexual misconduct.
- B. Recommended procedure for anyone who has experienced sexual misconduct:
 - 1) Go to a safe place.
 - 2) For safety and confidential care, report promptly to the VMI Infirmary, Stonewall Jackson Hospital, or the nearest medical facility/emergency room. You may request a Sexual Assault Advocate if one is not provided. Physical evidence may be usable if proper procedures are followed for evidence collection within 96 hours of the assault.
 - 3) Contact a trusted friend or family member. For professional and confidential counseling support, contact Cadet Counseling (540-464-7667) or Project Horizon. Among other services, Project Horizon offers survivors a 24-hour Hotline (540-463-

- 2594), emergency shelter, crisis intervention, counseling, applicable referrals, and court advocacy.
- 4) It is your right to have evidence collected and retained anonymously by law enforcement while you consider whether to pursue criminal charges. Evidence preservation is enhanced in the following ways:
 - a. Do not wash your hands, bathe, or douche. Do not urinate, if possible.
 - b. Do not eat, blow your nose, drink liquids, smoke, or brush your teeth if oral contact took place.
 - c. Keep the clothing worn when the assault took place. If you change clothing, place the worn clothing in a paper bag (evidence deteriorates in plastic).
 - d. Do not destroy any physical evidence that may be found in the vicinity of the assault by cleaning or straightening the location of the crime. The victim should not clean or straighten the location of the crime until law enforcement officials have had an opportunity to collect evidence.
 - e. Tell someone all the details you remember or write them down as soon as possible.
 - f. Maintain text messages, pictures, online postings, video and other documentary or electronic evidence that may corroborate a complaint.
 - C. Complainants should report as soon as possible to maximize VMI's ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair VMI's ability to adequately respond to the allegations.
 - D. The victim will have the right to file a complaint with law enforcement and the option to be assisted by the IG and other Institute authorities in notifying the proper law enforcement authorities of the alleged sexual misconduct.
 - E. VMI officials (excluding VMI Police) receiving reports of a possible sexual misconduct will follow the procedures listed in VMI's Sexual Misconduct Response Protocol located in the Commandant's office and Officer in Charge room. VMI Police will follow departmental procedures.
 - F. Resources for Victims of Sexual Misconduct
 - 1) Any cadet or visiting student who reports sexual misconduct to the IG, Officer in Charge, Institute Physician, Cadet Counseling, or VMI Chaplain will receive information outlining resources and options. VMI Police protocol includes coordination with Project Horizon.
 - 2) The IG or an Assistant Title IX Coordinator will advise victims of the resources available with Project Horizon and encourage use of these resources. Any individual who is reported to be the victim of sexual misconduct will receive from the IG or his staff information on contacting Project Horizon and services available through Project Horizon's memorandum of understanding with VMI.
 - 3) Cadets and visiting students will be assisted with available options for changing academic classes, and transportation, parking, work, and living arrangements after alleged sexual misconduct. Safety arrangements such as no-contact orders and escorts are also available as needed.

11. Inspector General/Title IX Coordinator Oversight

The IG oversees the investigation and resolution of all reports by cadets, visiting students, faculty, and administrative staff of alleged discrimination, harassment, or sexual misconduct

in accordance with the Grievance Procedures. Reports of violations of this policy by the IG should be made to the Superintendent.

12. Supportive Measures

The Institute will offer supportive measures, as appropriate, to both the complainant and the respondent during the investigation and resolution of complaints of discrimination, harassment, or sexual misconduct, as well as, any law enforcement investigation, to address the safety of the complainant, the respondent, or any member of the VMI community, and to avoid retaliation. If, in the judgment of the IG or other VMI leadership, the safety or well-being of any member of the VMI community may be jeopardized by the presence on-Post of the complainant or the respondent, the IG will notify the Threat Assessment Team. VMI will seek the consent of the complainant and the respondent before taking supportive measures to the greatest degree possible. Supportive measures will be individualized and may include, but are not necessarily limited to, changes in classroom schedules or barracks arrangement, no-contact orders between the parties, bar from Post, escorts on Post, referral and coordination of counseling and health services, and modification of work, academic, or training requirements. The Institute may temporarily reassign or place on administrative leave an employee alleged to have violated this policy. In such situation the employee will be given the opportunity to meet with the Chief of Staff prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented.

13. Sanctions

If it is determined that conduct in violation of this policy has occurred, sanctions will be determined in accordance with the Grievance Procedures. Consequences for violating this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, and any history of past conduct in violation of this policy. Sanctions may include penalties up to and including dismissal for cadets and termination for employees. In addition to sanctions that may be imposed on an individual found in violation of this policy, the Institute will take steps to prevent recurrence of any discrimination, including sexual misconduct, and to remedy discriminatory effects on the complainant and others, if appropriate.

14. Cadet Amnesty

In order to facilitate reporting, the Institute will, with the following limited exceptions, provide amnesty to a cadet who reports an incident in violation of this policy, directed toward that cadet or another cadet, for minor disciplinary infractions, such as underage drinking or fraternization, at the time of the incident. Amnesty may not be offered if (1) the minor disciplinary infraction places or placed the health or safety of any other person at risk or (2) the cadet who committed the disciplinary infraction previously has been found to have committed the same disciplinary infraction. If amnesty is provided, no conduct proceedings or conduct record will result for minor disciplinary infractions. Amnesty for minor disciplinary infractions also may be offered to cadets who are witnesses in an investigation under this policy, who intervene to help others before a violation of this policy occurs, or who receive assistance or intervention. Abuse of amnesty requests may result in a decision by the Commandant not to extend amnesty to the same cadet repeatedly. Infractions that

constitute honor offenses will not be considered minor policy violations for which amnesty may be offered under this provision.

15. Education and Awareness

- A. VMI has developed the VMI REACH OUT app for safety and security information. The home page of the app displays icons that direct users to information, reporting contacts, and services they may need. The app can be downloaded free of charge from the Apple App Store and from Google Play. Search for the “REACH OUT College Edition” app, download it, and select “Virginia Military Institute” when prompted. For more information about sexual misconduct and resources available in the local community, please visit the Project Horizon website at www.projecthorizon.org.
- B. The IG's Office coordinates an education, training, and awareness program on discrimination, harassment, and sexual misconduct for cadets and employees, including training on primary prevention, bystander intervention, risk reduction, consent, and other pertinent topics.

16. Academic Freedom and Free Speech

This policy does not allow curtailment or censorship of constitutionally protected expression, which is valued in higher education and by the Institute. In addressing all complaints and reports of alleged violations of this policy, the Institute will take all permissible actions to ensure the safety of cadets and employees while complying with any and all applicable legal authority regarding free speech rights of cadets and employees. This policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.

FOR THE SUPERINTENDENT:

James P. Inman
Colonel, US Army (Ret.)
Chief of Staff

DIST: E, Cadets

Appendix A:

Grievance Procedures

Purpose: These procedures provide a prompt and equitable resolution for complaints or reports of discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law, including complaints alleging harassment or sexual misconduct prohibited by General Order (GO) 16. Any person who believes he or she has been subjected to discrimination or harassment on any of these bases may file a complaint with the Institute as outlined in these procedures. These procedures also address any complaints or reports of retaliation against individuals who have filed complaints or reports of discrimination, who have opposed discriminatory practices, and those who have testified or otherwise participated in investigations or proceedings arising from complaints or reports of discrimination, harassment, or sexual misconduct. Questions regarding discrimination prohibited by Title IX of the Education Amendments of 1972, or other federal law, may be referred to the VMI Inspector General and Title IX Coordinator (IG), COL Jeffrey Boobar, 212 Carroll Hall, 540-464-7072, boobarjr@vmi.edu, or to the U.S. Department of Education's Office for Civil Rights.

Complaints and Reporting

Complaints and reports of discrimination, harassment, and sexual misconduct should be made to VMI's Inspector General ("IG") who serves as the Institute's Title IX Coordinator. The IG is responsible for overseeing the investigation of all reports of alleged discrimination, harassment, or sexual misconduct and is trained to help individuals who file complaints and those against whom complaints are filed find resources, to investigate reported incidents, and to respond appropriately to conduct alleged to be in violation of GO 16. Individuals receiving reports or complaints of discrimination, harassment, or sexual misconduct should notify the IG as soon as practicable after addressing the immediate needs of the victim and must not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the IG.

The VMI Inspector General and Title IX Coordinator is COL Jeffrey Boobar. The members of the Inspector General/Title IX Coordinator staff are COL Samuel Allen, LTC Jessica Libertini, LTC Abbey Carrico, and Susan LeMert. SFC Christopher Bean serves as an Assistant Title IX Coordinator for cadets. Their contact information is listed below:

COL Jeffrey R. Boobar
212 Carroll Hall
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LTC Abbey Carrico
423 Scott Shipp Hall
540-464-7276
carricoab@vmi.edu

SFC Christopher Bean
113 Third Barracks
540-464-7413
beansc@vmi.edu

Reports of conduct in violation of GO 16 should be made as soon as practicable after addressing the immediate needs of the victim and may be made orally or in writing, including by electronic mail directly to the IG. The IG also will accept, without comment or need for explanation, a sealed envelope addressed to the “Inspector General.” The envelope, at a minimum, need only contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. Individuals also can report incidents anonymously online through the IG webpage: (<http://www.vmi.edu/issuesandconcerns>) or by leaving an anonymous message with the IG's hotline (540-464-7702). With all reports other than those made anonymously, the reporting individual will be contacted promptly for an interview with a member of the Inspector General’s staff or an external investigator when applicable.

Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of GO 16 are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s) and any witness(es), promptly after an incident.

The Role of the IG

The IG and the Office of the IG are charged with coordinating the Institute's compliance with federal civil rights laws. The IG does not serve as an advocate for either the complainant or the respondent. The IG will explain to all parties the rights and procedures outlined in these procedures. As appropriate, the IG will provide all parties with information about obtaining medical and counseling services, making a criminal report, receiving advocacy services including those offered by Project Horizon, and guidance on other Institute and community resources. The IG will offer to coordinate with other VMI leadership, when appropriate, to implement supportive measures as described below. The IG will explain to all parties the process of a prompt, adequate, reliable, and impartial investigation, including the opportunity for both complainant and respondent to identify witnesses and provide other evidence. The IG will

explain to all parties both the initial hearing process in front of a decision maker and the appeals hearing process in front of an appeals officer. The IG will explain to all parties the right to have a personal advisor of their choice present throughout the process, as well as, the right to have VMI assign an advisor to either party for the initial hearing process if needed. The IG will explain to each party the right to review and respond to the allegations and all evidence collected during the IG investigation. The IG will also explain to the parties and witnesses that retaliation for reporting alleged discrimination, harassment, or sexual misconduct, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported immediately and will be promptly addressed per GO 90.

Explanation of Sexual Misconduct Rights and Options

When a cadet or VMI employee reports that he or she has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off Post, the cadet or VMI employee will be provided an explanation of rights and options, which will include:

1. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including information about:
 - A. The importance of seeking medical attention and of the collection and preservation of evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order;
 - B. How and to whom the alleged offense should be reported;
 - C. Options about the involvement of local law enforcement and the VMI Police, including the victim's option to:
 - 1) Notify proper law enforcement authorities, including local law enforcement and/or the VMI Police;
 - 2) Be assisted by VMI staff in notifying law enforcement authorities, if the victim so chooses; and
 - 3) Decline to notify such authorities; and
 - D. The rights of victims and VMI's responsibilities regarding no contact orders, restraining orders, protective orders, or similar orders;
2. Information about how the Institute will protect the confidentiality of victims and other parties, including how the Institute will:
 - A. Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the victim;
 - B. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the Institute to provide the accommodations or protective measures; and
 - C. Ensure confidentiality of investigative files as education records protected by the Family Educational Rights and Privacy Act (FERPA), including that the process for the Sexual Violence Threat Assessment in accordance with Virginia Code § 23.1-806 could, if the incident poses to members of the VMI community a health or safety emergency as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for

investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the victim or other individuals.

3. Notification of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the Institute and in the local community;
4. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures, regardless of whether the victim chooses to report the crime to VMI police or local law enforcement; and
5. The procedures for VMI investigation, adjudication, and disciplinary action, including the right to decline to participate in a VMI investigation.

Criminal Reporting and Coordination

The IG will make all complainants aware of the right also to file a complaint with the VMI Police or local law enforcement and will encourage accurate and prompt reporting when the complainant elects to report. If a victim of sexual assault, dating violence, domestic violence, or stalking is physically or mentally incapacitated for at least ten (10) calendar days, and thereby unable to report the incident to law enforcement, then the IG will make such report. VMI will comply with all requests by the VMI Police Department or local law enforcement for cooperation in investigations. Such cooperation may require the IG to temporarily suspend the fact-finding aspect of a Title IX investigation detailed in the procedures below while the VMI Police or the appropriate law enforcement agency conducts a criminal inquiry.

Confidentiality, Anonymity, and Requests Not to Pursue Title IX Investigation

Institute officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to keep a report confidential, it must be made to the Institute Physician and other medical personnel at the VMI Infirmary, counseling personnel at the Cadet Counseling Center, or the VMI Chaplain. These individuals will encourage victims to make a report to the VMI Police, the IG, or local law enforcement. Other Institute officials receiving reports of conduct in violation of this policy are responsible employees and, thus, mandated reporters, but will maintain privacy to every extent possible without compromising the Institute's ability to investigate and respond in accordance with applicable law and regulations. The IG may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the IG to conduct a meaningful and fair investigation.

If the complainant requests confidentiality and does not sign a formal written complaint, the Institute may be limited in the actions it is able to take and its ability to respond while respecting the request. The complainant will be asked to sign a statement stating a desire not to sign a formal written complaint. Notwithstanding a complainant's request that local law enforcement not be informed of an incident, the Institute is required pursuant to Virginia Code § 23.1-806 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the

implementing regulations of the Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. § 99.36, and as detailed in the Sexual Violence Threat Assessment provisions, below.

Sexual Violence Threat Assessment

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any VMI cadet; or (ii) on Post, in or on a VMI building or property, or on public property that is on Post or immediately adjacent to and accessible from Post, the IG will promptly inform a review committee of the report, including personally identifying information. The review committee will be comprised of, at a minimum, the IG, the Chief of the VMI Police, and the Commandant of Cadets, or their designees. The review committee may consult other VMI officials depending on whether the accused individual is a cadet, faculty, or staff member and the circumstances of the report. The review committee will be advised by VMI counsel.
2. Within 72 hours of receipt of the report from the IG, the review committee will meet to review the information and will continue to meet as necessary as new information becomes available. If the criteria in Paragraph 1 are met, the review committee will convene regardless of whether or not the victim has notified the VMI Police or local law enforcement or whether or not the victim has requested that VMI proceed with a Title IX investigation.
3. The review committee may obtain law-enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident of sexual harassment or sexual misconduct and other evidence known to VMI, including the VMI Police, and local law enforcement. The review committee will be considered to be a threat assessment team established pursuant to Virginia Code § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*) The review committee will comply with the Family Educational Rights and Privacy Act in conducting its review.
4. In addition to the available information detailed in Paragraph 3, above, the review committee will consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
 - A. Other sexual misconduct complaints about the same individual;
 - B. Prior arrests or reports of misconduct at another institution or a history of violent behavior;
 - C. Threats of further sexual misconduct against the reporting individual or others;
 - D. A history of failing to comply with a no-contact order issued by Institute officials;
 - E. Allegations of multiple perpetrators in the same incident;
 - F. Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;

- G. Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
- H. Use of a weapon in the reported incident or a prior incident;
- I. A victim under the age of 18 or who is significantly younger than the accused individual;

The review committee will also consider whether means exist to obtain evidence other than investigation by law enforcement or a Title IX investigation such as security camera footage, eyewitness reports from security or guard personnel, or physical evidence.

5. If based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to local law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the Chief of the VMI Police will immediately disclose such information to the law-enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the Chief of the VMI Police may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the IG will notify the victim that such disclosure is being made. The provisions of this paragraph will not apply if the law enforcement agency responsible for investigating the alleged incident is located outside the United States.
6. If information is disclosed to law enforcement under Paragraph 5 or if the review committee determines that sufficient factors exist to proceed with a Title IX investigation, despite the stated desires of the victim for confidentiality or not to proceed with an investigation, the IG will proceed with a full investigation under these procedures. In those situations, the IG will notify the victim that VMI is overriding the victim's requests for confidentiality and not to sign a formal written complaint. Other than the disclosure under Paragraph 5, if made, the information will only be shared with individuals who are responsible for handling VMI's response to incidents of sexual violence and VMI will ensure that any information maintained by VMI is maintained in a secure manner.
7. If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 *et seq.*) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the Chief of the VMI Police or any other member of the review committee, the Chief of the VMI Police will inform other members of the review committee and will notify the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide information received without disclosing personally identifying information, unless such information was disclosed to a law-enforcement agency pursuant to Paragraph 5.
8. At the conclusion of the Sexual Violence Threat Assessment, the IG and the Chief of the VMI Police will each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review

committee's determination considerations, which will be maintained under applicable state and federal law.

Supportive Measures

The Institute will offer supportive measures, as appropriate, to both the complainant and the respondent during investigations of alleged violations of this policy and the resolution process and any law enforcement investigation, to address the safety of the complainant, the respondent, or any member of the VMI community, and to avoid retaliation. If, in the judgment of the IG or other VMI leadership, the safety or well-being of any member of the VMI community may be jeopardized by the presence on-Post of the complainant or the respondent, the IG will notify the Threat Assessment Team. VMI will seek the consent of the complainant and the respondent before taking supportive measures to the greatest degree possible. Supportive measures will be individualized and may include, but are not necessarily limited to, changes in classroom schedules or barracks arrangement, no-contact orders between the parties, bar from Post, escorts on Post, referral and coordination of counseling and health services, and modification of work, academic, or training requirements. The Institute may temporarily reassign or place on administrative leave an employee alleged to have violated GO 16. In such situation, the employee will be given the opportunity to meet with the Chief of Staff prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented.

Timely Warnings

VMI is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the VMI community. The Institute will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the VMI community to make decisions to address their own safety in light of the potential danger.

Coordination with the Cadet Equity Association

As the Institute's Title IX Coordinator, the IG is responsible for overseeing all complaints of discrimination, harassment, and sexual misconduct and identifying and addressing any pattern or systemic problems that arise during the review of such complaints. The Cadet Equity Association (CEA) is charged with monitoring and enforcing a Post-wide climate of respect and equitable treatment within the Corps of Cadets.

Any member of the CEA receiving a report of alleged discrimination, harassment, or sexual misconduct may report it without delay to the Assistant Commandant for Cadet Government/Assistant Title IX Coordinator. The Assistant Commandant for Cadet Government as an Assistant Title IX Coordinator will, upon receipt of the complaint by the CEA, notify the IG without delay. Neither the CEA members nor the Assistant Commandant for Cadet Government will undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the IG. The Office of the IG will conduct all investigations of allegations of discrimination, harassment, or sexual misconduct in violation of GO 16 in accordance with the procedures below.

Investigation and Resolution

Upon receiving information concerning alleged violations of GO 16, the IG will determine whether the conduct constitutes a possible violation of GO 16 and whether VMI has jurisdiction to conduct an administrative investigation into the incident. Jurisdiction exists under the following three conditions: 1) the conduct occurred against a person in the United States, 2) the conduct occurred during a VMI education program or activity, and 3) at the time of filing a formal complaint, the complainant must be participating in or attempting to participate in a VMI education program or activity. An education program or activity includes locations, events, or circumstances over which VMI exercised substantial control over both the respondent and the context in which the incident occurred, and also includes any building owned or controlled by a cadet organization that is officially recognized by VMI. Additionally, for jurisdiction relating to sexual harassment, if the conduct alleged does not rise to the level of severe, pervasive, and objectively offensive even if the allegations are assumed to be true, then dismissal of the investigation under GO 16 is mandatory. This determination likely will occur after an investigation has begun.

If the IG determines that VMI does not have jurisdiction over the incident, the allegation must be dismissed pursuant to GO 16, but may be adjudicated pursuant to other VMI policies, including but not limited to in accordance with GO 13 or GO 17. Regarding sexual harassment, conduct that is determined not to be severe, pervasive, and objectively offensive, as required by Title IX of the Civil Rights Act of 1964 as amended (Civil Rights Act), may be addressed under other policies, including those that may consider Title VII of the Civil Rights Act relating to employment discrimination in which the standard for sexual harassment is the alleged conduct must be severe, pervasive, or objectively offensive.

The complainant has the right to appeal the IG decision to dismiss the allegation per the appeals procedures explained below. The IG may also dismiss an allegation if the complainant requests in writing to withdraw a formal complaint, the respondent is no longer enrolled or employed by VMI, or if specific circumstances prevent VMI from gathering evidence sufficient to reach a determination.

Once a formal written complaint is signed by a complainant or the IG alleging violations to GO 16, there are two possible methods for investigating, adjudicating, and resolving the alleged complaint: informal and formal resolution. The IG will explain the informal and formal procedures to both the complainant and the respondent, if known. The complainant and the respondent have the option to proceed under an informal resolution process. Both parties must voluntarily sign a written request to enter into an informal resolution process. This process is voluntary and either party can terminate their participation in the process and request a formal resolution at any time. In all cases, VMI will ensure there is no actual conflict of interest or bias among officials involved in the investigation and resolution of complaints to include the IG, Assistant Title IX Coordinators, Decision Makers, Appeals Officers, and Informal Resolution Facilitators. VMI will also strive to avoid even the appearance of conflict of interest or bias in all cases.

1. Informal Resolution Process

- A. Only after a formal complaint has been filed, the complainant and the respondent can request an informal resolution process to address the allegation. Both parties must provide their voluntary consent in writing to participate in the informal process. Either party can withdraw from the informal process at any time. Prior to commencing an informal resolution process, the IG will provide both parties with written notice of the allegations and describe the informal process. This written notice must include a statement that either party can withdraw from the informal process and resume a formal process at any time prior to a resolution being reached. The IG will also advise both parties that they are allowed to have one advisor of their choice participate in the process if they so choose.
- B. The Informal Resolution Process cannot be utilized when the complainant is a student and the respondent is an employee.
- C. Upon commencing the informal resolution process, the IG will assign an Informal Resolution Facilitator to oversee the process. This Informal Resolution Facilitator will be a member of the Institute staff who has received formal training on being a resolution facilitator. The Informal Resolution Facilitator will work with the complainant and the respondent in order to mediate a resolution that is satisfactory to both parties. Any resolution through the informal process must adequately address the concerns of the complainant, as well as the rights of the respondent and the responsibility of the Institute to prevent, address, and remedy alleged violations of GO 16. Informal resolution remedies might include providing training, providing counseling to an individual whose conduct, if not ceased, could rise to a higher level of policy violations, confidential briefing of the respondent's work supervisor, use of penalties through the cadet governance system, use of penalties through the Human Resources Department, or other methods deemed appropriate by the facilitator. Informal resolutions will be reviewed and approved by the IG. All parties will be provided written notification of the resolution of the complaint through the informal process.
- D. There will be no right of appeal afforded to the complainant or the respondent following the completion of an informal resolution process.

2. Formal Resolution Process and Decision Maker Hearing

- A. A formal complaint is a physical or electronic document that describes the facts alleged and is signed by an alleged victim of a GO 16 policy violation or the IG. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in a VMI education program or activity, including as an employee. The IG may also sign a formal complaint based on several factors to include the severity of the conduct alleged, the risk that the conduct may be repeated, multiple reports of serious misconduct against the same respondent, and the availability of evidence. The complaint may be supplemented by additional supporting documents, evidence, or recommendations of witnesses to be interviewed during the course of the investigation. The complainant must also disclose if a formal complaint has been filed with another VMI office, or a state or federal agency for the same offense.
- B. Once a formal complaint is filed, the respondent will be provided a copy of the complaint and written notice of (i) the identities of all involved parties; (ii) the specific section of the Blue Book or applicable policies allegedly violated; (iii) the precise conduct allegedly

constituting the potential violation; and (iv) the date, or a reasonable approximate date, and location of the alleged incident. This notice will also include a statement that the respondent is presumed not responsible and that a determination of responsibility will not be made until the conclusion of the grievance process. Such written notice will be provided in advance of any interview of the respondent with sufficient time to prepare for meaningful participation. If the scope of the investigation expands, the IG will issue a supplemental written notice providing additional details and will provide additional time to the respondent to prepare a response before any initial interview occurs regarding those additional charges.

- C. If more than one respondent is involved in the alleged violations of GO 16, then the complainant must file a separate formal complaint against each respondent. The IG may choose to consolidate the cases once the separate complaints are filed.
- D. During the investigation, all parties will be provided equal opportunity to present witnesses, including both fact and expert witnesses, together with other inculpatory and exculpatory evidence. All parties will have the same opportunity to review and respond to evidence obtained during an investigation.
- E. The IG will consider whether supportive measures and involvement of other VMI leadership is appropriate. The IG also will confirm that the matter involves an alleged violation of GO 16, thereby conferring jurisdiction on the Office of the IG. If the IG determines that the Office of the IG does not have jurisdiction, the IG will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate on-Post and off-Post resources to address the issues.
- F. The IG will conduct a prompt, adequate, reliable, and impartial fact finding investigation of the complaint. Only the IG, a trained investigator assigned to the Office of the IG, or a trained external investigator will conduct the investigation. All investigations of complaints alleging violations of GO 16 will be overseen by the IG, except as indicated below. Investigations will be transparent to the complainant and the respondent. The IG will assign the investigator, which may include the use of an external investigator if deemed appropriate. Once an investigator is assigned, the complainant and the respondent will be notified and will have three (3) business days from notification to file a written statement claiming that an investigator likely has a conflict of interest or will be biased. The statement must include details regarding why possible bias or a conflict of interest is suspected. If a bias or conflict-of-interest claim is reasonable, the IG will select a replacement for the applicable investigator. If the IG is suspected of possible bias or conflict of interest, then an external investigator chosen by the Superintendent will conduct the investigation and the VMI Chief of Staff will oversee the investigation.
- G. Only evidence that is relevant to the allegations in the complaint will be considered at any stage of the process. "Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation in the complaint more or less likely to be true.
- H. Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the formal complaint. It will include any: 1) Evidence that is relevant, even if that evidence does not end up being relied upon by VMI in making a determination regarding responsibility; and 2) inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

- I. The complainant and the respondent may designate an advisor of their choice to accompany him or her at any meeting or proceeding during the formal investigation. The role of such advisors will be limited to advice and consultation. Neither the advisor for the complainant nor the advisor for the respondent will be permitted to question witnesses, raise objections, or make statements or arguments at any meetings or proceedings during the investigation. If either party has retained legal counsel, the party must immediately notify the IG of such representation. The role of counsel for the parties will be limited to advice and consultation with the attorney's client. The legal counsel will not be permitted to question witnesses, raise objections, or make statements or arguments to the IG or external investigator when applicable. If either party does not choose to have an advisor of his/her choice, the IG will assign an advisor to that party in order to participate in the initial hearing phase of the process.
- J. The IG will provide written notice to the parties and any witnesses of any interview, meeting, or hearing that the individual is expected to attend. This notice will allow sufficient time for the party to prepare to participate and will include the date, time, location, purpose, and participants of the meeting.
- K. The IG or external investigator when applicable will prepare a written report of the fact finding investigation. The IG or external investigator will provide a draft copy of this written report along with a copy of all evidence gathered during the investigation to both parties and their advisors in electronic format. The parties will have ten (10) business days to submit a written response to the IG or external investigator. Upon finalizing the investigative report, the IG or external investigator will send a copy of the final report in electronic format to the parties and their advisors at least ten (10) business days prior to the hearing. The IG or external investigator will provide a copy of the final report and a copy of all evidence gathered during the investigation to the Decision Maker who will be overseeing the hearing.
- L. The Decision Maker will be a member of the Institute staff who has received formal training on being a decision maker and overseeing a student conduct hearing. Upon receiving an investigative report from the IG or external investigator, the Decision Maker will notify all parties and their advisors of the date, time, and location of the hearing. The Decision Maker, with assistance from the IG, will also notify all witnesses involved of the date, time, and location of the hearing. The hearing will typically be scheduled within fifteen (15) business days of the Decision Maker's receipt of the investigative report. If extension beyond fifteen (15) business days is necessary, all parties will be notified of the expected timeframe. If either the complainant or the respondent suspects that the Decision Maker could be biased or have a conflict of interest, then that party has three (3) business days from notification of the name of the Decision Maker to file a written statement claiming that the Decision Maker likely will be biased or has a conflict of interest. The statement must include details regarding why possible bias or a conflict of interest is suspected. If a bias or conflict-of-interest claim is reasonable, the VMI Chief of Staff will select a replacement Decision Maker.
- M. The Decision Maker will convene a live hearing concerning the formal complaint involving all parties, their advisors, and all witnesses. This live hearing will be recorded via video or audio or transcribed by a licensed court reporter. While the hearing will be live, either party can request a separate room where they will have the technology to simultaneously see and hear the proceedings.

- N. The Decision Maker will preside over the hearing, including the presentation of evidence, the questioning of witnesses, and the cross-examination of witnesses by each party's advisor. The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the Institute will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party. If a party or witness refuses to submit to cross-examination, the Decision Maker will ignore any prior statements provided by that party or witness. The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. The Decision Maker will determine the relevancy of questions and explain during the hearing any decision not to permit a question. Questions about the past sexual history or sexual character of a party to the complaint, complainant or respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the respondent, in the form of previous findings in any Institute or judicial proceeding will be admissible. The parties will be notified in advance of the hearing if any information concerning prior conduct is deemed admissible.
- O. The Decision Maker may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in his or her absence, including through any evidence gathered that does not constitute a "statement" by that party. For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement does not include a document, audio recording, audiovisual reading, or digital media, including but not limited to text messages, emails, or social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.
- P. The advisor is not prohibited from being a witness in the matter. If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on his or her behalf. If neither a party nor their advisor appears at the hearing, VMI will provide an advisor to appear on behalf of the non-appearing party.
- Q. VMI, and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of GO 16 has occurred. This burden does not rest with either party, and either party may decide not to share his or her account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from VMI and does not indicate responsibility.
- R. VMI cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information.
- S. The Decision Maker will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove or disprove the allegations).
- T. Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
- U. After the hearing, the Decision Maker will issue within ten (10) business days a written determination of responsibility based on the preponderance of evidence standard of evidence. The "preponderance of evidence" standard requires that the weight of the

evidence, in totality, supports a finding that it is more likely than not that the alleged misconduct occurred. The Decision Maker will consider only the evidence that is directly related to the allegations. In determining whether alleged harassment has created a hostile environment, the Decision Maker will consider not only whether the conduct was unwelcome to the complainant, but also whether the conduct was severe, pervasive, and a reasonable person similarly situated to the complainant would have perceived the conduct to be objectively offensive.

- V. The Decision Maker's written determination will include the following:
- 1) Identification of the allegations at issue.
 - 2) Description of the procedural steps taken throughout the case.
 - 3) Findings of fact supporting the determination.
 - 4) Conclusions regarding application of GO 16.
 - 5) A statement and rationale as to the determination for each allegation.
 - 6) A statement of any disciplinary sanctions and whether any remedies will be provided to the complainant.
 - 7) A description of the procedures and permissible grounds for appeal.
- W. Upon completion of the written determination, the Decision Maker will at the same time provide a copy to all parties, their advisors, and the IG. The written determination should be completed within ten (10) business days from the completion of the hearing. Subsequent to receiving the written determination, the IG will meet with the parties to review the appeals procedures. If neither party notifies the IG of their desire to appeal, the findings, sanctions, and recommendations in the written determination become final.

Sanctions

- A. Sanctions for cadets will be determined by the Decision Maker, in consultation with the Commandant of Cadets. Sanctions may include, but are not limited to, penalties described in the Blue Book, suspension, or dismissal.
- B. Sanctions for teaching and research faculty will be determined by the Decision Maker in accordance with the procedures in the Faculty Handbook. Sanctions for non-teaching faculty and other non-classified staff will be determined by the Decision Maker, in consultation with the Director of Finance, Administration and Support; the Director of Intercollegiate Athletics; the Commandant; the Chief of Staff; or the Superintendent, in accordance with any applicable VMI regulations. Possible sanctions include, but are not limited to, counseling, training, reassignment, or the initiation of termination proceedings according to procedures in the appropriate governing policy.
- C. Sanctions for classified employees will be determined by the Decision Maker, in consultation with the Director of Human Resources, in accordance with the Commonwealth's Standards of Conduct Policy. Sanctions that may be imposed by the Institute include, but are not limited to, verbal counseling, and additional training, issuance of a Written Notice, or suspension or termination of employment.
- D. All sanction proceedings for cadets, faculty, and other VMI employees will be conducted consistent with GO 16 and these procedures and will be transparent to the complainant and the respondent to the extent permitted by federal and state law and regulations.
- E. Contractors will assign for duty only employees acceptable to the Institute. The Institute reserves the right to require the Contractor to remove from the Post any employee who violates GO 16.

- F. Visitors (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange cadets, and other students taking courses or participating in programs at VMI), who violate GO 16 will be directed to immediately leave the Post and may be subject to a permanent bar from Post.
- G. To the extent permitted by applicable VMI policies and regulations, sanctions will be imposed within fourteen (14) business days of completion of the Decision Maker's written determination of responsibility if neither the complainant nor the respondent requests an appeal hearing. If an appeal is requested, sanctions, if any, will be imposed within fourteen (14) business days of the final decision of the Appeals Officer. If extension of the time frame for sanctions to be imposed beyond fourteen (14) business days is necessary, all parties will be notified of the expected time for imposition of sanctions. The respondent will be informed in writing of any sanctions imposed for violation of GO 16 by the individual imposing the sanctions within five (5) business days of the determination. The IG will be provided a copy of such written notification. The IG will disclose to the complainant, as simultaneous as possible to the notification provided to the respondent, sanctions that directly relate to the complainant as permitted by state and federal law including the Family Educational Rights and Privacy Act (FERPA) and the Virginia Freedom of Information Act.

Appeals Hearing

1. Appeal Officers

The Appeal Officer will be a member of the Institute staff who has received formal training on being an appeals officer and on overseeing an appeal hearing. Appeals Officers will be authorized to hear appeals by either party to include: an appeal hearing in regards to an IG decision to dismiss a formal complaint; an appeal hearing in regards to an emergency removal ordered by the Threat Assessment Team; and an appeal hearing requested by any party in regards to a Decision Maker's written determination of responsibility. Appeals will be heard by one appeals officer. If either the complainant or the respondent suspects that the Appeal Officer could be biased or have a conflict of interest, then that party has three (3) business days from notification of the identity of the Appeal Officer to file a written statement claiming that the Appeal Officer likely will be biased or likely has a conflict of interest. The statement must include details regarding why possible bias or conflict of interest is suspected. If a bias or conflict-of-interest claim is reasonable, the Superintendent or the President of the VMI Board of Visitors will select a replacement Appeal Officer.

2. Appeal Procedures

A complainant or respondent desiring to appeal a Decision Maker's written determination of responsibility will file a written request for appeal with the IG within three (3) business days of receipt of the written determination along with information to support one or more of the following grounds for appeal:

- A. Procedural irregularity that affected the outcome.
- B. New evidence, unavailable at the time of the investigation that could substantially impact the Decision Maker's findings.
- C. Conflict of interest or bias by the institutional participants that affected the outcome.

D. The sanctions recommended by the Decision Maker are substantially outside the parameters or guidelines set by the Institute for this type of offense or the cumulative conduct record of the respondent.

Within five (5) business days of receipt of the written request for appeal, the IG will notify the parties of the time and place of the hearing before an Appeals Officer. In addition, the IG will provide the parties with the name of the Appeals Officer. The hearing typically will be scheduled within fifteen (15) business days of receipt of the request for appeal. If extension beyond fifteen (15) business days is necessary, both parties will be notified of the expected time frame.

Within five (5) business days of filing the request for appeal, the party appealing the Decision Maker's findings (appellant) must submit a written statement to the IG that (i) identifies the names and addresses of witnesses that are requested to be called at the hearing; (ii) identifies and includes copies of any documents that will be used as evidence at the hearing; (iii) describes with specificity the grounds for appeal, including any procedures in GO 16 allegedly violated during the course of the investigation; and (iv) requests a specific remedy. The non-appealing party (appellee) also may submit such information for the Appeal Officer's consideration.

The IG will provide to the Appeals Officer within five (5) business days of receiving the above information from the appellant and the appellee: (i) the written determination of responsibility from the Decision Maker; (ii) the final investigative report from the IG; (iii) copies of all appeals documents provide to the IG by the appellant and the appellee; and (iv) the names and addresses of any witnesses that will be called at the hearing.

Both the appellant and the appellee may be accompanied by an advisor of their choice to the appeals hearing. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the IG of such representation. The role of the attorney or the non-attorney advisor for the parties will be limited to advice and consultation with the attorney's/advisor's client and the client's witnesses. Neither the attorney/advisor for the appellant nor attorney/advisor for the appellee will be permitted to question witnesses, raise objections, or make statements or arguments to the Appeals Officer at the hearing. If either party is represented by legal counsel, the Institute may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of the Institute and the parties are respected.

The Appeals Officer will preside over the hearing, including the questioning of witnesses and the presentation of documentary evidence. The hearing will be a non-adversarial proceeding and the rules of evidence will not be strictly applied. However, the Appeals Officer may limit evidence or testimony that is not relevant to whether the grounds for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. The Appeals Officer will be the final decision-maker on all matters of procedure during the hearing. All hearings will be closed to the public.

Within ten (10) business days of completion of the hearing, the Appeals Officer will submit a written decision to the parties, the Decision Maker, and the IG. The decision will include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Appeal Officer's decision to uphold or reject the findings of the Decision Maker and/or the recommended sanction and the rationale for such determination; and (iv) if the Decision Maker's findings and/or recommended sanction are rejected, the findings of the Appeals Officer and recommendations for resolution. The decision of the Appeals Officer is final with no further right to appeal.

Documentation and Recordkeeping

The Office of the IG will maintain, in a confidential manner, for at least seven (7) years paper or electronic files of all investigative case files to include: complaints, witness statements, documentary evidence, written investigation reports, written determinations of responsibility, informal resolutions, written appeals decisions, hearings documentation, and other associated case-related documents. The IG will prepare a monthly summary of pending cases that will be presented to the Superintendent. The summary will contain sufficient information to permit the Superintendent to assess VMI's compliance with the requirements of Title IX.

Training

Institute officials who are involved in these Grievance Procedures will receive formal training in regards to their roles in the process. This training will be provided to the IG, Assistant Title IX Coordinators, external investigators when applicable, Informal Resolution Facilitators, Decision Makers, and Appeals Officers. The training will cover various aspects of GO 16 and the grievance procedures including: the definition of sexual harassment and other policy violations; the scope of the Institute's education programs and activities; how to conduct investigations; how to conduct decision maker hearings and appeals hearings; informal resolutions; and how to serve impartially including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The training for Decision Makers and Appeals Officers will also include understanding technology to be used at live hearings, relevance, and the permissible use of sexual history. All training provided in regards to this policy and the grievance procedures will be posted on VMI's website for public review.

Appendix B:

GO 16 Adjudication Process

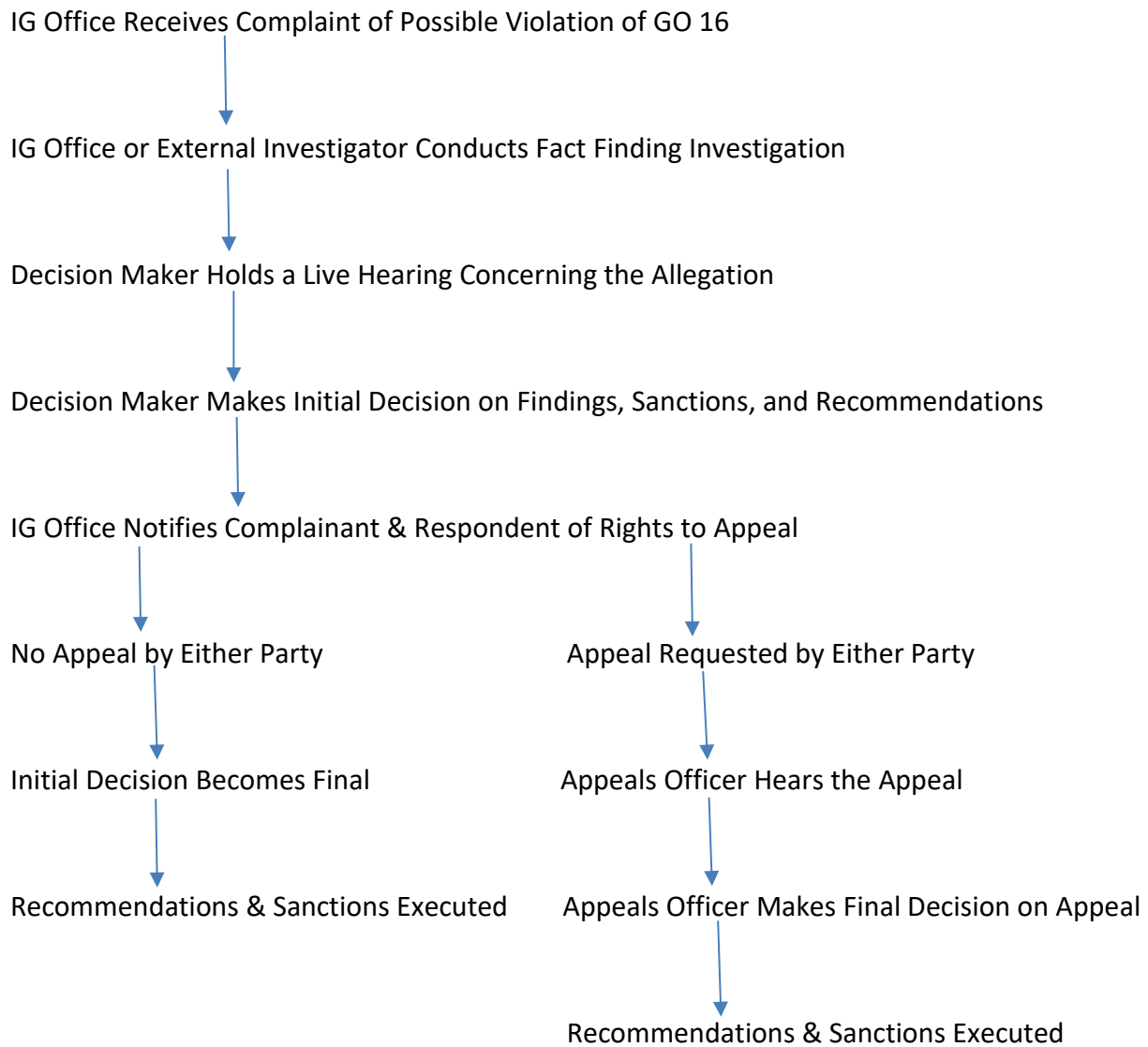


EXHIBIT E

VIRGINIA MILITARY INSTITUTE
Lexington, Virginia

GENERAL ORDER)
NUMBER 90)

14 August 2020

Retaliation

Policy. The Virginia Military Institute is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that ensures administrative investigations and their participants are free from retaliation during and after the investigation process. This policy addresses complaints or reports of retaliation against those who have filed complaints of violations of any other VMI policy or regulation and/or those who have participated in any way in the investigative process, including but not limited to: complainants, respondents, witnesses, investigators, decision makers, advisors, or appeals officers. In pursuit of this goal, any reported allegation of retaliation will be investigated under VMI's Grievance Procedures, which is found at Appendix A in General Order 16. Questions regarding retaliation prohibited by this policy may be referred to the VMI Inspector General and Title IX Coordinator (IG), Colonel (COL) Jeffrey Boobar, 212 Carroll Hall, 540-464-7072, boobarjr@vmi.edu.

Purpose. The purpose of this policy is to establish clearly and unequivocally that VMI prohibits retaliation by individuals subject to its control or supervision and to set forth procedures by which such allegations shall be filed, investigated, and adjudicated.

Applicability. This policy applies to on-Post conduct involving VMI cadets, employees, faculty, and staff. This policy also is applicable to any conduct that occurs off Post that may have retaliatory effects. Conduct by cadets in violation of this policy that occurs off Post will be addressed in a manner consistent with other cadet misconduct off Post that is subject to discipline under the Blue Book or as an honor offense. Allegations of on-Post or off-Post violations of this policy should be reported to the IG in accordance with the guidance below and the Grievance Procedures.

Definition. Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging violations of any other VMI policy or any individual testifying, assisting, or participating in any manner in an investigation pursuant to another VMI policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of another VMI policy. Retaliation prohibited by this policy includes any intimidation, threat, or coercion against the IG, an Assistant IG/Title IX Coordinator, or an external investigator for the purpose of interfering with his or her job responsibilities.

Reporting. Conduct in violation of this policy will be reported promptly by all cadets, employees, faculty, and staff. VMI's IG is responsible for overseeing the investigation of all reports of alleged retaliation. The VMI IG is COL Jeffrey Boobar. The members of the IG

staff are COL Samuel Allen, LTC Jessica Libertini, Susan LeMert, and LTC Abbey Carrico. Their contact information is listed below:

COL Jeffrey R. Boobar
212 Carroll Hall
540-464-7072
540-460-5250
boobarjr@vmi.edu

COL Samuel Allen
332 Scott Shipp Hall
540-464-7061
allensk@vmi.edu

LTC Jessica Libertini
433 Mallory Hall
540-464-7933
libertinijm@vmi.edu

Susan LeMert
401 Preston Library
540-464-7568
lemertsl@vmi.edu

LTC Abbey Carrico
423 Scott Shipp Hall
540-464-7276
carricoab@vmi.edu

Sanctions. If it is determined that conduct in violation of this policy has occurred, sanctions will be determined in accordance with the Grievance Procedures. Consequences for violation of this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, and any history of past conduct in violation of this policy. Sanctions may include penalties up to and including dismissal for cadets and termination for employees. In addition to sanctions that may be imposed on an individual found in violation of this policy, the Institute will take steps to prevent recurrence of any retaliation.

FOR THE SUPERINTENDENT:

James P. Inman
Colonel, US Army (Ret.)
Chief of Staff

EXHIBIT F



ANNUAL SWaM PROCUREMENT PLAN FY 2021

Presented to the Board of Visitors

Virginia Military Institute is committed to increasing participation of Small, Woman and Minority (SWaM) owned business in procurement opportunities and ensuring barriers are removed that might adversely affect their ability to participate.

AGENCY: 211 - Virginia Military Institute
SUPERINTENDENT: GEN J. H. Binford Peay, III
CHIEF FINANCIAL OFFICER: BG Dallas B. Clark
PRESIDENT, Board of Visitors: Mr. John W. Boland
SECRETARIAT: EDUCATION
The Honorable Atif Qarni, Secretary

PREPARED BY: LTC Kathleen H. Tomlin, Director
Procurement Services

DATE: 15 September 2020

Procurement Services is responsible for the entire procurement process for academic and administrative departments from requisition and contract negotiation through ordering, invoicing and payment as well as the disposal of goods no longer needed by departments.

It is the mission of Procurement Services to obtain quality goods and services at reasonable costs in a professional, efficient, and responsive manner while adhering to the applicable governing laws of the Commonwealth of Virginia and the policies of the Institute.

In compliance with the Memorandum of Understanding authorized through the *Restructured Higher Education Financial and Administrative Operations Act of 2005* and Chapter 829 of the *2008 Acts of Assembly*, the Institute requires that “all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded.”

DEPARTMENTAL OVERSIGHT

LTC Kathleen H. Tomlin,
VCO, VCCO, CUPO

Director, Procurement Services

MAJ Lynn W. Carmack
CUPO, CPSM, CPPO

Assistant Director, Procurement Services

Tracey D. Lackey,
CUPO

Procurement Officer, VASCUPP SWaM Committee Representative

EXECUTIVE OVERSIGHT

GEN J. H. Binford Peay III

Superintendent

BG Dallas B. Clark

Deputy Superintendent for Finance, Administration, and Support

COL Jeffrey L. Lawhorne

Treasurer

HISTORICAL FISCAL SPENDING

Percentages of Discretionary Expenditures for Small, Woman-Owned, and Minority-Owned Businesses

FISCAL YEAR	SMALL		WOMAN-OWNED		MINORITY-OWNED		TOTAL SWaM	
	GOAL	ACTUAL	GOAL	ACTUAL	GOAL	ACTUAL	GOAL	ACTUAL
2018	35.0%	42.75%	4.5%	3.45%	2.5%	2.83%	42.0%	49.03%
2019	35.0%	45.03%	4.5%	3.46%	2.5%	2.66%	42.0%	51.15%
2020	35.0%	38.34%	4.5%	3.57%	2.5%	2.94%	42.0%	44.85%

VMI's faces many challenges in doing business with SWaM vendors directly related to several factors:

- **Geographic location** – There is a relatively small number of local minority-owned and woman-owned vendors in our area - the current Department of Small Business and Supplier Diversity (DSBSD) database lists a very limited number of certified vendors in our immediate area. Competition for the same vendors in the Shenandoah and New River Valley regions between JMU, VMI, Radford and Virginia Tech, all with strong capital construction programs, provides competition among the schools for the small number of available vendors.
- **Limited number of established cooperative (State, VASCUPP) contracts** - In the past only a limited number of these contracts were awarded to SWaM firms; however, the Virginia Association of Schools, Colleges and University Procurement Professionals (VASCUPP) and the Virginia Higher Education Procurement Cooperative (VHEPC) are awarding more contracts to SWaM vendors.

STATE AVERAGES YTD FY 2020

Statewide and Secretariat Percentages of Discretionary Expenditures for Small, Woman-Owned and Minority-Owned businesses:

FISCAL YTD FY 2020	SMALL	WOMAN-OWNED	MINORITY-OWNED	TOTAL SWaM
Higher Education	28.13%	4.80%	3.98%	36.91%
Statewide	22.01%	4.23%	5.23%	31.47%

Information source: www.sbsd.virginia.gov

GOVERNOR'S EXECUTIVE ORDER 35

On 3 July 2019, Governor Northam signed Executive Order 35: Advancing Equity for Small, Woman and Minority Owned Business. As written, EO35:

- requires a SWaM goal from 42% of discretionary spend for goods and services; and 50% for new capital outlay construction;
- creates a micro-business designation for businesses with fewer than 25 employees and revenues of no more than \$3 million annually;
- requires set-aside solicitations for procurements less than \$100,000;
- requires all procurements under \$10,000 be set-aside for micro-businesses only;
- requires a uniform method of evaluating SWaM procurement plans submitted by prime contractors;
 - certifying that the contractor is in compliance with the submitted plan;
 - requiring a written explanation when goals are not met;
 - including a provision in contracts and renewals to withhold final payments from contractors until they are compliant with their proposed SWaM plan; and
- requires agency heads, presidents of institutions of higher education, and senior managers with procurement oversight to complete annual, once developed, Equity in Procurement training.

The Institute currently engages in the activities mandated by EO35 in the following ways:

- Staff actively recruit and assist vendors with eVA registration and SWaM certification;
- SWaM champions have been designated to ensure equity in all solicitations;
- prime contractors are encouraged (and often required) to remove any actual or perceived barriers from sub-contracting opportunities;
- mandating SWaM goals for both prime contractors *and* professional service providers;

SWaM GOALS FOR FY 2021

Anticipated Percentages of Discretionary Expenditures for Small, Woman-Owned, and Minority-Owned businesses:

FISCAL YEAR	SMALL	WOMAN-OWNED	MINORITY-OWNED	TOTAL SWaM
2021	35.00%	4.50%	2.50%	42.00%

VMI has analyzed all possibilities in order to provide realistic goals. These aspirational goals include Architect/Engineer and Construction Manager at Risk services for the continuation of four major capital projects during FY 2021: Post Infrastructure; the renovation of Preston Library; and the renovation/addition of Scott Shipp Hall, and the construction of the Corps Physical Training Facilities Phase III, Aquatics Center. Small non-capital projects included in the development of these goals include the construction of the Lackey Parking Lot and the renovation of the Superintendent’s Quarters.

Non-capital On-Demand Construction (up to \$500k) and Trades Pool (up to \$50k) contracts are administered by the Physical Plant for mandatory use across Post. All vendors awarded a contract through these two programs are DSBSD-certified SWaM vendors.

In 2015, Joint Legislative Audit and Review Commission (JLARC) presented their study on the benefits of cooperative procurement and found that it streamlined the procurement process saving time and valuable

resources. The study also revealed several problems among institutions when employees with purchasing responsibilities are given too much freedom to choose their own vendors and are not required to utilize existing contracts, which often leads to choices driven by preference rather than cost or efficiency. JLARC recommended that policies that standardized procurement sources be instituted and enforce adherence. To that end, VMI works closely with VASCUPP and the Virginia Higher Education Procurement Consortium (VHEPC) to ensure that there is collaboration among higher ed, buying power is aggregated, and duplicative contracts are reduced or eliminated. VMI has many mandatory contracts across Post, including an office supply contract with The Supply Room Company (TSRC), a certified small business located in the Commonwealth.

Purchases and Supply Division

Name: LTC Kathleen H. Tomlin, VCO, VCCO,
CUPO
Title: Director, Procurement Services
Address: Office of the Treasurer
314 Smith Hall, Lexington, VA 24450
Telephone: 540-464-7166
E-mail: tomlinkh@vmi.edu

Building and/or Construction Division

Name: COL T. Keith Jarvis, PE, VCCO
Title: Director of Construction
Address: Construction Office
320 Institute Hill, Lexington, VA 24450
Telephone: 540-464-6797
E-mail: jarvistk@vmi.edu

SWaM PROCUREMENT PROCESSES

CURRENT PURCHASING PRACTICES:

VMI's procurement process is primarily centralized. Most individual departments have delegated purchasing authority up to \$2,000 using the Small Purchases Charge Card (SPCC) and the Electronic Virginia (eVA) procurement system. Some departments whose P-Card holders have received Virginia Contracting Associate (VCA) certification have delegated authority up to \$5,000.

The following policies are currently in effect for purchases:

- \$0-\$9,999.99 – Staff with delegated procurement duties are **required** to use small, woman-owned, and/or minority-owned businesses for all purchases when such businesses are available. Procurement Services staff assist in locating DSBSD-certified SWaM suppliers and solicit through eVA Quick Quote when deemed advantageous.
- \$10,000 - \$100,000 - Procure through eVA Quick Quote with potential to reach multiple SWaM firms with preference given to SWaM vendors when advantageous to the Institute. These solicitations are regularly "set aside" for SBSD-certified vendors.
- Over \$100,000 - Procure through sealed Invitations for Bid (IFB) or Request for Proposals (RFP), require direct solicitation and posting on eVA. Construction IFB's and RFPs are advertised in at least one statewide newspaper.

SWaM Procurement Strategies:

- A. Responsibilities, duties, and scope of authority of the SWaM Procurement Champions in implementing and monitoring the SWaM Plan:

The Director of Procurement Services:

- is the designated VMI SWaM Procurement Champion who is responsible for all procurement at VMI, including capital and non-capital construction-related procurement;
- is in charge of and supervises all procurement staff as well as personally leading all construction-related procurements in cooperation with the VMI Construction Office;
- reviews the monthly SWaM report and evaluates procurement staff on their efforts to increase SWaM spending; and
- directs activities of all Procurement staff members in an effort to meet SWaM spend goals.

The Director of Construction:

- is the designated VMI SWaM Procurement Champion for Capital Projects who is responsible for construction-related procurement with the assistance of the Director of Procurement Services;
- is in charge of and supervises Capital Projects staff in leading all construction-related procurement; and
- meets with Architects, Engineers, Contractors and Vendors to ensure that SWaM participation in subcontracting is achieved as stated in submitted plans.

Designating the Procurement and Construction directors as SWaM Champions indicates that VMI recognizes the importance of this initiative and places a high emphasis on SWaM spending in all areas. Because of the small size of the office of Procurement Services, each staff member serves as a SWaM procurement champion on a day-to-day basis so that SWaM development activities are not limited to the formally designated procurement champions.

B. SWaM procurement strategies and training programs designed to increase the procurement opportunities with certified SWaM vendors:

1. Set-aside solicitations

All Small Purchase Credit Cardholders (SPCC) and staff with delegated procurement duties are to use small, woman-owned and/or minority-owned businesses for all purchases when such businesses are available. Procurement staff will assist in locating DSBSD certified SWaM suppliers or granting permission to purchase from majority (large) businesses after due diligence has been performed.

Additional set-aside programs include the On-Demand Construction Contract (ODCC) for projects ranging from \$50,000 up to \$500,000 and the Single Trades Contracts for renovation and repair projects with values up to \$50,000.

2. Construction

VMI currently requires prime contractors to submit a SWaM subcontracting plan with goals of no less than 50% in accordance with EO35 and to provide evidence of payments to subcontractors. VMI also uses SWaM business participation plan(s) as weighted criteria when evaluating proposals. A minimum of 20 points is assigned to this criterion.

RFPs, including those for Construction Manager at Risk, include a requirement that the prime contractor submit a detailed schedule of past use of SWaM vendors on similar projects, and a schedule of projected future use of SWaM vendors on the specific VMI project. This requirement is included in the evaluation criteria and is reviewed and scored by a member of

the Procurement Services staff. The terms of the RFP require the prime contractor to provide subcontracting data to VMI on a quarterly basis.

3. Identifying and removing barriers

VMI strives to ensure that all vendors, regardless of size, have fair opportunities to compete for VMI business. Whenever possible and reasonable, procurements are structured to ensure that SWaM vendors are not limited in competing. VMI actively assists businesses in receiving their SWaM certification and believes this will increase the number of historically disadvantaged businesses available to meet the procurement needs of the Institute as well as other state agencies and institutes of higher education.

4. Modification of Evaluation Criteria

Procurement Services reviews all evaluation criteria, related specifications, and scopes of work prior to issuance to ensure that they are reasonable, fair, and in no way prevents qualified firms from competing for VMI business. All requirements based on past experience, years in business, etc., are closely reviewed to confirm that they are in fact absolutely necessary to ensure only qualified contractors are eligible to submit bids or proposals and do not arbitrarily prevent vendors from participating.

5. Electronic Virginia (eVA) website

Every procurement is posted on the eVA procurement website to allow for sufficient notice to businesses to participate in the projects of the Institute. Notification occurs in two ways: Quick Quote (QQ) is used for current solicitations less than \$100,000; and the Virginia Business Opportunities (VBO) is used for posting current RFPs and IFBs.

6. Internal SWaM training program

The Director of Procurement Services has worked to implement SWaM training for staff with purchasing responsibilities that includes those employees who are responsible for initiating procurements as well as Small Purchase Charge Cardholders (SPCC). In addition, departmental SPCC holders attend a virtual educational program provided by the Virginia Department of Accounts (DOA) delivered to their computers to ensure adherence to the Institute's procurement policies. This training is mandatory in the spring of each academic year.

7. SWaM outreach events or activities

As a member of the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP), VMI has supported, both financially and by attendance, the highly successful SWaMfest events hosted by VASCUPP over the past eleven years. This event allows VMI personnel to connect with many SWaM vendors from across the state and beyond.

Because of the COVID-19 pandemic, VMI was unable to participate in or host events during FY 2020. Ms. Tracey Jeter, SBSB Director, visited Post on 4 March 2020 at our invitation. She had office calls with GEN Peay, BG Clark, and LTC Tomlin to understand the challenges that VMI faces in our geographical region and learn what her agency can do to support VMI's efforts to continue meeting the Governor's objectives for underutilized businesses.

8. Implementing unbundling of selected contracts

Because of its size and the fact that VMI is a frequent user of state and VASCUPP contracts, the Institute typically does not have contracts that lend themselves to unbundling. VMI works with prime contractors to reduce scopes of work when appropriate to allow for inclusion of

historically disadvantaged businesses. The Procurement Staff has made concerted efforts to link these prime contractors with SWaM businesses.

To reach more DSBSD certified vendors, VMI will issue solicitations that specifically target these vendors by writing annual service contracts to encourage their participation. The focus of this initiative is in, but not limited to, the areas of maintenance reserve and physical plant operations.

C. SWaM certification:

Procurement Services staff routinely approach potential SWaM-eligible firms and explain the SWaM certification requirements. If a vendor is not certified by DSBSD, they cannot be counted as such in VMI statistics and that may negatively affect their consideration for some procurements. Potential vendors are informed how certification may help them obtain business from other state agencies and institutions across the Commonwealth.

D. SWaM subcontracting data:

Standard Bureau of Capital Outlay Management (BCOM) forms are used to obtain construction-related subcontracting data. Internal procedures require that the prime contractor certify the accuracy of information provided to VMI. By certifying this data, the prime contractor takes responsibility for this submission. Any fraudulent reporting could be grounds for contract termination. In addition, VMI Procurement Services staff actively work with prime contractors to help identify SWaM subcontracting opportunities and to assist subcontractors with DSBSD registration. VMI now requires third tier reporting from Prime Contractors including the Institute's food service vendor who must report sub-contracting data quarterly.

E. Barriers or Limitations and Solutions:

As noted earlier, VMI utilizes both state and VASCUPP contracts, thus many of our procurements are small dollar that do not have inherent barriers to SWaM participation. It should be noted, however, that the number of state contracts awarded to SWaM businesses is low compared to the total number of state contracts available for use.

On larger procurements, Requests for Proposal (RFP) in particular, evaluation criteria is closely reviewed to ensure it does not limit, but rather, encourages SWaM participation.

The Department of Small Business and Supplier Diversity (DSBSD), reports that certification for new SWaM businesses or recertification for currently registered SWaM business, takes approximately 60 days and in some cases procurements are often completed before certification is approved. When this occurs the spend is not calculated towards the goal.

F. Evaluation of SWaM procurement progress and achievement:

The Deputy Superintendent for Finance, Administration, and Support receives a copy of the SWaM report quarterly to monitor past, current and future SWaM activity as well as made aware of SWaM-related activities. The Director of Procurement Services is responsible for submitting VMI's SWaM Plan to the Institute's Board of Visitors annually for approval.

IV. Signatures

Completed by:

Signature: _____ Date: _____
LTC Kathleen H. Tomlin, Director, Procurement Services

Reviewed by:

Signature: _____ Date: _____
GEN J. H. Binford Peay, III, Superintendent