

**Voluntary Resolution Agreement  
OCR Complaint No. 11-08-2079  
Virginia Military Institute**

Virginia Military Institute (VMI) has voluntarily agreed with OCR to the following resolution of allegations 3, 4, and 5 of the above-referenced complaint under Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.* to assure that it will continue to: promptly investigate all incidents of sex discrimination of which VMI has notice (including incidents of which VMI knew or reasonably should have known); take appropriate and responsive disciplinary action against those who violate VMI policies and procedures addressing sex discrimination involving students; and take prompt and effective responsive action reasonably designed to end a hostile environment if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment.

VMI already has implemented a number of policies, procedures, and practices to improve its response to complaints of alleged sex discrimination, including sexual violence and sexual harassment, to comply with OCR's April 2011 Dear Colleague Letter and in accord with detailed OCR guidance that was issued during the course of the investigation.

This Agreement has been entered into voluntarily by VMI and does not constitute an admission by VMI that it is not in compliance with Title IX and/or its implementing regulation.

Accordingly, VMI commits to taking the following actions:

1. VMI submitted to OCR on April 4, 2014, a draft unified policy on sexual assault, sexual harassment, discrimination, and retaliation and revised Title IX grievance procedures<sup>1</sup> ("unified policy and grievance procedures") to provide for the prompt and equitable resolution of cadet and employee complaints alleging any action prohibited by Title IX. OCR will review the unified policy and grievance procedures to ensure that they include:
  - accurate definitions of various types of sex discrimination, including sexual harassment and sexual assault, that may provide the basis for a complaint pursuant to VMI's Sexual Harassment Policy and Sexual Assault Policy;
  - notice that the procedures apply to complaints of sexual harassment, including sexual assault and sexual violence;
  - an explanation of how to file a complaint under the procedures;
  - the name or title, office address, and telephone number of the individual(s) with whom to file a complaint;

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<sup>1</sup>The unified policy and grievance procedures will replace VMI's current policies and procedures that address Title IX complaints: the Sexual Harassment Policy; the Sexual Assault Policy; and the Employee Discrimination Policy. VMI will make conforming revisions to the "White Book" Cadet Government Procedures based on input from OCR.

- rights and responsibilities of both parties and relationships between criminal and Title IX investigations;
- provision for the prompt, adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence
- in any appeal or review of the initial determination regarding the complaint, provision for a fair and equitable review of the process and determination, and equal opportunities for both parties to participate in any further process;
- provision for ensuring that the parties are afforded similar and timely access to any documents and information used at a hearing;
- a statement that the preponderance of the evidence standard of proof will be used for investigating Title IX complaints;
- provision for weighing requests by complainants not to proceed with a formal resolution, including criteria for when to proceed with a full investigation and when to limit the investigation (including, for the latter, specification of steps that can be taken while honoring the request);
- an assurance that VMI will make complainants aware of their right also to file a complaint with a local law enforcement agency and that VMI will comply with law enforcement agency requests for cooperation and that such cooperation may require VMI to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence, and VMI will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process;
- a provision indicating the availability of interim measures to assist or protect the complaining party as necessary during a VMI Title IX investigation and any law enforcement investigation to address victim and campus security and to avoid retaliation;
- designated and reasonably prompt timeframes for the major stages of the complaint process (including notification to the parties when additional time will be necessary);
- written notice to the parties of the outcome of the complaint, including whether sex discrimination was found and a description of VMI's response;
- provision of equal appeal rights for both parties;
- an assurance that VMI will take steps to prevent recurrence of any hostile environment and to correct its discriminatory effects on the complainant and others (including interim measures), if appropriate;
- prohibition of retaliation; and
- specifications for adequate documentation and record keeping for investigative files.

OCR will also review the unified policy and grievance procedures to ensure that they establish a mechanism to ensure coordination between the Inspector General and the Cadet Equity Association (CEA), including clarification of the types of complaints for which the Inspector General will be responsible and the types for which the CEA will be responsible, designation of the Assistant Commandant for Cadet Governance as an Assistant Title IX Coordinator for complaints involving cadets, providing for the

Inspector General's oversight of the Title IX investigations conducted by the CEA, and ensuring the Inspector General's ability to function as Title IX coordinator, including timely notification of all Title IX complaints made to VMI.

OCR will be available to advise VMI on the revisions.

*Reporting Requirements:*

- a. Within thirty (30) days of the execution of this Agreement, OCR will review and approve the unified policy and grievance procedures or provide comments indicating necessary changes. If changes are necessary, OCR will consider any feedback from VMI as to how such changes can be made in a manner that is most appropriate to the particular needs and context of VMI.
  - b. Within thirty (30) days of receiving OCR's feedback on the unified policy and grievance procedures submitted April 4, 2014, VMI will finalize adoption of the unified policy and grievance procedures, as approved by OCR, and will publicize the unified policy and grievance procedures to employees and cadets on its website and in other appropriate materials.
  - c. Within ten (10) days of finalizing and publicizing notice of the unified policy and grievance procedures, VMI will submit to OCR documentation of its publicized notice.
  - d. By July 7, 2015, VMI will submit to OCR, for review of compliance with the regulation implementing Title IX, documentation of all complaints addressed under the finalized unified policy and grievance procedures during the 2014-15 academic year, including investigative files and findings.
2. VMI will continue to provide at least annual training for staff and cadets who are directly involved in reporting, processing, investigating and/or resolving reports of alleged actions prohibited by Title IX. This training will include if not already included in existing training:
- the unified policy and grievance procedures described in Section 1 above;
  - recognizing and appropriately responding to allegations and complaints pursuant to Title IX, including conducting interviews of victims of sexual assault and communicating in a fair, non-biased, and objective manner that does not discourage victims from reporting or continuing with their complaints (such training shall include role-playing and other practice activities);
  - how to conduct and document adequate, prompt, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation and how they differ from those in a criminal investigation;

- how to address the challenges of investigating incidents involving alcohol or drug use and how to encourage victims and witnesses of sex-based harassment to cooperate with investigations if they have concerns about possible conduct implications of their own alcohol and drug use;
- how to notify complainants of the right to file a criminal complaint and how to file one;
- what information regarding sex-based harassment allegations may be shared among VMI employees and other law enforcement officials;
- how to coordinate and cooperate with law enforcement during parallel criminal and Title IX proceedings;
- identifying sex discrimination and sexual harassment (including sexual assault and sexual violence), including clear examples of what types of actions may constitute sex discrimination in VMI's programs;
- VMI's responsibilities under Title IX to address such allegations; and the relevant resources, including interim resources, available for complaining parties; and
- a written assessment requiring participants to demonstrate that they have learned the material in the Title IX training.

*Reporting Requirements:*

- a. By July 7, 2014, VMI will submit to OCR documentation of all trainings covering sexual harassment and assault during the 2013-14 academic year and will make available copies of any documents utilized in the training and a list of all trainers.
  - b. By July 7, 2015, VMI will submit to OCR documentation of all trainings covering the unified policy and grievance procedures during the 2014-15 academic year and will make available copies of any documents utilized in the training and a list of all trainers and attendees.
3. VMI currently provides training to cadets, faculty, and staff on non-discrimination, Title IX, and identifying, reporting, and investigating allegations of sexual assault and sexual harassment. Such training includes mandatory group sessions and also small group sessions with freshmen (rat/4th year) on sexual violence and bystander intervention. In addition, VMI has implemented within the past four years training for all freshmen (rat/4th year) and sophomores (3rd year) on alcohol abuse and the connection between alcohol use and sexual violence. VMI will continue to provide such mandatory training annually to all new faculty and staff, every other year to existing faculty and staff, and annually to freshman (rat year) and sophomore (third year) cadets designed to provide an understanding of VMI's prohibition, in conformance with applicable law, against sex discrimination, including sexual harassment and sexual assault, as well as retaliation for participation in discrimination investigations or engagement in any other protected civil rights activities. The sessions will include, if not already included in existing training:

- VMI's unified policy and grievance procedures for Title IX complaints, including VMI's responsibilities under Title IX to address allegations of sex-based harassment, whether or not the actions are potentially criminal in nature;
- identifying sex discrimination and sexual harassment (including sexual assault and sexual violence), including clear examples of what types of actions may constitute sex discrimination in VMI's programs;
- the relevant resources, including interim resources, available for complaining parties and for victims of sexual harassment and sexual assault;
- how and with whom to report any incidents of sex discrimination, including sexual harassment and sexual assault;
- for cadets, the link between alcohol and drug use and sex-based harassment and best practices to address that link; and
- for faculty and staff, the application of VMI's policy against discrimination in employment matters, including the prohibition against retaliation and the prohibition against considering discriminatory comments or other input in employment decisions.

*Reporting Requirements:*

- a. By July 7, 2014, VMI will submit to OCR documentation of all the Title IX information sessions offered during the 2013-14 academic year and will make available copies of any documents utilized in the training and a list of all trainers.
  - b. By July 7, 2015, VMI will submit to OCR documentation of all the Title IX information sessions offered during the 2014-15 academic year and will make available copies of any documents utilized in the training, a list of all trainers, and the number and class of attendees.
4. By July 1, 2014, VMI will assign to its existing Cadet Equity Association duties to support the Institute's Title IX efforts, including, to the extent not already assigned, to identify strategies for ensuring that cadets understand their rights under Title IX, how to report possible violations of Title IX, and feel comfortable and confident that officials to whom they make such reports will take them seriously and promptly and equitably respond. The Cadet Equity Association will identify and recommend strategies for the prevention of sexual harassment/sexual assault incidents, including outreach and educational activities, which will be recommended to the campus for implementation.

*Reporting Requirements:*

- a. By July 7, 2015, VMI will submit to OCR a list of Cadet Equity Association members, along with documentation of any CEA meetings and recommended strategies.

5. VMI will conduct annual assessments of the climate for cadets, faculty, and staff with regard to gender discrimination, sexual misconduct and Title IX. In such assessments, VMI will seek input from cadets and cadet groups, including female cadets and female faculty members, as well as a wide variety of other sources. Such assessment will include a survey distributed to all cadets intended to:

- assess cadets' attitudes and knowledge regarding various types of sexual harassment and sexual assault;
- gather information regarding cadets' experience with sexual harassment and sexual assault while attending VMI;
- assess the prevalence of sexual harassment and sexual assault at VMI;
- determine whether cadets know when and how to report sexual harassment and sexual assault;
- identify any barriers to reporting sexual harassment and sexual assault;
- gauge cadets' comfort level with reporting sexual harassment and sexual assault;
- assess cadets' familiarity with VMI's outreach, education and prevention efforts to identify which strategies are effective; and
- solicit cadet input on how VMI can encourage reporting of sexual harassment and sexual assault and better respond to such reports.

The Institute Planning Committee ("IPC"),<sup>2</sup> along with faculty and student representatives, will review information garnered during these climate surveys as well as from complaints filed and resolved, information from survivors and from the CEA. In consultation with those faculty and student representatives, the IPC will recommend future proactive steps to continue to provide a safe educational environment in compliance with Title IX.

*Reporting Requirements:*

- a. By July 1, 2014, VMI will submit its draft climate surveys to OCR for review and approval.
- b. Within sixty (60) days of receiving OCR's feedback, VMI will implement the assessment protocol(s) for administering the climate surveys.
- c. By July 7, 2015, VMI will submit to OCR documentation showing that it has implemented the assessment protocol(s) during the 2014-15 academic year, including copies of the assessment results, the IPC's recommendations, and VMI's action plans in response to the results and recommendations.

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<sup>2</sup>The IPC, chaired by the Institute Chief of Staff and reporting directly to the Superintendent, is the principal leadership group within the Institute responsible for ensuring continuity and integrity in planning and operations. It is also responsible for overseeing the implementation of the Institute's strategic plans. It is composed of the senior officials who report directly to the Superintendent and the Institute Planning Officer and Director of Communications and Marketing.

6. VMI will assess the effectiveness of its efforts to prevent and address sexual harassment and sexual assault and to promote a non-discriminatory climate. At the conclusion of each academic year, VMI will conduct an annual assessment of the effectiveness of its anti-harassment efforts and, at the conclusion of the 2014-15 academic year, VMI will submit the assessment to OCR. Such assessment will include:
  - a review of the cadet climate surveys and the CEA and IPC recommendations concerning how VMI can prevent sexual harassment and sexual assault and better encourage reporting of and improve its response to complaints;
  - a review of all reports of sexual harassment and sexual assault, and VMI's responses to such reports, including whether such reports were adequately, reliably, promptly and impartially investigated and resolved and any actions that VMI took to remedy the hostile environment created by any sexual harassment or sexual assault that occurred, and prevent its recurrence;
  - evaluation of measures designed to prevent and/or address sexual harassment and sexual assault; and
  - steps that VMI will take to implement the recommendations made as a result of the assessment, including timeframes for their implementation.
  
7. VMI is voluntarily revising its written tenure and promotion policies to clarify the role of the Dean of the Faculty in the tenure and promotion process and to clarify the sources of information upon which the Dean may base his recommendation to the Superintendent concerning candidates for tenure and promotion. Proposed revisions were submitted to OCR on April 8, 2014 and approved by OCR. The proposed revisions will be presented to the VMI governing board for approval by September 30, 2014. Within ten (10) days of approval of the revised policies by the VMI governing board, VMI will publicize the revised policy to faculty on its website and in other appropriate materials. If the proposed revisions are changed from the form submitted to OCR, VMI will re-submit the changed proposed revisions to OCR for approval and will make any changes required by OCR before finalizing and publicizing the revisions.

VMI understands that OCR will not close the monitoring of this Agreement until OCR determines that VMI has fulfilled the terms of the Agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. Part 106, which was at issue in this case.

VMI understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, VMI understands that during the monitoring of this Agreement, if necessary, OCR may visit VMI, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether VMI has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX.

VMI understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give VMI written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

FOR VIRGINIA MILITARY INSTITUTE:

                  /s/                    
Name

                  April 30, 2014                    
Date

Superintendent, Virginia Military Institute  
Title