

January 14, 2013

Via Federal Express

Dr. Elizabeth H. Sibolski, President,
Middle States Commission of Higher Education
3624 Market Street, Second Floor West
Philadelphia, PA 19104-2680

Re: Complaint Against National Defense University

Dear President Sibolski:

Please accept this letter as a complaint against the National Defense University (NDU) for its refusal and/or inability to enforce policies relating to academic freedom. Lieutenant Colonel Matthew A. Dooley, U.S. Army, was fired from his instructor position at NDU in violation of the policies relating to academic freedom of the Middle States Commission of Higher Education (MSCHE), the NDU and the Department of Defense (DoD).

This complaint is filed by LTC Matthew A. Dooley (which he has signed) by and through his attorney, Richard Thompson, Chief Counsel of the Thomas More Law Center, a national public interest law firm based in Ann Arbor, Michigan. The complaint herein is not currently in litigation. Nor is it under review by any other entity. You are authorized to share this complaint with the NDU.

LTC Dooley is a 1994 graduate of the U.S. Military Academy at West Point and a highly decorated 18-year combat veteran. Upon graduation he was commissioned as a Second Lieutenant, Armor Branch. His assignments included deployment to Bosnia, Kuwait, and Iraq for a total of six operational and combat tours over the course of his career. He served as an Aide-de-Camp to three General Officers. He is a graduate of the Command and General Staff College and Joint Combined Warfare School. He has served as an instructor at the Joint Combined Warfare School and the Joint Forces Staff College, NDU.

In violation of MSCHE and NDU policies, and without opposition from the NDU administration, the DoD succumbed to political and media pressure, including pressure from Islamic organizations, and issued directives with the explicit approval of NDU censoring NDU instructors and course material. More particularly, LTC Dooley was fired as an instructor at the Joint Forces Staff College, NDU, because of the alleged content of his elective course *Perspectives on Islam and Islamic Radicalism*.

The NDU policy defines academic freedom as the “freedom to pursue and express ideas, opinions, and issues germane to the University’s stated mission, free of limitations, restraints, or

coercion by the University or external environment. Academic freedom is the hallmark of an academic institution.” (emphasis added)

The grave impact on the faculty caused by NDU and DoD violations LTC Dooley’s academic freedom is already manifesting itself. NDU faculty have voiced their concerns to the NDU administration. One NDU professor in a private conversation indicated that many of his colleagues are reluctant to openly and honestly discuss sensitive and controversial topics.

Lt. Col Colin R. Moening, USAF, a member of the military faculty at NDU, in reference to LTC Dooley, observed:

“I find it disturbing that Matt's character and flawless reputation have been called into question, and that our academic freedom and non-attribution policies seem to have been disregarded in this case. If the best among us can so readily be cast aside, with disregard for the protections of the Chairman of the Joint Chiefs own Academic Freedom policies at NDU, I am left with great concern for the rest of the military and civilian faculty to perform their duties without fear.”
[Exhibit 1]

It is important to emphasize, that although the NDU Faculty Handbook (NDU Handbook) contains impressive policies relating to academic freedom, those policies have been rendered meaningless by actions of DoD officials acting in concert with NDU officials. As explained in the NDU Handbook, NDU’s refusal to enforce its policies relating to academic freedom not only diminishes the quality of NDU and its academic programs, but also harms America’s national interest.

“Academic freedom is not an indulgence but a necessity to realize the university’s aspirations. . . . The common good depends upon the free search for truth and its free exposition.” Academic freedom is therefore understood to be essential to the U.S. national interest, and upheld by the United States Supreme Court as a right protected by the First Amendment (Keyishian v. Board of Education, 385 U.S. 589-1967).” (From NDU Handbook, page 1) [Exhibit 2]

Moreover, Standard 6 of the MSCHE’s *Standards for Accreditation and Characteristics of Excellence in Higher Education* explains the importance of academic freedom to a university such as NDU.

“Academic freedom, intellectual freedom and freedom of expression are central to the academic enterprise. These special privileges, characteristic of the academic environment, should be extended to all members of the institution’s community (i.e. full-time faculty, adjunct, visiting or part time faculty, staff, students instructed on the campus, and those students associated with the institution via distance education programs).”

Furthermore, as you will see below, DoD actions involving LTC Dooley are in response to pressures from Islamic organizations and contravene the Commission's policy entitled *Political Intervention in Education* (Version: 0904).

"The interdependence of educational institutions and their academic freedom are essential to the quality and integrity of all education. Teaching and learning require free and full exposure to information and ideas, the right to question or dissent, and opportunities to study, research, and debate, free of political pressure. The academy requires that inquiry and analysis must be guided by evidence and ethics, unfettered by political intervention.

". . . . Political interference in the affairs of an educational institution presents a threat to its freedom and effectiveness. Direct intervention by elected or appointed officials, political parties, or pressure groups in the selection of faculty, the determination of curricula, textbooks, course content, or in admissions or retention policies, injects factors which are often inimical to the fulfillment of an institution's mission. . . . To impose political considerations upon faculty selection and retention harms an institution intellectually and educationally, not only by reducing its options in the recruitment of talent, but also by creating pressures against dissent on important policy issues." [Exhibit 3]

On information and belief, in April 2012, a student enrolled at the Joint Forces Staff College, but not assigned to LTC Dooley's course, in violation of the Non-Attribution Policy of NDU released a DVD to a reporter for Wired Magazine.com purporting to be slides of talking points advocated by LTC Dooley in his elective course. The characterization of the slides as positions officially advocated by LTC Dooley was totally inaccurate. Nonetheless, Wired magazine produced articles with sensational headlines that caused the DoD to take action against LTC Dooley despite the seeming protection of NDU's policies of non-attribution and academic freedom. [Exhibit 4]

On May 10, 2012, during a Pentagon press conference, General Martin E. Dempsey, Chairman of the Joint Chiefs of Staff, publicly excoriated LTC Dooley because the course on *Islamic Radicalism* which LTC Dooley was teaching at the Joint Forces Staff College (JFSC) was *offensive to Muslims*.

General Dempsey characterized LTC Dooley's course as "totally objectionable," and ordered all material offensive to Islam scrubbed from military professional education within the JFSC and elsewhere. Furthermore, LTC Dooley *was fired* from his instructor position and given an ordered negative Officer Evaluation Report (OER) — the death-knell for a military career.

In 2011 LTC Dooley was assigned as an associate professor at the Joint Forces Staff College where he was responsible for an elective course entitled *Perspectives on Islam and Islamic Radicalism*. The course was first established in 2004. The external guest speakers which LTC Dooley used in the course were all approved in 2009-2010, under the watch of Brigadier General Marvin Smoot, USAF—well before Dooley’s assignment as an instructor.

Brigadier General Marvin Smoot, USAF, was the commandant of the Joint Forces Staff College (JFSC) when the various guest speakers "critical of Islam" were vetted for use in the course. In 2011 General Smoot as the Senior Rater gave LTC Dooley an outstanding Officer Evaluation Report (OER) for his performance as an instructor. BG Smoot recommended that LTC Dooley be promoted and given a command as soon as possible.. [Exhibit 5]

- “LTC Matt Dooley’s performance is outstanding and he is clearly the best of our new instructors assigned to the JFSC faculty over the last six months. . . . A must select for battalion command. . . . LTC Dooley possesses unlimited potential to serve in positions of much higher authority.”

OERs are required at least once a year and are normally completed by two superiors, namely, a rater and a senior rater. The rating officer on an OER is usually the rated officer’s immediate supervisor, an officer of higher rank, who is most familiar with the rated soldier’s specific duties and performance. The senior rater is a leader who occupies the next higher duty position up from the rater and is best positioned to assess both the rated soldier’s performance in comparison to his peers, as well as the rated soldier’s future potential to serve in higher ranks and increased levels of responsibility.

See also JCWS Faculty Survey Reports on LTC Dooley for his 2012 Spring and Winter classes. [Exhibit 6]

The actions against LTC Dooley follow two events:

- On October 19, 2011 a letter to signed by 57 Muslim organizations to John Brennan, Presidential Assistant on Counter Terrorism and Deputy National Security Advisor, with a copy to the Secretary of Defense, Leon Panetta, demanded that all training materials offensive to Islam be “purged” and instructors “effectively disciplined.” [Exhibit 7]
- On October 25, 2011, in response to negative media attention on the FBI's training and DoD lectures on Islam, the Pentagon directed agencies under its authority to report on the vetting process for instructors, speakers and curriculum development.

In an official response to the Pentagon’s October 25th inquiry, on December 2, 2011, NDU’s Deputy VP for Academic Affairs, Dr. Brenda Roth, officially confirmed in writing that all course

materials at NDU were vetted and approved by the University and its military command. This official confirmation covered the content and outside guest speakers. [Exhibit 8]

Dr. Roth explained,

“The curriculum is vetted through College-level curriculum committees or academic review committees which ensure students receive a senior-level professional education (vice training) in national security strategy.”

“The College Dean of Faculty and Academic Programs reviews and vets proposed speakers for their subject matter expertise and academic and teaching credibility. The Commandants [Generals] have the final review of recommended speakers and issues invitations to those he approves.”

With some prescience, Dr. Roth’s report reminded (politely warned) the Pentagon of the NDU policy on academic freedom.

“Academic freedom is very important at NDU and our policy of non-attribution in the classroom provides our speakers, faculty, and students the ability to discuss issues candidly. We believe that our curriculum and our teaching methods provide our students a rich environment in which to discuss many topics that will advance their knowledge and provide them with tools to develop successful strategies without undermining or inhibiting any group’s ideology.”

Dr. Roth’s warning was not heeded. Four months later General Dempsey, disregarding Dr. Roth’s official report, *and bypassing the NDU Provost*, publicly excoriated LTC Dooley and instituted the process to have him removed as an instructor. On June 18, 2012, Lt. General, USMC, George J Flynn relieved LTC Dooley from his duties as an instructor at the Joint Forces Staff College based on the material presented to students in his *Perspectives on Islam and Islamic Radicalism* course and ordered a career-ending negative Officer Evaluation Report. [Exhibit 9]

Bypassing the University Provost violates a specific NDU regulation which provides that the “Provost is vested with the responsibility to adjudicate cases involving academic freedom.”

The status of the *Perspectives on Islam and Islamic Radicalism* elective course and LTC Dooley’s tenure as an instructor were determined by DoD without the involvement of NDU’s Provost as required by NDU policy.

- On 25 April 2012, a Defense Department News Release referring to *Perspectives on Islam and Islamic Radicalism* claimed that General Dempsey felt unprofessional things are being taught to students. According to the release, the course material was not “simply objectionable” but “inflammable.” The release went on to say that such content

would be scrubbed from the curriculum. Moreover, the release claimed that Defense Secretary Panetta shares General Dempsey's concern. [Exhibit 10]

- On 10 May 2012, during a Pentagon Press Conference carried nationally on C-SPAN, with Defense Secretary Leon Panetta seated next to him, General Dempsey expressed negative opinions regarding the *Perspectives on Islam and Islamic Radicalism* elective course content, characterizing it as "totally objectionable" and "against our values." In this same press conference, General Dempsey personally committed to removing any similar curriculum from military professional education within the JFSC and elsewhere. [Exhibit 11]

Claire M. Lopez, a former CIA agent and strategic policy and intelligence expert commented on General Dempsey's order:

"The final bastion of America's defense against Islamic *jihād* and *sharia*, the Pentagon, fell to the enemy in April 2012, with the issuance of a letter from General Martin E. Dempsey, Chairman of the Joint Chiefs of Staff, re-issuing his earlier order that all Department of Defense (DoD) course content be scrubbed to ensure no lingering remnant of disrespect to Islam.

All U.S. military Combatant Commands, Services, the National Guard Bureau and Joint Staff are under Dempsey's Muslim Brotherhood-dictated orders to ensure that henceforth, no U.S. military course will ever again teach truth about Islam that the *jihād*ist enemy finds offensive (or just too informative). To all intents and purposes, DoD Secretary Leon E. Panetta likewise has acquiesced to a Muslim Brotherhood takeover of U.S. military education."

The negative impact on the quality of NDU education is obvious. LTC Dooley had received only top marks as an instructor from both students and the faculty chain of command. He carried the highest student evaluations over the previous 18 months and the highest faculty rating among all active military instructors. In fact, Brigadier General Marvin Smoot, LTC Dooley's his senior rater in the 2011 OER, went so far as to exclusively point out LTC Dooley as the best of his new instructors, and specifically mentioned his positive contribution to the *Islam* elective (for which LTC Dooley was subsequently fired)

By the academic methods trained and practiced at the Joint Forces Staff College, instructors protected by the official and non-attributional environment of the classroom were routinely expected to challenge their students to consider all options both within and outside of U.S. policies and to "think the unthinkable."

The actions against LTC Dooley violate several DoD directives and NDU regulations, which promote and protect academic freedom and free speech:

5.00 NON-ATTRIBUTION/ACADEMIC FREEDOM NDU HANDBOOK [Exhibit 12]

- 5.01 Academic Freedom is defined in the university's value as: Providing the climate to pursue and express ideas, opinions, and issues relative to the university purpose, free of undue limitations, restraints, or coercion by the organization or external environment. It is the hallmark of an academic institution.
- 5.04 Free inquiry is essential to the National Defense University because the senior officers and government officials who are educated here will assume a variety of roles in their future assignments, as future policy makers, advisors, and leaders. NDU graduates must be ready to discuss, challenge, question, and determine national policy.
- 5.05 So that guests and university community members may speak candidly, the university offers its assurance that presentations will be held in strict confidence.

DoD DIRECTIVE 5230.09 [Exhibit 13]

4. POLICY. It is DoD policy that:

- e. To ensure a climate of academic freedom and to encourage intellectual expression, students and faculty members of an academy, college, university or DoD school are not required to submit papers or materials prepared in response to academic requirements for review when they are not intended for release outside the academic institution.

The NDU Faculty Handbook empathically supports Academic freedom. Page 4 of the Handbook subtitled "Political Intervention in Education," states.

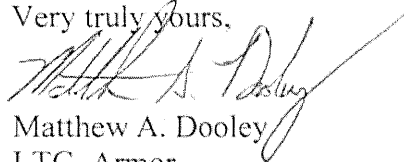
"Political interference in the affairs of an educational institution presents a threat to its freedom and effectiveness. Direct intervention by elected or appointed officials, political parties, or pressure groups in the selection of faculty, the determination of curricula, textbooks, course content, or in admissions or retention policies, inject factors which are often inimical to the fulfillment of an institution's mission.... To impose political considerations upon faculty selection and retention harms an institution intellectually and educationally, not only by reducing its options in the recruitment of talent, but also by creating pressure against dissent on important policy issues..."

Based on the above, we respectfully ask that you review the accreditation of NDU in light of its blatant disregard of academic freedom guaranteed by the policies of the MSCHE, DoD, NDU and the Constitution of the United States. Moreover, it would seem appropriate for the MSCHE to conduct its own on-site confidential interviews of NDU faculty members to determine the extent to which faculty academic freedom has been diminished and what measures should be taken to insure the future integrity of NDU as a university.

Dr. Elizabeth H. Sibolski, President
January 14, 2013
Page 8

If you have any questions, please contact LTC Dooley at (254) 238-1308, or Richard Thompson at (734) 827-2001.

Very truly yours,



Matthew A. Dooley
LTC, Armor
matthew.dooley@us.army.mil

THOMAS MORE LAW CENTER



Richard Thompson,
President and Chief Counsel
rthompson@thomsmore.org

EXHIBITS (See attached booklet):

- Exhibit 1 Letter of endorsement by Lt. Col. Moening, USAF
- Exhibit 2 -NDU Faculty Handbook
 - Excerpts from NDU Faculty Handbook
- Exhibit 3 MSCHE Policy on Political Intervention in Education
- Exhibit 4 Newspaper Articles:
 - Exclusive: Senior U.S. General Orders Top-to-Bottom Review of Military's Islam Training*
 - U.S. Military Taught Officers: Use 'Hiroshima' Tactics for 'Total War' on Islam*
 - Top U.S. Officer: Stop This 'Total War' on Islam Talk*
 - 'Institutional Failures' Led Military to Teach War on Islam*
- Exhibit 5 Officer Evaluation Report

Dr. Elizabeth H. Sibolski, President

January 14, 2013

Page 9

- Exhibit 6 -JCWS Faculty Survey Report – Spring Class 2012
-JCWS Faculty Survey Report – Winter Class 2012
- Exhibit 7 Muslim letter to Brennan; copy to DoD Secretary Panetta dated October 19, 2011
- Exhibit 8 Dr. Roth (NDU) Response to Pentagon
- Exhibit 9 Memorandum Relieving LTC Dooley from Instructor position dated
June 18, 2012
- Exhibit 10 Dempsey Orders Review of Courses Dealing With Islam
- Exhibit 11 Excerpt from May 10, 2012 DOD News Briefing with Secretary Panetta and
General Martin Dempsey from the Pentagon
- Exhibit 12 5.00 Non-Attribution/Academic Freedom
- Exhibit 13 DoD Directive 5230.09: Clearance of DoD Information for Public Release