

PETITION FOR RULEMAKING TO
PROMULGATE REGULATIONS CHANGING THE OFFICIAL
MOTTO OF THE DEPARTMENT OF VETERANS AFFAIRS

SUBMITTED TO
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

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Iraq and Afghanistan Veterans of America
NYC Veterans Alliance
Service Women's Action Network

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Petition for Rulemaking to Promulgate Regulations Changing the Official Motto of the
Department of Veterans Affairs

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I. Introduction

Iraq and Afghanistan Veterans of America (“IAVA”), NYC Veterans Alliance, and Service Women’s Action Network (“SWAN”) petition the United States Department of Veterans Affairs (“the VA”) to initiate a rulemaking proceeding pursuant to the Administrative Procedure Act, 5 U.S.C. § 553, to promulgate regulations changing the official motto of the VA. The mission statement of the VA is “To fulfill President Lincoln's promise ‘To care for him who shall have borne the battle, and for his widow, and his orphan’ by serving and honoring the men and women who are America's veterans.”¹ The excerpted quote from President Lincoln also serves as the VA’s motto. The motto is prominently displayed on the VA’s website, in its publications, and on two plaques at the entrance of the VA’s headquarters in Washington, D.C.

The current VA motto is gendered and exclusionary, relegating women veterans to the fringes of veteran communities. As the fastest growing population of veterans, women veterans deserve and require more respect from the VA. The process of ensuring the VA’s equal treatment of women veterans starts with a change to its motto and a change in its culture.

Women constitute approximately 15% of active duty service members, 20% of new recruits, and 19% of reserves, with over 345,000 women deployed in support of current wars.² In 2011, women comprised approximately 8% of the veteran population.³ By 2020, they will represent 11%.⁴ The number of women using VA services has increased by 80% since 2001.⁵ As the number of women in the military increases, more and more women will experience the

¹ *About VA*, U.S. DEP’T OF VETERANS AFFAIRS, http://www.va.gov/landing2_about.htm.

² *Policy Agenda: Fulfill the Promise to Today’s Veterans*, IAVA, http://iava.org/wp-content/uploads/2017/03/IAVA_Policy_2017_v8_125bleed.pdf.

³ *Strategies for Serving Our Women Veterans*, U.S. DEP’T OF VETERANS AFFAIRS (May 1, 2012) https://www.va.gov/opa/publications/Draft_2012_Women-Veterans_StrategicPlan.pdf.

⁴ *Policy Agenda*, supra note 2.

⁵ *Id.*

unique and devastating challenges that plague women veterans. Women veterans face unemployment and PTSD symptoms at higher rates than male veterans, and are twice as likely to be homeless⁶ and two and a half times as likely to die by suicide as civilian women.⁷

The VA has failed to meet the needs of women veterans. One-third of VA medical centers do not staff gynecologists, and only 2% of VA health facilities provide mammograms.⁸ None provide pre-natal care or deliver babies.⁹ Women veterans injured in the course of their service often receive improperly fitted prosthetics.¹⁰

This poor treatment has negatively affected women's perceptions of the VA. In IAVA's 2015 survey of 1,500 women veterans, 70% of participants said the services they received from the VA were less than good.¹¹ Fewer than half of participants believed that VA staff treated women veterans with respect or provided a culture welcoming to women.¹² Numerous participants recounted having their service questioned or belittled by VA employees. As these statistics make clear, the VA has failed to provide women veterans with the care they are owed. The road to gender equity is long, and will require the VA to make major policy changes. But those policy changes will be hollow if the culture of the VA continues to disregard women veterans.

⁶ *New Report Reveals Nation Still Not Fully Equipped to Support Women Veterans*, DAV (Sept. 24, 2014), <http://www.dav.org/learn-more/news/2014/new-report-reveals-nation-still-fully-equipped-support-women-veterans/>.

⁷ *Facts about Suicide Among Women Veterans: August 2017*, U.S. DEP'T OF VETERANS AFFAIRS (2017), <http://www.mentalhealth.va.gov/docs/va-women-veterans-fact-sheet.pdf>.

⁸ Samantha Michaels, *Is the VA Ready for an Influx of Female Veterans*, MOTHER JONES (Feb. 11, 2016, 11:00 AM), <http://www.motherjones.com/politics/2016/02/congress-might-make-women-register-draft-are-veterans-hospitals-ready/>.

⁹ *Id.*

¹⁰ Allison Jaslow, *VA has a woman problem. It starts with its motto*, WASH. POST (May 29, 2017), http://www.washingtonpost.com/posteverything/wp/2017/05/29/va-motto/?utm_term=.920af18303dd.

¹¹ *Policy Agenda: Fulfill the Promise to Today's Veterans*, IAVA, http://iava.org/wp-content/uploads/2017/03/IAVA_Policy_2017_v8_125bleed.pdf.

¹² *Id.*

IAVA has repeatedly informed the Secretary and the VA of the harms caused to women veterans by the continued use of its exclusionary motto. IAVA has met with the Secretary privately. IAVA has written again and again about this issue in the press. Most recently, IAVA published an open letter asking the Secretary once again to take this small but meaningful step toward gender equality at the VA.¹³

In response to IAVA's letter, a VA spokesperson dismissed the request to update the motto, stating, "Lincoln's words are Lincoln's words."¹⁴ It would seem as though retaining Lincoln's literal words is more important to the VA than honoring the spirit of his call to respect and care for all veterans and their survivors.

Kayla Williams, then Director of the VA's Center for Women Veterans, also responded to IAVA, writing that "for many years, I—along with other senior VA leaders—have honored the population we serve today by using a modernized version [of the motto]: 'To care for *those* who 'shall have borne the battle' and their families and survivors.'"¹⁵ A VA spokesperson quickly retreated from the position set forth in Williams' letter, stating that she "did not clear her letter internally before sending, and it is not VA's position."¹⁶ The VA's unwillingness to embrace even this type of small, informal change—let alone its refusal to change the motto in an official or lasting way—highlights its indifference towards the hardships faced by women veterans.

¹³ Nikki Wentling, *Iraq and Afghanistan vets call VA motto 'sexist,'* STARS AND STRIPES (Nov. 1, 2017), <https://www.stripes.com/news/iraq-and-afghanistan-vets-call-va-motto-sexist-1.495691>.

¹⁴ *Id.*

¹⁵ Kayla M. Williams, *Letter to Allison Jaslow*, WASH. POST (Jan. 26, 2018), <http://www.washingtonpost.com/news/checkpoint/wp-content/uploads/sites/33/2018/02/AJaslowsignedletter.pdf>.

¹⁶ Emily Wax-Thibodeaux, *Is the VA motto outdated and sexist? The head of the Iraq and Afghanistan veterans group thinks so*, WASH. POST (Feb. 6, 2018), http://www.washingtonpost.com/news/checkpoint/wp/2018/02/06/is-the-va-motto-outdated-and-sexist-the-head-of-the-iraq-and-afghanistan-veterans-group-thinks-so/?utm_term=.dd4f35daa492.

The VA's motto is outdated. By excluding women, it effectively erases the meaningful contributions that women have made to the military, and communicates to women veterans that they are unwelcome outsiders. When women enter the VA headquarters in Washington, D.C., read the VA's written materials, or visit its website, they are reminded that the VA has made the conscious choice to maintain a motto that denies their existence. Changing the motto would not fix the VA's gender inequities overnight. But it would mark a powerful commitment from the VA's leadership to create a culture that acknowledges and respects the service and sacrifice of women veterans.

I. Legal Authority

The Secretary of Veterans Affairs has the authority to promulgate rules and regulations pertaining to veterans' care. General authority can be found in 38 U.S.C. § 501(a), which grants the Secretary the authority to promulgate rules "necessary or appropriate to carry out the laws administered by the Department."

Further, the current VA motto was instituted unilaterally by a former head of the agency. In 1959, Sumner G. Whittier, the head of what was then the Veterans Administration, adopted the motto and had the plaques for the entrance of the VA made and installed.¹⁷ The motto and mission did not go through any formal or informal rulemaking procedures. Through a more informal process or through 38 U.S.C. §501(a) rulemaking, the Secretary has the authority to change the mission and motto of the VA.

II. Petitioners

¹⁷ *The Origin of the VA Motto*, U.S. DEPARTMENT OF VETERANS AFFAIRS, <http://www.va.gov/opa/publications/celebrate/vamoto.pdf>.

IAVA is a a nonpartisan member-advised advocacy organization focused on solutions to the issues facing veterans today.¹⁸ The organization consists of over 400,000 members and represents the over 3 million post-9/11 veterans worldwide.¹⁹ IAVA’s mission is to “connect, unite and empower” its members.²⁰ In 2017, IAVA began advocating for the full recognition and improved treatment of women veterans.²¹ IAVA’s “She Who Borne the Battle” campaign has emphasized changing the VA motto as a vital part of making the VA more inclusive of women veterans.

The NYC Veterans Alliance is a member-driven, grassroots policy, advocacy and community-building organization that advances veterans and their family members as civic leaders. The Alliance advocates for the more than 220,000 veterans and servicemembers based in NYC. The Alliance works to achieve community wellness and access to services for all veterans in New York City and beyond, regardless of service era or discharge status.²² The Alliance has defended the Brooklyn VA medical center against service reductions,²³ and this year has prioritized ensuring that women veterans receive equal access to VA services.²⁴ This effort includes support for changing the VA’s motto and signage that excludes women veterans.

SWAN is the nation’s leading not-for-profit organization advocating on behalf of all service women and women veterans.²⁵ SWAN consists of 32,000 members and supporters and represents more than 2,000,000 women veterans of all eras of service. SWAN’s principal advocacy issues are ground combat integration, abolishing military sexual trauma (MST),

¹⁸ *About Us*, IAVA, <http://iava.org/about/>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *She Who Borne the Battle*, IAVA, <http://iava.org/she-who-borne-the-battle/>.

²² *About Us*, NYC VETERANS ALLIANCE, http://www.nycveteransalliance.org/about_us.

²³ *Rep. Donovan Joins NYC Veterans Alliance, VVA Ch 72, and IAVA in Opposing Clinic Closure at Brooklyn VA*, NYC VETERANS ALLIANCE, http://www.nycveteransalliance.org/opposing_clinicclosure.

²⁴ *Our 2018 Policy Priorities*, NYC VETERANS ALLIANCE, http://www.nycveteransalliance.org/2018_priorities.

²⁵ *Who We Are*, SWAN, <https://www.servicewomen.org/who-we-are/>.

combatting harassment and sexism in the military and at the VA, and women's healthcare, including reproductive healthcare provided by both the VA and DoD through TRICARE.

III. Background: The exclusionary nature of the VA motto is harmful to women veterans and out of step with modern culture

The impact of the VA's continued use of its exclusionary motto is not merely symbolic; it has a concrete negative impact on women veterans. One barometer for measuring the VA's progress on this issue is to compare the VA to other similarly situated institutions. On this measure, comparator institutions outpace the VA by leaps and bounds.

A. Military institutions have changed their cultures to be more inclusionary

Over the past several decades, many military institutions have enacted meaningful changes to their cultures and traditions in order to honor and include women service members. The VA continues to lag behind.

1. The Veterans and Survivors Pension Act

In 1975, Congress amended the Veterans and Survivors Pension Act to make the language of the statute inclusive of women veterans. The amendment replaced the term "wife" with "spouse," and the term "widow" with "surviving spouse."²⁶ The Senate Report detailing the revision stated that its purpose was to "eliminate unnecessary gender references" in the statute.²⁷ These changes occurred in the wake of the Supreme Court's landmark decision in *Frontiero v. Richardson*, a 1973 case concerning the disparate treatment of women and their spouses seeking military benefits.²⁸ The Court held that "any statutory scheme which draws a sharp line between

²⁶ Pub. L. 94-169, Dec. 23, 1975.

²⁷ S. Rep. No. 94-568, at 78 (1975).

²⁸ 411 U.S. 677 (1973).

the sexes, solely for the purpose of achieving administrative convenience, necessarily commands ‘dissimilar treatment for men and women who are . . . similarly situated.’”²⁹

The VA should follow the example set by Congress so many years ago. Not only are the references to gender in the VA’s motto “unnecessary” and “unwarranted” in this day and age, they are harmful to women veterans.

2. The United States Air Force Academy

From 1964 to 2004, the Air Force Academy prominently displayed a sign reading “Bring Me Men” on its campus. The phrase comes from “The Coming American,” a poem written by Sam Walter Foss in 1894.³⁰ At the beginning of each school year, incoming students marched under the sign to symbolize crossing the “threshold between an old life and a new one.”³¹ In 2003, the Air Force Academy took down the sign and replaced it a year later with one bearing a new gender-neutral motto: “Integrity First. Service Before Self. Excellence In All We Do.”³²

The first push to change the “Bring Me Men” sign occurred in 1993, although criticism of the sign dates back further to the admission of women to the academy in the 1970s. The then-Academy Superintendent, Lieutenant General Bradley Hosmer, rejected calls for change, stating that “it is not for us to erase our heritage or to rewrite our history.”³³ His shortsighted rejection of the legitimate concerns of women cadets mirrors the VA’s current rejection of the needs of women veterans.

In 2003, criticism of the sign swelled once again in the wake of a massive sexual assault scandal at the Academy. Dozens of women came forward to the media saying they had been

²⁹ *Id.* at 690 (internal citations omitted).

³⁰ Sam Walter Foss, “The Coming American” (1894).

³¹ Erin Emery, *AFA Ends ‘Bring Me Men’ Era*, DENVER POST (Mar. 30, 2003).

³² *Academy’s “Bring Me Men” Sign Replaced With “Integrity First,”* DENVER 7 NEWS (Sept. 24, 2004, 6:30 AM), <http://www.thedenverchannel.com/news/academy-s-bring-me-men-sign-replaced-with-integrity-first->.

³³ Emery, *AFA Ends ‘Bring Me Men’ Era*.

sexually assaulted and subsequently punished by the administration for reporting it.³⁴ The Air Force, Pentagon and Department of Defense each launched their own investigations into the Air Force Academy and other military academies.³⁵ The investigations found that at least 142 cadets (and probably more) had been sexually assaulted in the past ten years. Most of these cadets were women. Overall, it was estimated that around 19% of female cadets experienced sexual assault during their time at the Academy.³⁶

In the wake of the investigation, the Secretary of the Air Force, John Roche, removed the top four Academy commanders from their positions and commissioned a report called “Agenda for Change.”³⁷ The Agenda laid out new initiatives, rules and policies to target the culture of sexual assault at the Academy.³⁸ One of the directives in the Agenda for Change called for the immediate removal of the “Bring Me Men” sign: “‘The ‘Bring Me Men...’ sign on the Terrazzo wall will be removed immediately, and will be replaced by a statement that more suitably represents the aspiration of the entire cadet wing and the core values of the Air Force.”³⁹

After the Academy removed the sign, the stone archway was empty for a little over a year until, in September 2004, the Academy replaced it with a new sign that commemorates the official “three core values” of the Air Force: “Integrity First. Service Before Self. Excellence in All We Do.”⁴⁰ The phrase was chosen from a selection of entries submitted to the

³⁴ *Academy's 'Bring Me Men' Sign Replaced With 'Integrity First,'* DENVER 7 NEWS (Sept. 24, 2004, 6:30 AM), <http://www.thedenverchannel.com/news/academy-s-bring-me-men-sign-replaced-with-integrity-first->. See also Clara Bingham, *Code of Dishonor*, VANITY FAIR (Dec. 2003), <http://www.vanityfair.com/news/2003/12/airforce200312>.

³⁵ Eric Schmitt, *Air Force Academy Investigated 54 Sexual Assaults in 10 Years*, NEW YORK TIMES (Mar. 7, 2003).

³⁶ Richard J. Newman, *Upheaval at the Academy*, AIR FORCE MAGAZINE (Jan. 2004), [http://www.airforcemag.com/MagazineArchive/Documents/2004/January 2004/0104academy.pdf](http://www.airforcemag.com/MagazineArchive/Documents/2004/January%202004/0104academy.pdf).

³⁷ United States Air Force Academy, *Agenda for Change* (Oct. 7, 2005), <http://media.defense.gov/2005/Oct/07/2001774406/-1/-1/1/IPO2004C003-appendix.pdf>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Mission and Vision*, U.S. AIRFORCE, <http://www.airforce.com/mission/vision?gclid=CjwKCAjwo4jOBRBmEiwABWNaMUiiEvYP7BMKLPK4a->

Superintendent.⁴¹ The Academy held a formal dedication ceremony for the new sign, while the old sign has been “safeguarded and preserved.”⁴²

3. The United States Naval Academy

A year after the Air Force Academy removed its historic “Bring Me Men” sign, the United States Naval Academy changed the lyrics of its fight song, “Navy Blue & Gold,” to make them gender neutral.⁴³ The lyrics of the original song, which had been performed at the Naval Academy at graduations and athletic games since the 1920s, referred to men only:

Now college men from sea to sea may sing of colors true,
But who has better right than we to hoist a symbol hue:
For sailor men in battle fair since fighting days of old
Have proved the sailor's right to wear the Navy Blue & Gold. . .⁴⁴

The new gender-neutral lyrics, announced in 2004, replace “college men” with “colleges” and “sailor men” with “sailors.”⁴⁵ The Vice Admiral and academy superintendent at the time, Rodney P. Rempt, stated that the new lyrics “make our Alma Mater inclusive of all who cherish it” without “changing the meaning of the song.”⁴⁶

Indeed, the change in lyrics marked a symbolic shift in a historically misogynistic and unwelcoming culture. The integration of women students into the academy in the 1980s was met with vehement resistance. Kathleen Durning studied the attitudes of both men and women at USNA after the integration of women. She found “[w]omen at USNA were dubbed ‘plebettes’ to

XWSw2eomDII7DGKBttIebPPUh_i_ZVKTeaLxoCPhoQAvD_BwE&gclsrc=aw.ds&dclid=CKSsjZn7tNYCFUUI DAod6FkHUQ.

⁴¹ Katherine L. Schifani, *Bring Me Men: Intertextual Identity Formation at the Air Force Academy*, Masters Theses-1911 (February 2014), <http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1268&context=theses>

⁴² Erin Emery, *AFA Ends ‘Bring Me Men’ Era*, DENVER POST (Mar. 30, 2003).

⁴³ Nelson Hernandez, *At the Naval Academy, A Lyrical Change*, WASHINGTON POST (May 20, 2004), <http://www.washingtonpost.com/wp-dyn/articles/A41410-2004May19.html>.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

underline their distinctiveness and, as a group, were the target of frequent jokes. . . . In addition, preexisting generalizations about women undoubtedly contributed to resistance of male midshipmen to the idea of women performing in military roles previously reserved for men.”⁴⁷

The Class of 1979, the last USNA class to graduate with only men, adopted “Omnes Viri”—“All Male”—as its motto.⁴⁸ In 1978, Senator Jim Webb, future United States Secretary of the Navy and an Annapolis graduate, wrote a piece for *The Washingtonian* entitled “Women Can’t Fight.” He argued that women were not suited for combat, that they should not be enrolled at the service academies tasked with preparing soldier for combat, and that their inclusion was the result of uninformed political inference in military affairs.⁴⁹

At USNA, similar resentment was directed at the female midshipmen. Reflecting on her experience as one of the first women to attend Annapolis, Barbara Ives explained that “[h]arassment was commonplace as some believed the women were stealing men’s jobs, were unable to do the job, or were there only to find husbands.”⁵⁰ In response to such treatment, Ives recalled, “We had to maintain our decorum and live with it all.”⁵¹ The vitriol of male sailors and the experience of the women sailors at USNA demonstrate the absolute necessity of intentional cultural inclusion. Without taking tangible steps to make a culture more inclusive for women, men are not held accountable for their actions and women undoubtedly suffer.

⁴⁷ Kathleen P. Durning, *Women at the Naval Academy: An Attitude Survey*, 4 ARMED FORCES AND SOCIETY 569, 584 (1978).

⁴⁸ Neal Thompson, *When Only Men Were Mids*, BALTIMORE SUN (Oct. 23, 1999), http://articles.baltimoresun.com/1999-10-23/news/9910230027_1_graduates-cate-coeducation.

⁴⁹ James Webb, *Women Can’t Fight*, WASHINGTONIAN (Nov. 1, 1979), <http://www.washingtonian.com/1979/11/01/jim-webb-women-cant-fight/>.

⁵⁰ Donna Cipolloni, *Life Not Easy for the First Class Women at the U.S. Naval Academy*, TESTER (Mar. 16, 2017), http://www.dcmilitary.com/tester/news/local/life-not-easy-for-first-class-of-women-at-u/article_1d9bf04e-54fd-5067-b03b-692f7d17f285.html.

⁵¹ *Id.*

4. The United States Military Academy at West Point

The United States Military Academy at West Point also made inclusive changes in 2008, when it changed the lyrics of its alma mater from “Guide us, thy sons, aright” to “Guide us, thine own.”⁵² Superintendent Lt. Gen. Franklin Hagenback highlighted the incongruity of the old lyrics as well as the disrespect they bestow on women service members; recalling a time he heard the words “thy sons” sung during a funeral at West Point for two female graduates killed in combat.⁵³ Gen. Hagenback stated: “At the end of the day, as the commander I am ultimately responsible for doing what’s right - and making these relatively minor changes are the right thing to do . . . As leaders of character, do we expect our cadets or graduates to condone exclusion of women? No. We clearly expect them to do the right thing.”⁵⁴

5. The Marine Corps

Progress has not been limited to educational institutions; branches of the military have also embraced this momentum for change. On January 1, 2016, Secretary of the Navy Ray Mabus issued a memorandum calling for implementation plans for gender integration in Marine Corps and Enlisted Basic Training.⁵⁵ In a second memo, Mabus also called for the “review of military occupational specialty titles” to guarantee gender neutrality.⁵⁶ The review of titles was

⁵² Alexa James, *West Point amends lyrics of alma mater to be ‘gender neutral,’* TIMES HERALD-RECORD (June 4, 2008, 2:55 PM), <http://www.recordonline.com/article/20080604/news/80604035>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Raymond Mabus, *Memorandum for the Commandant of the Marine Corps*, MILITARY TIMES (Jan. 1, 2016), <http://ec.militarytimes.com/static/pdfs/SecNav.pdf>.

⁵⁶ Fred Lambert, *Secretary of the Navy Orders Gender-Neutral Marine Corps Boot Camp, Job Titles*, UPI (Updated Jan. 10, 2016, 8:57 PM), http://www.upi.com/Top_News/US/2016/01/10/Secretary-of-the-Navy-orders-gender-neutral-Marine-Corps-boot-camp-job-titles/6581452461874/.

intended to “demonstrate through this language that women are included in these positions.”⁵⁷

Following the review, in June 2016, the Marine Corp announced that 19 occupational titles would be made gender neutral.⁵⁸ Generally, the word “man” in job titles was changed to “Marine.”⁵⁹

The VA should follow the examples set by these military institutions. It should not wait for a scandal to catalyze change, as occurred at the Air Force Academy. It is entirely possible to update culture and traditions without sacrificing history and values. In fact, these military institutions have discovered that change actually *strengthen* their commitment to their values.

B. Colleges and universities have made strides towards inclusion and equity

Cultural changes at college and universities also provide a useful model. Many American universities were historically all-male or male dominated, but nonetheless, have taken important steps to incorporate women more fully into campus life. These examples make clear that when administrators are committed to promoting gender equity and inclusion, cultural change is eminently achievable.

a. Eliminating antiquated exclusionary language

Many colleges and universities have worked to rid their campus cultures of gendered language. Below is a non-exhaustive list of universities that have made these positive changes. Notably, many adopted gender-inclusive language in the 1980s and 1990s, further illustrating that the VA is decades behind the times.

⁵⁷ Christina Jedra, *The End of ‘Midshipman’? Navy Secretary Calls for Gender Integration, Removal of ‘Man’ from Titles*, CAPITAL GAZETTE (Jan. 17, 2016), <http://www.capitalgazette.com/news/ph-ac-cn-title-changes-navy-midshipmen-0115-20160117-story.html>.

⁵⁸ David Wilkes, *Marine Corps to Make 19 Job Titles Gender-Neutral*, WASH. EXAMINER (June 28, 2016, 10:50 AM), <http://www.washingtonexaminer.com/marine-corps-to-make-19-job-titles-gender-neutral/article/2595076>

⁵⁹ *Id.*

For example, in 1988, Dartmouth College changed the name and lyrics of its 100-year-old school song, “Men of Dartmouth” (now “Alma Mater”). The college president at the time stated, “This is a simple transition from the old lyrics, yet the new version celebrates the presence of women and men as a single community on this campus.”⁶⁰ In the revised lyrics, words like “son,” “brother,” and “men” were replaced with gender-inclusive alternatives.

Similarly, in 1987, Princeton University’s Alumni Council updated the lyrics of the school song, “Old Nassau,” to make them gender neutral. The phrase “her sons shall give” was changed to “our hearts shall give.”⁶¹ In 1986, Syracuse University changed the lyrics of its alma mater from “May thy sons be leal and loyal” to “Loyal be thy sons and daughters.”⁶² And in 1994, Bowdoin College changed lines of its alma mater from “RISE! Sons of Bowdoin! praise her fame!” to “Raise songs to Bowdoin;” and from “Bowdoin! From birth the nurturer of men!” to “Bowdoin, from birth, our nurturer and friend.”⁶³

Even universities that have made cultural changes somewhat later are ahead of the VA. Rutgers University in New Jersey, for example, altered its alma mater in 2013,⁶⁴ from “My father sent me to old Rutgers/ And resolv’d that I should be a man,”⁶⁵ to “From far and near we came to Rutgers/ And resolved to learn all that we can.”⁶⁶ A Rutgers alumnus observed, “I

⁶⁰ *Dartmouth Song Now Gender Neutral*, UNITED PRESS INTERNATIONAL, (May 24, 1988), <https://www.upi.com/Archives/1988/05/24/Dartmouth-song-now-gender-neutral/4764580449600/>.

⁶¹ *Old Nassau*, PRINCETON UNIVERSITY (2018), <https://princetoniana.princeton.edu/traditions/performing-arts/songs/old-nassau>.

⁶² *The Alma Mater*, SYRACUSE UNIVERSITY (2018), <http://originalorange.syr.edu/syracuse-spirit/alma-mater/>.

⁶³ Peter Wood & Michael Toscano, *Gender Deconstructed*, NATIONAL ASSOCIATION OF SCHOLARS, https://www.nas.org/images/documents/Gender_Deconstructed.pdf.

⁶⁴ Kelly Heyboer & Mike Frassinelli, *After 140 Years, Rutgers Nixes ‘Be a Man’ and Rewrites Alma Mater with Gender Neutral Lyrics*, THE STAR-LEDGER (Sept. 20, 2013), http://www.nj.com/news/index.ssf/2013/09/rutgers_u_to_debut_new_alma_mater_with_gender-neutral_lyrics.html.

⁶⁵ *Id.*

⁶⁶ *Id.*

had a warm, long-term relationship with the alma mater as it was written . . . But this change is not only appropriate, it should happen sooner rather than later.”⁶⁷

Alma matters are historically an important component of a school’s culture, and were often written by well-meaning figures who played important roles in the schools’ histories. These universities nonetheless chose to change their alma maters in recognition of the fact that fealty to the past does not override the need for gender inclusivity, and that honoring tradition and including women are not mutually exclusive.

b. Renaming college institutions

A number of universities have also renamed institutions in honor of figures historically excluded from the university. In 2017, for example, Yale University renamed one of its residential colleges after a pioneering female mathematician, Grace Murray Hopper, and opened a new residential college honoring female civil rights activist Pauli Murray.⁶⁸ The renaming movement grew out of a protest against the original college’s commemoration of John C. Calhoun, who was infamous for his ties to slavery and white supremacy. The University used the renaming as an opportunity to honor not only alumni of color, but also women. Similarly, Georgetown University renamed one of its major college buildings to honor Anne Marie Becraft, a pioneering 19th century educator,⁶⁹ and Bowdoin College renamed a ceremonial college event from “James Bowdoin Day” to “Sarah and James Bowdoin Day.”⁷⁰ These changes reflect the institutions’ commitment to diversity, inclusion, and cultural progress.

c. Changing cultures surrounding fraternities and other social organizations

⁶⁷ *Id.*

⁶⁸ Monica Wang & Susan Sviuga, *Yale renames Calhoun College because of historical ties to white supremacy and slavery*, WASH. POST (Feb. 12, 2017), http://www.washingtonpost.com/news/grade-point/wp/2017/02/11/yale-renames-calhoun-college-because-of-historic-ties-to-white-supremacy-and-slavery/?utm_term=.3f2831a6f170.

⁶⁹ Ian Simpson, *Georgetown University Renames Buildings to Atone for Slavery Ties*, REUTERS (April 18, 2017, 2:59 PM), <http://www.reuters.com/article/us-washingtondc-georgetown-slavery/georgetown-university-renames-buildings-to-atone-for-slavery-ties-idUSKBN17K2AR>.

⁷⁰ Wood & Toscano, *Gender Deconstructed*, supra note 63.

A number of universities have also banned fraternities and integrated all-male social groups, after identifying the harm of gender-based exclusion. These changes reflect universities' acknowledgement that culture matters. These universities, unlike the VA, have recognized that cultural exclusion is not just a passing annoyance for women, but rather a source of pervasive inequity, misogyny, and gender-based violence.

In 1961, a Williams College committee concluded that fraternities had frustrated "the primary educational purposes of the College." In 1962, the College banned fraternities from campus. The "anger among alumni and students was ferocious for about two years," but thereafter, "the ability to raise money went way up, alienated alumni who had been the victim of the fraternity system came back to the college, and the standing of Williams academically rose."⁷¹

In 1988, a fraternity at Middlebury College dangled a female mannequin from a balcony covered in blood-colored paint and a sexual slur. The "mannequin was an emblem of the unchecked influence six fraternities had exerted over campus life for generations."⁷² The incident led to the creation of a Special Committee on Attitudes Toward Gender, which concluded that there was a general "anti-feminism feeling among the male members of Middlebury." In 1991, the College officially banned fraternities from campus.

⁷¹ Zach Schonfeld, *Inside the Colleges that Killed Frats for Good*, NEWSWEEK (Mar. 10, 2014), <http://www.newsweek.com/inside-colleges-killed-frats-good-231346>.

⁷² *Id.*

In 1996, Bowdoin College conducted a study concluding that fraternities represented “‘institutional symbols’ and ‘informal patterns of conduct’ that reinforced male privilege.”⁷³ In 1997, Bowdoin banned fraternities on campus.⁷⁴

In 2015, Wesleyan University ordered that its fraternities become co-ed or disband. The Chairman of the Board of Trustees and the University President wrote: “The trustees and administration recognize that residential fraternities have contributed greatly to Wesleyan over a long period of time, but we also believe they must change to continue to benefit their members and the larger campus community. Women as well as men must be full members and well represented in the body and leadership of the organization.”⁷⁵

In 2016, Harvard University rolled out a new policy penalizing single-gender social clubs and fraternities, after a university task force found that such groups were linked to a misogynistic culture that fuels “the marginalization of women and assumptions about sexual entitlement.”⁷⁶

These examples highlight the pernicious effect that cultural exclusion can have on women, and the ways in which institutions can reverse course by eliminating or integrating social organizations. This petition, however, merely asks the VA to make a modest change to its exclusionary motto. This should be an easy choice for the VA; changing the motto demands little of the agency, but maintaining the motto imposes a heavy cost on women veterans.

C. Gender exclusionary language is harmful to women

⁷³ Wood & Toscano, *Gender Deconstructed*, supra note 63.

⁷⁴ *Fraternity Membership Policy*, BOWDON DEAN OF STUDENTS OFFICE, <https://www.bowdoin.edu/studentaffairs/student-handbook/college-policies/fraternity-membership-policy.shtml>.

⁷⁵ Ariel Kaminer, *Fraternities at Wesleyan are Ordered to Become Coed*, N.Y. TIMES (Sept. 22, 2014), https://www.nytimes.com/2014/09/23/nyregion/fraternities-at-wesleyan-are-told-they-must-be-coed.html?_r=0.

⁷⁶ Michael Levenson, *Harvard Dean Stands Firm Against Single-Sex “Final Clubs,”* BOSTON GLOBE (Feb. 25, 2017), <https://www.bostonglobe.com/metro/2017/02/25/harvard-dean-stands-firm-against-single-sex-final-clubs/5R2HoMfyCnCWsr0YmesjTI/story.html>.

Social science research establishes the detrimental harms that exclusionary language can have on women. Gendered language ignores and excludes women. Social scientists have found that “[o]stracism threatens. . . the need to feel a secure sense of social belonging, the need to feel a sense of control over our lives, the need for high self-esteem, and the need for meaningful existence. . . . [activating] an immediate pain response as expressed by self-reported distress and anger.”⁷⁷ Studies have concluded that “the brain is well equipped to detect even the slightest hint of ostracism . . . by registering it as painful.”⁷⁸ The “immediate response to ostracism [activates] . . . the dorsal anterior cingulate cortex . . . the same brain region activated during exposure to physical pain.”⁷⁹

The VA’s use of gendered and exclusionary language in its motto has this effect on women veterans. When women veterans see the motto in VA correspondence, on the VA website, and emblazoned on the entrance to the VA headquarters, their sense of belonging at the VA is endangered. Women veterans, who have selflessly sacrificed for our country, do not deserve to feel the pain of being ignored in their own community.

Discrimination based on the use of gendered language can have other serious negative effects on women’s health. “[R]ecognizing prejudice directed against one’s social group is negatively related to psychological wellbeing in women.”⁸⁰ Gender discrimination “has the potential of yielding or [exacerbating] symptoms of PTSD, depression, complex PTSD and other

⁷⁷ Jane Stout & Nilanjana Dasgupta, *When He Doesn’t Mean You: Gender-Exclusive Language as Ostracism*, PERSONALITY AND SOCIAL PSYCHOLOGY BULLETIN (2011), 758.

⁷⁸ Ilja van Beest & Kipling D. Williams, *When Inclusion Costs and Ostracism Pays, Ostracism Still Hurts*, JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY (2006), 918–928.

⁷⁹ James H. Wirth & Kipling D. Williams, *‘They Don’t Like Our Kind’: Consequences of Being Ostracized While Possessing a Group Membership*, GROUP PROCESSES & INTERGROUP RELATIONS (2009), 111–127.

⁸⁰ *Id.*

post-trauma spectrum disorders.”⁸¹ Perceived discrimination has also been linked to anxiety, hypertension, breast cancer, obesity, high blood pressure, and substance abuse.⁸² Some studies have found that perceived discrimination and exclusion are “social stressor[s] that set[] into motion a process of physiological responses (e.g., elevated blood pressure, heart rate, cortisol secretions), and these heightened physiological responses over time can have downstream effects on health.”⁸³ In addition, “routine discrimination can become a chronic stressor that may erode an individual’s protective resources and increase vulnerability to physical illness.”⁸⁴

Not only is gendered language harmful to women’s health, but it also harms the community at large by perpetuating systemic inequality. “[G]endered wording (i.e. masculine- and feminine-themed words, such as those associated with gender stereotypes)” maintains gender inequality.⁸⁵ And institutions that use gendered language perpetuate institutional sexism and inequality.

The VA’s refusal to update its motto to reflect the reality of today’s veteran population is an intentional choice. “From the perspective of the speaker, gender-exclusive language is likely to be a passive form of exclusion, but from the perspective of the target it may be experienced as an active form of exclusion.”⁸⁶ The VA’s adherence to its gendered and exclusionary motto is not passive or neutral. In refusing to change the motto, the Secretary opts to exclude women and to ignore the negative effects of this exclusion.

⁸¹ Kira et al, *Are the Negative Mental Health Effects of Gender Discrimination (GD) Salient across Cultures? Does Self-Esteem Mediate These Effects: GD as a Continuous Traumatic Stress and the Pathways to Its Negative Dynamics*, PSYCHOLOGY (2015), 93-116.

⁸² Elizabeth A. Pascoe & Laura Smart Richman, *Perceived Discrimination and Health: A Meta-Analytic Review*, PSYCHOLOGICAL BULLETIN (2009), 531–554.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Danielle Gaucher, Justin Friesen, & Aaron Kay, *Evidence That Gendered Wording in Job Advertisements Exists and Sustains Gender Inequality*, JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY (2011), 1.

⁸⁶ Stout & Dasgupta, *supra* note 77 at 758.

IV. Proposed Motto

IAVA petitions the VA to replace its current motto with one that is inclusive of women. As established above, a new inclusive motto would send the important message that VA cares about women veterans and honors their service. Furthermore, changing the motto would put an end to the significant psychological harms that the old motto inflicts on women veterans, and serve as a powerful step toward eradicating systemic gender inequality at the VA.

A. The proposed rule is an opportunity to engage veterans in the creation of a new motto.

In addition to making a difference in the lives of women veterans, a new motto could also serve as a vehicle for engaging and energizing the veterans community at large. The VA could invite veterans to participate in the process of crafting and selecting a new motto. By including veterans in this symbolic action and providing a platform for their voices to be heard, the VA could increase veterans' sense of ownership and belonging in the community fostered by the VA.

In similar moments of change, other institutions have invited their members to participate in the creation of new cultural symbols. At the Air Force Academy, as discussed above, the Superintendent invited community members to submit proposals for a new motto.⁸⁷ The new motto, which serves as a tribute to the official core values of the Air Force, was selected from among the candidates.⁸⁸ The VA could adopt a similar strategy by soliciting proposals from veterans in advance of the official period of Notice and Comment.

B. Potential new mottos

⁸⁷ Katherine L. Schifani, *Bring Me Men: Intertextual Identity Formation at the Air Force Academy*, MASTERS THESES-1911 (February 2014), <http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1268&context=theses>

⁸⁸ *Mission and Vision*, U.S. AIRFORCE, http://www.airforce.com/mission/vision?gclid=CjwKCAjwo4jOBRBmEiwABWNaMUiiEvYP7BMKLPK4a-XWSw2eomDII7DGKBttIebPPUh_i_ZVKTeaLxoCPhoQAvD_BwE&gclsrc=aw.ds&dclid=CKSsjZn7tNYCFUUI DAod6FkHUQ.

IAVA proposes three potential strategies for replacing the motto. First, the VA could preserve the majority of the old motto’s content simply by substituting gender neutral pronouns in place of “he” and “his,” as well as “family” and “survivors” in place of “widow” and “children.” The new motto would therefore consist of some version of the following: “To care for those who shall have borne the battle, and for their families and their survivors.” In fact, the VA has already begun to incorporate this gender-neutral version of the motto into its informal communications. Both Secretary McDonald and Secretary Shulkin have used an updated version of the VA’s mission—“to care for those who shall have borne the battle.”⁸⁹ And the Center for Women’s Veterans’ office at the VA printed posters reading, “Today we say to care for those ‘who shall have borne the battle’ and for their families and their survivors.”⁹⁰ This simple change would improve women veterans’ relationship with the VA.

Second, the VA could derive its new motto from a different quote of President Lincoln’s. For example, Lincoln stated in 1864: “I am greatly obliged to you, and to all who have come forward at the call of their country.”⁹¹ Such a motto would include women while still continuing to honor Lincoln’s commitment to serving veterans.

Third, the VA could select or author an entirely new motto. As discussed above, the VA could involve the veterans community in the process of selecting a new motto that encompasses the VA’s core values.

V. Conclusion

⁸⁹ *Remarks by Secretary Robert A. McDonald*, U.S. DEPARTMENT OF VETERANS AFFAIRS (Sep. 17, 2016), http://www.va.gov/opa/speeches/2016/09_17_2016.asp; *Message from VA Secretary Dr. David Shulkin*, U.S. Department of Veterans Affairs, <http://www.blogs.va.gov/VAntage/35253/message-from-va-secretary-david-shulkin/>.

⁹⁰ Betty Moseley Brown, *Words matter: Center for Women Veterans aims to inspire a new generation*, U.S. DEPARTMENT OF VETERANS AFFAIRS (Dec. 28, 2016), <http://www.blogs.va.gov/VAntage/33956/words-matter-center-for-women-veterans-aims-to-inspire-a-new-generation/>.

⁹¹ HENRY JARVIS RAYMOND, LINCOLN, HIS LIFE AND HIS TIMES 606 (1891).

Change can be difficult. The societal shift towards gender equality and inclusion has taken decades and will likely continue for years to come. Any large cultural transformation will have fits and starts, engendering the rage and scorn of some, while at the same time, inspiring and elevating the lives of others. The changes made to statutes, in military academies, and at colleges and universities around the country all demonstrate how difficult it can be to make these cultural changes, but how vital they are to the health and strength of a community.

The VA's purpose is to care for veterans. It cannot fulfill its mission while it systematically ignores and disregards women veterans. The VA needs to improve healthcare for women, provide more mental health services, and offer more leadership opportunities to women. But before it can implement these necessary policies for women veterans it must first acknowledge women veterans. Changing its motto and truly welcoming women into the culture and community of veterans is the first and most fundamental step in ensuring gender equity at the VA.⁹²

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⁹² The Veterans Legal Services Clinic of the Jerome N. Frank Legal Services Organization at Yale Law School prepared this petition in consultation with IAVA, NYC Veterans Alliance, and SWAN. The content of this petition does not purport to express the views of Yale Law School.

