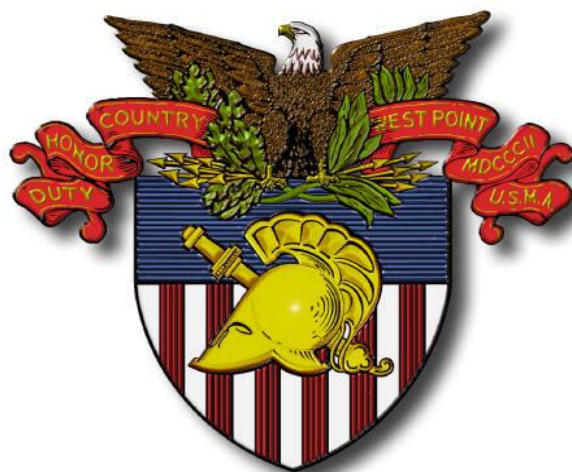


2011

ANNUAL REPORT

UNITED STATES MILITARY ACADEMY

BOARD OF VISITORS



DECEMBER 23, 2011

THIS REPORT IS NOT RELEASABLE UNTIL ACTED UPON BY THE
PRESIDENT OF THE UNITED STATES

**REPORT OF THE 2011 BOARD OF VISITORS
UNITED STATES MILITARY ACADEMY**

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**REPORT OF THE BOARD OF VISITORS
OF THE
UNITED STATES MILITARY ACADEMY
West Point, New York 10996**

THE PRESIDENT OF THE UNITED STATES

Mr. President:

1. APPOINTMENT AND DUTIES OF THE BOARD. The Board of Visitors (BoV or the Board) to the United States Military Academy (the Academy) was appointed in accordance with the provisions of Section 4355 of Title 10, United States Code. It is the Board's duty to inquire into the morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

2. MEMBERS OF THE BOARD.

U.S. Senators

Jack Reed, Rhode Island (SAC, SASC)
Kay Bailey Hutchison, Texas (SAC)
Mary L. Landrieu, Louisiana (SAC)
Richard Burr, North Carolina (SASC)

U.S. Representatives

Maurice D. Hinchey, New York (HAC)
Jerry Lewis, California (HAC)
John Shimkus, Illinois

Presidential Appointees

Mr. Frederick Malek, 1259 Crest Lane, McLean, VA 22101 (Appointed in 2009 to serve until December 30, 2011)

Mr. Randolph D. Brock III, 2396 Highgate Road, Saint Albans, VT 05478 (Appointed in 2009 to serve until December 30, 2011)

Ms. Elizabeth McNally, 253 Garth Road, Scarsdale, NY 10583 (Appointed in 2011 to serve until December 30, 2012)

Ms. Brenda Sue Fulton, 144 Rockview Avenue, North Plainfield, NJ 07060 (Appointed in 2011 to serve until December 30, 2012)

Mr. Patrick J. Murphy, 6414 Radcliffe Street, Bristol, PA 19007 (Appointed in 2011 to serve until December 30, 2012)

Mr. Errol R. Schwartz, 2011 East Capitol Street, Washington, DC 20003 (Appointed in 2011 to serve until December 30, 2013)

3. DESIGNATED FEDERAL OFFICERS. Lieutenant Colonel David A. Jones serves as Executive Secretary/Designated Federal Officer from September 14, 2010 to present. Ms. Joy Pasquazi serves as Alternate Designated Federal Officer from April 2, 2009 to present.

4. PUBLIC NOTICE. In accordance with Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92-463), notices of the meetings were published in the *Federal Register*. Local notice was provided to the West Point community and the Corps of Cadets by newspaper and bulletin notices. All meetings were open to the public.

5. PROCEDURES. Under the provisions of Section 10 (b) and (c) of the Federal Advisory Committee Act (Public Law 92-463), the minutes of each meeting of the Board are certified by the Chairman. The minutes of each meeting are published as part of this report. The Board of Visitors records, reports, letters and other documents are available for public inspection in the Office of the Executive Secretary, Board of Visitors, Building 600, United States Military Academy, West Point, New York 10996. Copies of the Report of the BoV are submitted to the Library of Congress as a matter of public record.

6. CONVENING OF THE BOARD.

a. Role of the Board in 2011. The 2011 BoV actively pursued its inquiry and oversight mission by convening four meetings during the year. The Organizational Meeting was held in Washington, DC on February 16, 2011. The Spring Meeting was held in Washington, DC on June 22, 2011. The Summer Meeting was held at West Point, NY on July 29, 2011. The final meeting, designated by the members as the required Annual Meeting, was held at West Point, NY on October 27, 2011.

b. The Organizational Meeting of the 2010 Board. The first meeting of the BoV in 2011 was held on February 16, 2011 in Washington, DC. Attendance at this meeting included four US Senators, three US Representatives and four Presidential Appointees. A quorum, consisting of at least six Board members with one member of Congress, was achieved. LTG Huntoon, the Academy Superintendent and Academy leadership provided transition and resource updates. The Board discussed meeting dates, areas of interest, collaborated on purpose, goals and objectives of the BoV for the focus of remaining meetings during the year. The Board unanimously elected Mr. Fred Malek as Chairman of the BoV and re-elected Mr. Randolph D. Brock III as Vice-Chairman. Mr. Terrence ('Rock') Salt, Principal Deputy Assistant to the Secretary of the Army for Civil works, and the Secretary of the Army's designated representative, addressed the Board and remained for the main meeting. Summarized meeting minutes can be found on page 20.

c. The Spring Meeting of the Board. The spring meeting of the BoV in 2011 was held on June 22, 2011 in Washington, DC. Attendance at this meeting included four US Senators, three US Representatives and five Presidential Appointees. A quorum, consisting of at least six Board members with one member of Congress, was achieved. LTG Huntoon, the Academy Superintendent and Academy leadership updated the Board on events and issues ongoing at the Academy since the Organizational Meeting and provided briefings on the military program, physical program, intercollegiate activities and fiscal affairs. Mr. Terrence ('Rock') Salt,

Principal Deputy Assistant to the Secretary of the Army for Civil works, and the Secretary of the Army's designated representative, addressed the Board and remained for the main meeting. Summarized meeting minutes can be found on page 97.

d. The Summer Meeting of the Board. The summer meeting of the BoV in 2011 was held on July 29, 2011 at West Point, NY. Attendance at this meeting included six Presidential Appointees. A quorum was not achieved. Mr. Terrence Salt, Principal Deputy Assistant to the Secretary of the Army for Civil Works, and the Secretary of the Army's designated representative, addressed the Board and remained for the main meeting. The Board reviewed the Spring Meeting transcript and LTG Huntoon, the Academy Superintendent and Academy leadership updated the Board on events and issues ongoing at the Academy since the Spring Meeting providing briefings on the West Point Leader Development System, Connecting with Graduates and the Net Zero program. Summarized meeting minutes can be found on page 123.

e. The Annual Meeting of the Board. The annual meeting of the BoV in 2011 was held on October 27, 2011 at West Point, NY. Attendance at this meeting included one US Senator, and six Presidential Appointees. A quorum was achieved. Academy leadership updated the Board on events and issues ongoing at the Academy since the Summer Meeting. Mr. Terrence Salt, Principal Deputy Assistant to the Secretary of the Army for Civil Works, and the Secretary of the Army's designated representative, addressed the Board and remained for the main meeting. The Board heard updates on the Academic, Honor and Respect programs. Summarized meeting minutes can be found on page 149.

f. Renewal of the USMA BOV Charter. The United States Military Academy Board of Visitors Charter was filed on October 16, 2010, and appeared in the Federal Register on October 25, 2010. The current BoV Charter is valid until October 16, 2012.

g. Results of the Board's Inquiry. In accordance with the Board's statutory mandate, it has performed its review over each specified area of inquiry and requested information from the Academy as needed to fulfill its responsibilities. The results of the Board's inquiries and the Academy's input in support of them are highlighted below, as well as addressed within the BoV approved minutes, briefing slides, and information papers provided in Appendices.

7. CONCLUSIONS AND RECOMMENDATIONS.

a. Principal Conclusions.

- (1) **West Point Continues to Serve the Nation with Distinction.** The United States Military Academy, in its 210th year, continues as one of the preeminent institutions of higher learning in America, uniquely providing its graduates with a superb academic foundation while also inspiring them to a life of service to the Nation. West Point's mission has been and continues to be "To educate, train, and inspire the Corps of Cadets so that each graduate is a commissioned leader of character committed to the values of Duty, Honor, Country and prepared for a career of professional excellence and service to the Nation as an officer in the United States Army." The Board of

Visitors 2011 plan of inquiry confirms that USMA accomplishes that important mission superbly as measured by the quality of the young men and women it develops. The Academy's priorities remain in leader development and moral-ethical development, reinforced in every aspect of cadet life – academic, military, physical and social. From a Corps of Cadets currently numbering about 4,650, the Academy each year graduates approximately 1,000 cadets who join the Long Gray Line and enter the US Army as newly commissioned second lieutenants. West Point remains a top-tier, highly selective institution of higher learning and a critical asset in the Army's competition for high potential college-bound talent. Recent acknowledgments of USMA's success include Forbes.com pronouncing West Point as the one of the top 5 Best Public Colleges or Universities in America for undergraduate education for the fifth year running, U.S. News and World Report calling it one of the Best Public Liberal Arts College in the country, and the Princeton Review designating the Academy as one of the 100 Best Value Colleges for 2010.

- (2) **Obsolescence and Overcrowding of Cadet Barracks is a Serious and Growing Concern.** In its 2010 report, the Board of Visitors commented on the strains on the Academy's mission brought about by aging and inadequate facilities. These issues remain as a significant impediment to the mission. Though majestic in appearance, West Point's Cadet barracks are old and near or beyond their life expectancy. Occupancy is beyond capacity as the Corps of Cadets has increased in size, while available space has remained static. The lack of comprehensive renovation and modernization means that the major systems of each building, that were designed for an all-male Corps more than 35 years ago, are failing at an ever accelerating rate. Water and weather infiltration is a constant battle. The advent of technology is taxing an electrical system that was not designed to service the more than 4,700 computers. There is limited ventilation and only four buildings are equipped with fire suppression/sprinkler systems. All steam systems (heat and hot water) are beyond lifecycle and failing water lines are damaging the building structures as well as ceilings, walls, floors and electrical systems. Mold is a constant health concern. There are insufficient restrooms and showers for women. Critical infrastructure at West Point, such as the Waste Water Treatment Plant, suffers from obsolescence and demands renewed attention. In addition, barracks for active duty soldiers supporting cadet summer training at Camp Natural Bridge are in deplorable condition and urgently require upgrade or replacement. Construction of one new barracks is projected to begin in FY13 followed by the phased modernization of the seven existing barracks beginning in FY16 only after the new building has been completed. The projected completion date of all seven barracks buildings extends to the year 2030.
- (3) **Funding Constraints Jeopardize Science Education at West Point.** The likelihood of further cost pressures, unless mitigated, will exacerbate resource constraints that already jeopardize the Academy's academic mission. Colleges and universities nationally compete for the best and the brightest, and despite West Point's unique attraction, it is falling behind its civilian peers in the acquisition of updated personal and tablet computers and in the network infrastructure necessary to

support them most efficiently. Although a world-class science center is scheduled to be completed in 2015, the Board is concerned that the availability of the equipment necessary to use the building as intended is threatened by the absence of funds to equip it with basic tools such as beakers, desks and platforms, items currently cited as unfunded requirements. As reported last year, the Board continues to be concerned about funding constraints that have resulted in a staffing shortfall of laboratory technicians and the failure to replace laboratory equipment needed to maintain Accreditation Board for Engineering and Technology standards (\$1,500K). In recent years, the Army has been generous to West Point in providing year end funding to meet projected shortfalls. However, it is a concern of the Board that USMA's dependence upon uncertain year-end funding leads to inefficiency and internal control issues surrounding the last minute expenditure of needed funds.

- (4) **The Board of Visitors' Inquiry Into and West Point's Response Regarding Fiscal Affairs Needs Improvement.** In 2009, the Board accepted four observations and findings from a sub-committee that examined fiscal affairs: (a) Historically, the BOV's inquiry into fiscal affairs has been inadequate; (b) Financial reporting has been unreliable; (c) Questions exist surrounding the effectiveness of internal controls; and, (d) Independent auditing of key areas of expenditure has been largely lacking. West Point was generally supportive of recommendations made by the committee, and a 2010 follow-up visit suggested that progress had been made or was planned. In addition, at the Board's recommendation, the Department of the Army's Internal Review Directorate made additional recommendations in these areas. Despite promises to do so, West Point has provided the Board with no updated information during 2011 as to the status of its actions regarding the implementation of the Board's or the DA Internal Review Directorate recommendations.

b. Recommendations to the President

(1) **Accelerate and Prioritize Barracks Construction and Modernization.** The Board recommends, as it did in its 2010 Annual Report, that the Administration accelerate and prioritize current plans to build one new barracks and modernize the existing barracks in a timely manner in order to alleviate the negative impacts of failing infrastructure and overcrowding. The Board supports granting West Point incremental versus phased solicitation for the new barracks, securing early design release, securing funds to explore options to accelerate the program, and finally securing funds to support the needed sustainment during the construction and modernization programs.

(2) **Staff and Equip Laboratories Sufficiently to Meet Accreditation Requirements.** The Board recommends that sufficient funding be provided to staff and equip West Point's laboratories in accordance with Accreditation Board for Engineering and Technology standards.

(3) **Require West Point to Address the Board's Concerns about Fiscal Affairs.** The Board recommends that West Point address the Board's recommendations concerning

increased independent auditing of major functional areas, increased transparency to the BOV of independent and internal audits performed over Academy functions and operations, renewed leadership emphasis on internal controls, tone at the top on fiscal ethics, and a thorough review of the organization and effectiveness of the Academy's financial management organizations.

c. Other Specific Conclusions and Recommendations to the Superintendent:

(1) Morale and Discipline

(a) Conclusion: West Point's focus on its Respect Program continues its efforts to improve the culture and climate surrounding gender relations, diversity, disability and individual and group inclusion. In 2011, the Academy hosted a Diversity Conference that focused on cultural and diversity topics, accentuating the value of leveraging unique and different strengths across boundaries. The Academy continues to look for innovative ways in education, awareness and prevention to assist both with illuminating negative behavior, as well as accentuating supporting networks for victims of discrimination, both within the cadet and staff and faculty populations.

(b) Conclusion: The Academy has met DOD training and educational requirements in preparation and execution of the Repeal of Don't Ask, Don't Tell (DADT) policy changes within the cadet, staff and faculty, and garrison employee populations as required. USMA continued to meet the requirements of Army's Suicide Prevention Program as well as EO/EEO directives.

(c) Recommendation: The Board requests information in 2012 on the outcomes of the implementation of DADT. The Board also requests annual updates on the Honor and Respect Programs, including statistical information on each program.

(d) Conclusion: This year, for the first time in memory, the Board conducted a series of focus groups, or sensing sessions, separately with groups of cadets and groups of faculty and staff. The sessions confirmed the outstanding job West Point is doing to produce well-educated, well-disciplined and well-rounded leaders of character. The sessions allowed the Board to gather consensus information useful in guiding further inquiries in the future.

(2) Academic Methods

(a) Conclusion: The Board is encouraged that the Dean of the Academic Board has adopted a strategy to shape a solid vision for the next five years of the Academic Program. In addition to strong academic content and a diverse offering of majors, there exists an unparalleled range of enrichment opportunities, many of them international in nature, designed to create strategic thinkers.

(b) Conclusion: The Board applauds the upgrade to Bartlett Hall and the initiative to create a world-class science center.

(c) Conclusion: The fiscal pressures felt in the academic departments suggest there may be opportunities to reengineer the administrative responsibilities currently placed upon faculty members. In the Board's sensing sessions with faculty, it was suggested that personnel vacancies have resulted in increased administrative workload on faculty, thus reducing available time for teaching and mentoring.

(d) Recommendation: The Board recommends that the Academy determine whether current and projected administrative requirements placed upon faculty members are unduly interfering with academic performance and whether there are opportunities to reengineer or simplify administrative processes or eliminate low priority administrative activities in order to mitigate the effects of personnel cuts.

(3) Instruction

(a) Conclusion: The Academy's faculty stands out in its willingness to go beyond the norm in supporting cadets needs. In the Board of Visitors' independent inquiry of numerous cadets, of all classes, the outstanding level of support provided by both military and civilian faculty outside of the classroom was emphasized almost to a person.

(b) Conclusion: Recent year cost constraints have led to at least one genuine dividend: The unavailability of active duty soldiers to assist or lead summer training has resulted in the use of upper class cadets to take on these important tasks. The innovation of various leader development programs that have come into existence has improved the proficiency of the trainers, not only in individual fields, but in also how to lead and coach necessary skills. The continuing evolution of leader development programs has continued to improve the quality of the military/physical program at West Point and has advanced the overall leader development program.

(4) Physical Equipment

(a) Conclusion: The 2011 relocation of the USMAPS from Fort Monmouth to West Point is nearing completion. Construction began in September 2009 and the first semester of classes commenced in the summer of 2011, with the arrival of 250 new cadet candidates. The completion date is on schedule for 15 January 2012.

(b) Conclusion: The management of the residential housing program was cited in the Board's inquiries with faculty and staff as an area warranting further review. Concerns were raised about service quality and responsiveness of the contractor operating the program.

(c) Recommendation: The Board requests that the Academy in 2012 advise the Board on how the service delivery relative to the residential housing program contractor is monitored and evaluated and whether the concerns raised to the Board have been examined and resolved.

(d) Conclusion: The Board commends West Point on its having been designated a Net Zero Energy Installation, slated to produce as much energy as it consumes by the year 2020.

(e) Recommendation: The Board requests periodic updates on the progress of achieving Net Zero.

(5) Fiscal Affairs

(a) Conclusion: The Academy has faced and will likely face increased fiscal pressures in the coming year. The Board's principal conclusion, stated earlier in this report, is that these constraints are taking a toll on West Point's ability to maintain its preeminent place in our Nation. In addition to constraints on updating aging infrastructure, of particular concern is the loss of civilian and military staff, including those involved in direct delivery of academic programs. West Point has benefited from additional funds being made available through mechanisms such as year-end funding, but the Board remains concerned about the uncertainty associated with dependence upon that as a solution.

(b) Recommendation: The Board requests continuing periodic updates on the impact upon Academy programs of the lack of funding. The Board reiterates its request for continuing updates on the status of funding and personnel manning for the Academy for both current and future years. The Board would also like to hear reports on projects that remain dormant due to inadequate funding.

(c) Conclusion: Upon request, West Point provided one member of the Board a list of internal audits conducted during the year. But the list gave no indication of what, if anything, of significance was found in those audits. Although the list is included as an appendix to this report, it provides little information useful to evaluate the quality of financial management or the effectiveness of internal controls.

(d) Recommendation: The Board requests that the Academy provide the Board annually with a listing of internal reviews or audits conducted by its Internal Review Directorate and by any other independent audit organization. The information provided should include significant findings or risks identified as well as remediation plans.

(6) The Board shall inquire into: Other Matters relating to the Academy

(a) Conclusion: Improving the quality of food provided to the Corps of Cadets is being assessed. Although caloric needs appear to be met, the nutritional value, quality, taste and cost effectiveness needs further review and improvement

(b) Recommendation: The Academy should complete its review of the Cadet Mess Hall's food quality and update the Board on the results of that review in 2012.

(c) **Conclusion:** Concern has been expressed as to the percentage of West Point graduates who remain in the Army after the period of required service. West Point has begun the implementation of a plan designed to increase significantly the retention of graduates.

(d) **Recommendation:** The Board would like to receive periodic updates, with metrics, on graduate retention, beginning in 2012.

(e) **Conclusion:** The Board believes its effectiveness will be enhanced by receiving meeting materials at least 10 days prior to Board meetings. The Board, in multiple meetings for more than a year, has repeatedly requested this action from the Academy, but West Point has not been responsive to these requests.

(f) **Recommendation:** The Board requests that its members receive meeting read-ahead materials at least 10 days prior to each Board meeting. In addition, the Board requests that these materials contain sufficient detail to allow members to understand the scope and substance of subject matter to be presented.

(g) **Conclusion:** During 2011, West Point reduced the number and range of its key leaders who attend Board meetings or who are available to interact with the Board during informal sessions, such as social events attendant to Board Meetings. These contacts, common in prior years, were very helpful for the Board to complete its inquiries. The Board fully understands the cost imperative of reducing the number of West Point staff who travel to attend meetings in Washington, DC, but strongly affirms the desirability of making available a broader range of senior staff at meetings held at West Point.

(h) **Recommendation:** The Board requests the availability and participation of a wider variety of key staff during the Board's meetings at West Point. The Board also recommends the reinstatement of the range of informal events and venues common at Board meetings until this year.

d. Other Observations of the Board

(1) Most of the challenges facing the Academy and issues of concern to the Board are continuing in nature. The Board wishes to specifically emphasize and be kept apprised of any developments relevant to the following areas of continuing interest or concern:

- (a) Suicide Prevention
- (b) Residential Community Initiative
- (c) Minority Recruitment
- (d) Sexual Assault and Sexual Harassment Awareness and Prevention

- (e) Quality of Life for the Corps of Cadets
- (f) Academy Master Plan
- (g) Movement of the U.S. Military Academy Preparatory School (USMAPS)
- (h) MILCON and BRAC Projects
- (i) Academy Funding and Budgetary Requirements

(2) In addition to the scheduled topics presented to the Board based on the Inquiry Plan, the Board was provided Information Papers on the following topics from the Leadership and Staff of the United States Military Academy (All Information Papers are included in this Annual Report):

- (a) United States Military Academy Preparatory School Overview
- (b) Board of Visitor's Areas of Inquiry 2011
- (c) FY11 Audit Log

2011 UNITED STATES MILITARY ACADEMY
BOARD OF VISITORS



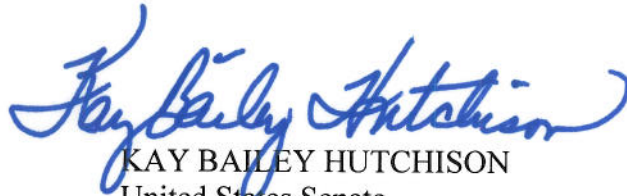
FREDERIC MALEK
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Chairman



RANDOLPH D. BROCK, III
St Albans, Vermont
Vice Chairman



JACK REED
United States Senate



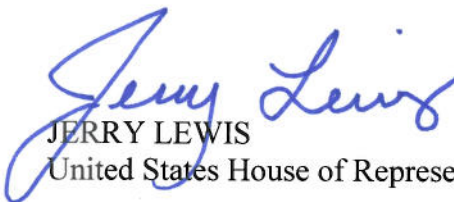
KAY BAILEY HUTCHISON
United States Senate



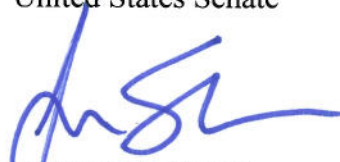
MARY L. LANDRIEU
United States Senate



RICHARD BURR
United States Senate



JERRY LEWIS
United States House of Representatives



JOHN SHIMKUS
United States House of Representatives



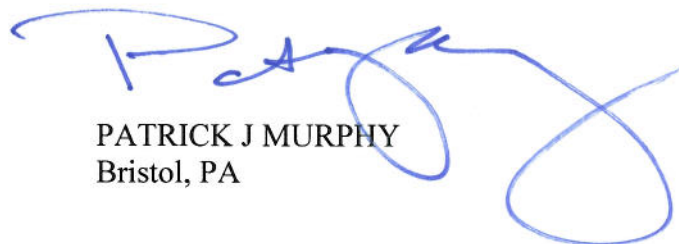
MAURICE D. HINCHEY
United States House of Representatives



ELIZABETH McNALLY
Scarsdale, NY



BRENDA SUE FULTON
North Plainfield, NJ



PATRICK J MURPHY
Bristol, PA



ERROL R. SCHWARTZ
Washington, DC

SUMMARY OF ACTIONS TAKEN IN RESPONSE TO THE 2010 RECOMMENDATIONS OF THE BOARD

TITLE AND DATE OF REPORT: 2011 Annual Report, United States Military Academy Board of Visitors.

NAME OF ADVISORY COMMITTEE: Board of Visitors, United States Military Academy.

RECOMMENDATIONS AND ACADEMY RESPONSES: The following updates are provided in response to the Board of Visitors recommendations provided in the 2010 Annual Report:

- a) General Update on Sexual Assault and Sexual Harassment (Provided by the USMA Diversity Office, and USCC –Respect Office)

The United States Military Academy at West Point, New York, and its supporting tenant and US Army Garrison-West Point assets provided ever-increasing emphasis on the prevention of sexual assault and sexual harassment. The results of the March 2010 Defense Manpower Data Center's Service Academy Gender Relations Survey were used to focus specifically on sexist behavior among and around the US Corps of Cadets. Our Sexual Assault Response Team members received the Army's new SHARP Program instruction. West Point conducted numerous SHARP Training sessions to address the Fiscal Year 2011 (FY11) SHARP Training requirement for all military and civilian members. These efforts have had a positive effect on increased reporting based on confidence and understanding. Incidents of wrongful sexual contact were reported at three times the rate as in FY10; further evidence of the positive results of training, and a decrease in tolerance of repugnant behavior.

In late April 2011, the Office of the Secretary of Defense Sexual Assault Prevention and Response Office (SAPRO) conducted an assessment of the Prevention of Sexual Harassment (POSH) and Sexual Assault Prevention and Response (SAPR) programs. The assessment provided oversight and direction for our Sexual Assault Response Team members and support services. The recommendations from the external review resulted in dynamic changes in our program from April to September 2011, which continue into FY12.

West Point more than tripled its number of both unrestricted and restricted reports of Sexual Assault in comparing FY10 and FY11. In FY11, West Point received 325% as many unrestricted reports and 300% as many restricted reports than in FY10. These increases directly tied to a corresponding increase in awareness across the Academy's staff and faculty, and support personnel, as the Army's SHARP training campaign spread across the installation.

Maintaining the momentum in FY12 is critical to creating a climate of personal commitment to intervene, maintaining an awareness of vulnerabilities, and eliminating destructive behaviors. Most of the FY11 incidents took place in the barracks. USCC leadership, in collaboration with the cadet chain-of-command, responded by instituting a force protection policy that requires more stringent enforcement of current policies, and the institution of a policy of requiring

overnight same gender roommates for all fourth class cadets, cadets under restriction, and cadets enrolled in the mentorship programs, regardless of class.

USMA remains steadfastly committed to ensuring the safety and development of the USCC, the Cadet Candidates at the US Military Academy Preparatory School (USMAPS), the staff, faculty, and support personnel. This commitment translates into action through progressive preventive efforts, maintaining a trained response team, consistently providing an approachable, networked response to allegations of sexual harassment and sexual assault, and administering justice to those who commit these offenses. West Point will continue to build leaders of character who will appropriately intervene and take action should the opportunity arise both here and following graduation during their service as Army officers.

b) Marksmanship, First Aid, Land Navigation and Communications Improvements this Summer (Provided by USCC- DMI)

Marksmanship: There has been much emphasis in the areas of planning, preparation and execution of Marksmanship training for both New Cadets and Yearlings to ensure that it is up to date, and incorporates lessons learned from the Field Army. The Department of Military Instruction (DMI) intends to sustain the highly successful marksmanship program for New Cadets and will continue to qualify using the Combat Field Fire. The Academy will add the standard 40 round qualification to the training program this year in order to expose cadets to this method which they will encounter in their initial assignments as junior officers and small unit leaders. DMI also plans to improve Crew Served Weapons training by adding more emphasis on employment techniques, crew drills, and machine gun theory.

Marksmanship training will be shifted to Cadet Basic Training Instruction in order to introduce New Cadets to weapons fundamentals and safe handling as their first training event.

First Aid: Shifting Marksmanship will also benefit First Aid training. New Cadets and Yearlings have experienced many improvements in realistic, field expedient First Aid techniques that will provide experience and confidence to every cadet. Exposing New Cadets to Marksmanship earlier will further necessitate the need to emphasize and practice realistic First Aid, buddy aid training techniques and procedures. There will be more time and more opportunity to reinforce important skills and principles of quality First Aid throughout the first and second summers. DMI and the Cadet Leadership will also re-enforce security during casualty treatment as part of the Tactical Combat Casualty Care (TC3) program.

Land Navigation: USCC plans to integrate tracking devices for individual Soldiers and buddy teams during Land Navigation exercises to mitigate heat casualty risks, provide real time tracking, and provide feedback to cadets during route planning and selection.

Communications: We will continue to train Communications in Cadet Basic Training (CBT) and Cadet Field Training (CFT) and will increase emphasis on vehicular communications systems during Cadet Leader Development Training (CLDT).

- c) Education of Cadets: psychological strategies to cope with Battle Field Losses (Provided by the Dean –Behavioral Sciences and Leadership Department, and USCC- MX400 Officership course)

West Point's capstone course, MX400-Officership, a core course taken by all first class cadets (seniors), includes a lesson on Combat Motivation and Dealing with the Stress of Combat. The goal of this lesson is to discuss how to motivate soldiers in combat and analyze concepts and techniques for helping soldiers deal with combat stress. Specifically, the lesson objectives are:

- Illustrate the importance of leadership and its effect on unit success in combat.
- Explain different techniques and methods leaders use to help soldiers thrive in a combat environment.
- Analyze different techniques that leaders use to motivate soldiers in combat.

Prior to 2010, the PL100-General Psychology course did not formally address this topic, but over the last 1.5 years, this required class for freshmen has integrated the topic of "Stigma and Resilience" into the final block of the course. In this lesson cadets read about the Soldier Combat and Psychological Fitness Model, which addresses both the risk factors for psychological trauma in combat (combat exposure, deployment length, and number of deployments) as well as the protective factors that attenuate the negative impact of the risk factors on the Soldier's psychological wellness. The protective factors include good leadership, social support, resilience, and overcoming the stigma associated with seeking mental health care. During this lesson cadets briefly discuss ways that the protective factors can be used to cope with losses of members of the unit and friends. PL111 introduces the topic and a few strategies to cope so that when cadets take PL300 in their junior year, they have a greater readiness to re-engage this difficult and often abstract concept.

During PL300-Military Leadership, cadets are introduced to specific leadership strategies and organizational theory. The course covered "Dealing with Death and Tragedy" as a separate lesson before 2011, but has shifted to a case study point to explain dealing with crises and extreme circumstances with a focus on the psychological and organizational methods for leading through these times. Cadets are required to take the individual strategies learned in PL100 as juniors and bring them forward to PL300 in order to help an organization work through change and crisis, to include combat loss. Cadets begin the course discussing strategies for understanding and defining failures and crucible moments, discussing transformational leadership strategies for uncertain circumstances, and move on to extreme situations for organizations by the end of the semester.

Over the past two years, a strong effort has been made to carry forward more material from PL100 to PL300 to show the linkages between individual and organizational studies. One consistent theme has been the application of these methods to current conflicts. Case studies from recent graduates and instructors with deployment experience are repeatedly referenced by

cadets as "one of the best things about the course--the personal examples of how this material applies on the battlefield." USMA will continue to streamline material between these courses to add depth and breadth to psychological studies and the domain of the human spirit. To do so USMA will take full advantage of the opportunity for cadets to apply this material at two critical points in their cadet careers.

d) Cultural Immersion Programs/Opportunities in Foreign Language (Provided by the Dean
– Department of Foreign Languages)

In 2011, West Point continued to offer numerous opportunities in foreign language and a variety of cultural immersion programs, linked directly to goals of the West Point Leader Development System and the Department of Defense. USMA requires 2-4 semesters of foreign language study for all cadets in one of eight languages offered by the Department of Foreign Languages (Arabic, Chinese, Farsi, French, German, Portuguese, Russian, and Spanish). Classroom learning is enhanced by information technology and extensive language and cultural immersion opportunities (local and global). More than 400 cadets participated in cultural immersion programs with either the Semester Abroad program (132) or other short-term (spring or summer) immersion experiences (278). Thirty six cadets took part in the Foreign Academy Exchange Program - a separate spring break immersion (7-10 days) at one of eighteen foreign military academies. Semester Abroad destinations for cadets include Austria, Brazil, Canada, Chile, China, France, Germany, Japan, Mexico, Morocco, Portugal, Russia, Spain, Taiwan, and Ukraine, with USMA looking to expand Semester Abroad opportunities in 2012 to Hungary, Jordan, Ireland, and Singapore. West Point assesses cadet development in language proficiency, cross-cultural competence, and regional expertise using the Defense Language Proficiency Test (DLPT), the Oral Proficiency Interview (OPI), the Intercultural Development Inventory (IDI), the Multicultural Personality Quotient (MPQ), and two newly developed in-house assessments of regional competence. Cadets studying abroad also participate in a series of mini workshops prior to departure and a weeklong symposium upon return.

e) Middle States Accreditation Action Plan April 2011 (Provided by the Dean)

After the 2009 Middle States Commission on Higher Education (MSCHE) visit, USMA was asked to submit a progress report documenting the institution's progress on three issues: development of a comprehensive strategic plan, improving cadet life, and implementing a sustained process for assessing student learning outcomes. The MSCHE's response to the progress report, submitted in April 2011, was favorable. The next required communication with MSCHE is the submission of the Periodic Review Report (PRR) in June 2015.

Planning for the PRR is underway. A committee will be formed in January 2012 to plan for and prepare the upcoming PRR. This committee will be comprised of a diverse group of faculty and staff members from all directorates. The committee will be responsible for addressing the progress made on the recommendations in the last MSCHE report.

f) Update on FY 2011/FY 2012 Fiscal Affairs (G8)

Fiscal year 2011 presented many challenges, among them the transition to a new Army financial system, budget uncertainty and potential civilian furloughs.

On January 3, 2011, West Point transitioned to the Army's new financial system, the General Fund Enterprise Business System (GFEBS). The transition to GFEBS brought a significant learning curve as it introduced an entirely new financial language and forced changes in current business processes. The benefits of GFEBS are that it will provide managers greater capability to manage the cost, schedule, and performance of their programs while setting a foundation to support every financial transaction all the way down to the details and supporting documentation. The system also implements stricter management controls through separation of duties and multi-level approvals for financial transactions.

Budget uncertainty in 2011 made it difficult to effectively plan and execute the mission. There were seven continuing resolutions between October 1, 2010 and April 14, 2011. By the first week in April, the Academy was required to notify civilian employees of the potential for a furlough. A last minute continuing resolution averted the furlough. The 2011 Defense Appropriations Bill passed on April 15, 2011. Upon passage of the appropriations bill, the Academy received \$128 million in appropriated funds to support operations. The Academy submitted a request to Army for an additional \$12 million to cover operational shortfalls in New Science Center equipment and furniture, replacement equipment for the cadet mess hall, movement of re-locatable facilities to support training, and facility repairs to cadet barracks. By September 30, 2011, the Academy closed the fiscal year with \$140 million in appropriated funds for operations, \$3.5 million in procurement funds to upgrade academic audiovisual equipment, and \$132 million in military construction for the New Science Center. In addition, the Academy processed approximately \$16 million in reimbursable research funding in 2011.

Fiscal year 2012 began on October 1, 2011 without an Appropriations Bill. In mid November 2011, the Army provided the Academy an appropriated fund planning target of \$115 million to support operations. This target accounted for the loss of 71 civilian authorizations and the transfer of \$12 million in funding to the Installation Management Command supporting cadet mess hall operations, both effective in 2012.

g) Update on Residential Communities Initiative (RCI) and Residential Housing ...
Renovation and Utilization (Provided by the Garrison Commander (GC))

The RCI project completed its third year of operation in July 2011. The project delivered 66 new homes in Stony Lonesome I for a total through September 2011 of 132 new homes. The remaining 26 new homes were delivered in November 2011. Fifty-six homes were renovated during FY 2011. The renovation program will continue throughout the Initial Development Period which ends in July 2016.

h) Cadet Barracks Modernization (Provided by the GC)

To alleviate cadet overcrowding in the barracks, West Point has gained Army approval to build a new Cadet Barracks in FY13 at a cost of \$191M. The new barracks will retain the design standard of two Cadets per room with common latrines similar to the layouts of the nine existing cadet barracks. The new Cadet Barracks is a seven story building comprised of five floors of cadet rooms for 650 cadets and two floors of mechanical and trunk rooms. The site of the new barracks is adjacent to other Cadet Barracks thus maintaining Corps of Cadet integrity. The Cadet Barracks modernization program will subsequently renovate each barracks and provide fire suppression, new mechanical ventilation systems, properly sized female latrines, and upgrades to the existing building structure to comply with current building codes including seismic and new technology. The Superintendent's goal is to begin the modernization program in FY14 (Scott Barracks) with completion not later than FY24.

i) Update on USMAPS' Move and Establishment at USMA (Provided by USMAPS)

USMAPS graduated its final class from Fort Monmouth in May 2011. The USMAPS class of 2011 entered with 245 cadet candidates and graduated 211, with 207 admitted to USMA on R-Day.

During the month of June, USMAPS closed out its facilities at Fort Monmouth, shipped equipment to the new campus at West Point and the staff and faculty completed PCS moves to West Point. Twenty-nine of thirty-seven civilian employees PCSed with the school to West Point including 20 of the 21 assigned faculty members. Phase I construction (cadet candidate barracks, the dining facility, one turf athletic field and track, and the athletic field house) was completed by 15 June. These facilities provided the basic infrastructure required for USMAPS to accomplish its Base Realignment and Closure (BRAC) mandated relocation.

Reception of the USMAPS class of 2012 and summer training began on 18 July. The class entered with 244 cadet candidates on R-Day. Academic classes began on 17 August. Faculty and coaches occupied temporary office facilities in Cullum Hall and Michie Stadium. Classes were held in Lincoln Hall and Jefferson Hall, and temporary classrooms in the ballroom of Cullum Hall. Academic offices and classrooms were completed on the USMAPS campus and received furniture in mid-November. The faculty relocated to their new office space on 18 November and classes were held at the new campus for the first time on 21 November.

Phase II Construction is on schedule to be complete by 12 January and furniture delivery should be completed by the end of January. Phase II construction includes an auditorium, gymnasium, athletic locker rooms, football and lacrosse fields, turf installation in the field house, and Athletic Department offices.

j) Repeal of “Don’t Ask, Don’t Tell” (DADT) (Provided by USMA G3)

The United States Military Academy, West Point engaged in DADT repeal training February-August 2011. In accordance with Army directives, USMA engaged in a three tiered approach to DADT repeal implementation education program focused on the Basics of DADT Repeal, Historical Context, Army Guiding Principles, an Overview of Policy Changes and Considerations, and a list of the Top 10 things to know about DADT repeal. These topics were presented in a format designed to chain teach from the highest levels of USMA command (Tier 1) to the operational level leaders and Cadets (Tier 3).

Primary Policy Change:

- Statements about sexual orientation or lawful acts of homosexual conduct will no longer be a bar to military service.
- Soldiers will no longer be separated solely on the basis of legal homosexual acts.



*USMA Board of Visitors
2011 Organizational Meeting
16 February 2011*

Location: Senate Capitol Visitors Center, Room SVC 201/200
Uniform: Military – ASU or Class A/Civilian – Business Attire

1130-1200 BoV members and USMA Staff & Faculty arrive, light luncheon served

1200-1415 **2011 Organizational Meeting in Session**

- **Remarks, Superintendent, United States Military Academy (3 min)**
- **Remarks, Secretary of the Army's Representative (10 min)**
- **Board Business**
 - New Member Oath of Office (2 min) (*Vice Chairman*)
 - Election of 2011 Chair and Vice Chairs (5 min) (*Vice Chairman*)
 - 2011 BoV Meeting Schedule (3 min) (*LTC Jones*)
 - Board Reports (5 min) (*LTC Jones*)
 - 2010 Annual Report update
 - Final Brock-Rainey Report
- **USMA Update**
 - Mission, Vision, Priorities, Initiatives (45 min) (*Superintendent*)
 - (10 Minute Break - Executive time)**
 - FY2011 Budget update (5 min) (*COL Stafford, Chief of Staff*)
- **West Point Upcoming Events/Activities (5 min) (LTC Jones)**
- **Remaining Board Business/Adjourn (45 min)**
 - BoV Discussion: Purpose of the Board, Goals and Objectives (45 min)

MINUTES
BOARD OF VISITORS ORGANIZATIONAL MEETING
FEBRUARY 16, 2011
WEST POINT, NY

1. DESIGNATED FEDERAL OFFICER'S REMARKS. Lieutenant Colonel (LTC) David Jones, Designated Federal Officer (DFO) for the United States Military Academy (USMA) Board of Visitors (BoV or Board) stated for the record that the BoV operates under the authority of US Code Title 10, Section 4355. The Board is an Advisory Board subject to the Federal Advisory Committee Act.

2. CHAIRMAN'S REMARKS. Vice Chairman, Randolph Brock called the meeting to order at 11:45.

3. ADMINISTRATIVE ANNOUNCEMENTS. Meeting packages included an agenda, briefing slides, proposed meeting dates for the Spring and Summer Meeting, the final Brock/Rainey report, the 2001 Federal Register Final Rule on Federal Advisory Committee Management, and Federal Advisory Committee Act (FACA) and BoV Overview briefing slides

4. ROLL CALL. For the record, a quorum of the Board was present. A list of attendees, annotated to reflect members arriving late or departing early, is appended to these minutes.

5. MR. SALT'S REMARKS. Principal Deputy Assistant Secretary of the Army, Mr. Terrence ("Rock") Salt, addressed the BoV on the Army five year budget plan which directs the Army to reduce active duty strength to 520,000 active duty Soldiers, 27,000 less than the current permanent end strength. These reductions would be effective fiscal year '15 and '16 consistent with the projected draw-downs in the Middle East, allowing the active Army force structure deployment rotation to align with the reduction. This is consistent with efforts to reduce costs as end-strength is a key driver of the Army's budget.

The budget also calls for a reduction in contractor costs by 10% per year for three years, starting in FY2011, and a freeze of the civilian work force at 2010 levels for the next several years. The Army is currently approximately 10,000 civilians over that target and has placed a temporary hold on certain conversion actions while Manpower and Reserve Affairs and the SECARMY work out the best approach to reduce civilian workforce numbers. The Army's strategic themes are seeking efficiencies and affordability within the generating force.

6. BOARD BUSINESS.

a. NEW MEMBER OATH OF OFFICE. Mr. Brock administered the Oath of Office to newly appointed Presidential Member, Ms. Elizabeth McNally.

b. ELECTION OF 2011 CHAIRMAN AND VICE CHAIRMAN. A quorum being in attendance, Mr. Fred Malek was unanimously elected as Chairman and Mr. Randolph Brock III was unanimously elected as Vice Chairman of the 2011 BoV.

c. **OTHER BOARD BUSINESS.** Wednesday June 22, 2011 was selected for the Spring Meeting date in Washington DC and Friday July 29, 2011 was selected for the Summer Meeting date at West Point.

Congressman Shimkus suggested that during the Summer Meeting visitation Board members meet separately to have town-hall like meetings with randomized groups, including students, faculty, civilian employees and family members. Additionally he requested tours of ongoing and completed MILCON projects at West Point.

For the fourth consecutive year, the Board of Visitors Annual Report was submitted to the President on time. The 2010 USMA Board of Visitors Annual Report was signed and delivered to the President's office on 27 December 2010. All BoV members were mailed a hard copy and a copy was sent to select Army Leaders. Mr. Brock took the lead on preparing the Annual Report, and through his efforts and the assistance of Mr. Rainey and all Board members, submission of the Annual Report remained on schedule.

Mr. Brock reported that the Academy made significant progress in addressing fiscal issues raised in the Brock-Rainey report, noting that opportunities remain for further improvement. West Point made progress in implementing most issues including increased focus by the BoV on fiscal affairs, increased independent auditing of major functional areas, increased transparency to the BoV of the independent and internal audits performed over Academy functions and operations, renewed leadership emphasis on internal controls and fiscal ethics, and a thorough review of the organization and effectiveness of the Academy's financial management organizations.

7. USMA UPDATES.

a. **MISSION, VISION, PRIORITIES, INITIATIVES.** LTG Huntoon, 58th Superintendent of the United States Military Academy at West Point, focused attention on the mission of USMA and the education, the training and inspiration of the US Corps of Cadets. The clear focus and number one priority being the quality of life and 47 month experience of cadets as they prepare for their responsibilities as leaders of character. As a preeminent leader development institution whose graduates are a principal source of commissioned Officers for the United States Army, leaders of character and the foundation of the professional military ethic, West Point is a critical resource of intellectual capital for the nation.

The most important day for West Point graduates is the day after graduation when they assume their most serious responsibilities as leaders of character for the US Army. Throughout their time at West Point, cadets must remain connected to this service. West Point's connection to the Army must remain viable. Bringing back leaders of character who have served in the field force is one way this is accomplished.

Strategic communications is critical to USMA. Everyone affiliated with the US Military Academy must have the capacity to speak about its real meaning and purpose for the nation as USMA competes over the next several years in an era of fewer dollars. One of the things that a BoV can do is to serve as champions who advocate for the needs and purposes of the Academy.

Collaborations and partnerships are very important to USMA in order to open the doors of West Point and showcase the very best benchmarks, the best good ideas and to share with like-kind colleges and universities and with ROTC commands across the US. Those things work well for West Point in the business of leader development. These collaborations and partnerships are vital to West Point.

West Point's staff and faculty, a world-class, first-tier group of men and women serving the Corps of Cadets are also provided leader and professional development opportunities. The Dean, the Commandant and the Superintendent are working to make sure that is done to the very highest standard for the 55% of rotating faculty, the 27% of civilian experts and the remainder who are permanent members of faculty.

The enduring requirement at West Point is to sustain the excellence that has endured for many, many years and to make sure it remains cutting edge. That involves a focus, concentration and commitment to innovation to the business of adaptation essential in a 21st century where warfare is volatile, uncertain, complex and ambiguous. West Point must continue to remain relevant.

The number one USMA focus is on the cadet barracks construction and renovations. The barracks are overcrowded, with 40% of cadets housed three in two-man rooms. While the size of the Corps has grown there has not been significant construction since 1972, and many barracks are much older. Over time Sustainment, Restoration and Maintenance (SRM) dollars have been used to sustain the infrastructure, but it is imperative to stop deferring construction and renovations.

Over the next decade the US Army is providing the funding required to build a new set of barracks, renovate and restore the remaining sets to the standard required in the Army and the standard required to remain competitive at West Point. This is not the one-to-one standard of the US Army for its training and permanent Army barracks, but simply the standard that a two person room houses two cadets. The Academy is not asking for additional dollars but simply asking to accelerate the cost of the initial construction of the new barracks, \$65 million, from FY13 to FY12. In discussions with Army staff, it appears a move in that direction may be viable.

USMA has a clear understanding of the limits of contact between, cadets and cadet candidates during the integration of USMAPS at West Point. There are very strict and well defined NCAA guidelines that define what can and cannot be done in terms of communications and contact between intercollegiate athletics and USMAPS teams.

In the implementation plan of Don't Ask, Don't Tell, a chain teaching plan will begin at the top with leadership and instruction by the Inspector General. The Academy has been working very closely with HQDA on the Army plan and policy. A number of senior staff and faculty from the Dean, in large measure from the Department of Behavioral Science and Leadership, assisted HQDA crafting its implementation. At West Point it will begin with the senior leadership and work its way down through the USCC and all of the other audiences at West Point, notably the staff, faculty and the Garrison.

Two concerns that have been a focal point in LTG Huntoon's first eight months at West Point are the cadet barracks construction and identifying and understanding all sources of revenue and funding streams at the Academy, including funds raised through independent academic projects.

b. RESOURCES. COL Stafford, USMA Chief of Staff, updated the Board on FY2011 funding. Over the last four to five years USMA received its funding from the US Army in two increments. The challenge, in an era of a lack of predictability in funding, lies in managing mid-year and end-year unfinanced requirements funds, which are at the peak of a downward trend. USMA can make compelling arguments to HQDA on requirements and receive additional funding through the year in terms of the mid-year unfinanced requirements and end-of-year unfinanced requirements.

The vast majority of centers like the Office of Economic Manpower Analysis and Combating Terrorism Center at West Point are funded either on a reimbursable basis or through donors to provide not only intellectual capital and outreach to the Army but educational opportunities and opportunities for scholarship for the faculty to publish and advance in their fields in areas that matter to the Army and to America.

Fifty percent of the operations and maintenance (OMA) money USMA receives from HQDA is civilian payroll. USMA is being asked to absorb a \$7M cut in civilian pay and a 10% reduction in contracts. The Academy will collaborate with HQDA to determine the impact of those cuts and work out a solution.

The continuing resolution is expected going through in March with a starting target of \$132.9M. This is an upward trend from an Army perspective, \$128M in FY10 to \$132M but the determination of USMA unfinanced requirements is still unresolved.

Funds provided by HQDA are allocated across all dimensions of the Academy as it relates to military, physical and education requirements. The Cadet Mess Hall (feeding the Corps of Cadets) costs \$12.5M per year. This is normally included in the West Point Staff fund, but is broken out because the Cadet Mess Hall is potentially going to AMC, Army Material Command.

Improving the quality of food provided to the Corps of Cadets is currently being assessed. Nutritionally USMA is providing the dietary percentages and values, but is working to not only provide sound nutrition and also a cost-effective diet that encourages cadets to eat sufficiently and establish healthy habits for life.

8. REMAINING BOARD BUSINESS. The Board conducted a discussion on purpose, goals and objectives of the BoV. Areas of discussion included ensuring a strong connection with West Point not only for all graduates but for ROTC institutions and other audiences, colleges, universities and centers of excellence around the US. Strategic communications, collaboration and partnerships with non-traditional audiences will help ensure that West Point does its best to survive well in this era of declining resources.

The Board discussed regularly setting aside scheduled meeting time to discuss specific areas of strategic importance or concern to the Academy. One of those issues addressed was how the Board could help USMA better connect with the American people, not only with the message of the Military Academy and the opportunity it provides, but also the message of the Army.

The Board discussed its charter to look into morale, discipline, curriculum, instruction, physical equipment, physical affairs, and academic methods, and self assessment tools for determining effectiveness. There was also a consensus that the value of the Board was to inspire, to provide advocacy for West Point, and to serve as a champion for the institution.

9. **ACTION ITEMS.** Mr. Malek requested that West Point provide the BoV at its next meeting with a report on West Point's efforts to stay connected with its graduates. Rep. Shimkus requested that BoV meetings at West Point include small group meetings with randomly selected groups, including cadets and faculty, and that West Point propose to the board at its next meeting a plan for accomplishing that. Mr. Brock requested that West Point explore ways to accomplish a formal board evaluation, possibly using commercially available non-profit board measurement instruments. Mr. Malek requested that the areas of strategic importance selected for discussion be distributed to board members in advance of a meeting.

10. **ADJOURNMENT.** There being no further comments, Mr. Malek moved to adjourn. The motion was seconded by Mr. Brock and unanimously agreed upon. This concluded the 2011 Organizational Meeting of the USMA Board of Visitors.

Certified by:



Mr. Fred Malek
Chairman
USMA Board of Visitors



DAVID A. JONES
LTC, US Army
Designated Federal Officer,
USMA Board of Visitors

APPENDIX TO THE MINUTES:

ROLL CALL

Congressional Members:

Senator Jack Reed	(arrived at 1226) (departed 1300)
Senator Kay Bailey Hutchison	(arrived at 1155) (departed 1216)
Senator Mary Landrieu	(arrived at 1215) (departed 1240)
Senator Richard Burr	(departed at 1210) (returned at 1240)
Congressman Jerry Lewis	(arrived at 1210)
Congressman Maurice Hinchey	
Congressman John Shimkus	(departed 1215)

Presidential Appointees:

Mr. Frederick Malek, Chairman of the BoV
Mr. Randolph Brock, Vice Chairman of the BoV
Dr. Charles Younger
Ms. Elizabeth McNally

The following members were absent:

Mr. John Rainey
Ms. Karen Hughes

Based on the BOV attendance, a quorum was present.

Other attendees:

Congresswoman Nan Hayworth
The Honorable Rock Salt, Principal Deputy Assistant Secretary of the Army for Civil Works
LTC Paul Taylor, OCLL
MAJ Joe Funderburke, SAFM-BUL
Mr. Arnab Raychaudhuri, PD ASA_CW Salt's Aide

Congressional Military Legislative Liaisons

Ms. Carolyn Chuhta, MLA to Sen. Reed
Mr. Dave Davis, Senior Advisor to Sen. Hutchison
Mr. Kevin Kane, MLA to Sen. Hutchison
Mr. Ross Nordurft, MLA to Senator Landrieu
MAJ Vaughan Byrum, MLA to Senator Burr
Mr. Spencer Freebairn, MLA to Rep. Lewis
Ms. Andrea Alvord, Navy MF to Rep. Hinchey
Mr. Grant Culp, MLA to Rep. Shimkus
Mr. Dan Sadlosky, MLA to Nan Hayworth

USMA command and staff members in attendance:

LTG David Huntoon, 58th Superintendent of the United States Military Academy

BG Timothy Trainor, Dean of the Academic Board

COL Gus Stafford, USMA Chief of Staff

Ms. Maureen Fitzgerald, Director of Strategic Communications

COL Scot Ransbottom, G5

LTC David Jones, Secretary to the General Staff

MAJ Mike McDermott, Superintendent's Aide

Ms. Joy Pasquazi, BoV Conference Specialist

Members of the Public

BG (Ret.) Samuel K. Lessey

Mr. Greg Mathieson, MAI photo

Ms. Susan Fulton, USMA Class of '80

REPORT TO THE BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

February 16, 2011

West Point has made significant progress in addressing fiscal issues raised in the October 2009 Board of Visitors (BOV) Rainey-Brock Report. Progress has included an increase in the quantity and quality of independent auditing, a focus on improving Resource Management (G-8) operations and movement to improve the effectiveness of internal controls. However, implementation of our recommendations and those of independent auditors brought in in response to our report has been slow and there remain major opportunities for further improvement

BACKGROUND

At the direction of the BOV, on June 3, 2010, board members Jim Marshall, Randolph D. Brock III and John S. Rainey, met at West Point with Academy officials and staff to follow-up on the Rainey-Brock Report that addressed fiscal affairs of the Academy. This memorandum summarizes observations from the visit and subsequent documentation provided by West Point regarding the Academy's progress in addressing the findings and recommendations contained in the 2009 report.

THE 2009 REPORT

In our original report, we made four observations and findings:

- Historically, the BOV's inquiry into fiscal affairs has been inadequate.
- Financial reporting has been unreliable.
- Questions exist surrounding the effectiveness of internal controls.
- Independent auditing of key areas of expenditure have been largely lacking.

We made a number of recommendations to address what we found. West Point was generally supportive of those recommendations and has made progress in implementing most of them. These recommendations included increased focus by the BOV on fiscal affairs, increased independent auditing of major functional areas, increased transparency to the BOV of independent and internal audits performed over Academy functions and operations, renewed leadership emphasis on internal controls, tone at the top on fiscal ethics, and a thorough review of the organization and effectiveness of the Academy's financial management organizations.

THE 2010 FOLLOW-UP

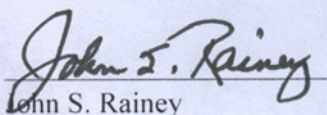
Independent auditing has added value. As a result of our report, the Superintendent secured a review of the Academy's internal controls and organizational structure by the Department of the Army's Internal Review Directorate. That group produced a report in November 2009 that contained findings and recommendations that in many ways mirrored our report. Unfortunately, West Point did not respond to the DA report or prepare an action plan to implement its recommendations until we raised questions about this during our June 2010 visit. We received West Point's response to the DA audit on September 30, 2010, almost a year after its completion. The response reflected agreement with most, but not all, of the recommendations. DA recommended that its report be followed up by West Point's Internal Review office, and the West Point response indicated that several of these follow-up reviews were scheduled to be

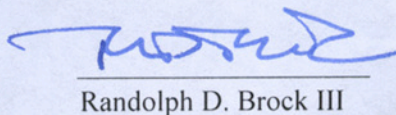
accomplished in November 2010. As of this writing, we have not seen the results of these reviews, which should be helpful to the BOV in assessing the quality of West Point's response to our original report and the independent audits resulting from it. In addition to the DA report, there have been other audits conducted by the Corps of Engineers and by a more robust USMA Internal Review Office.

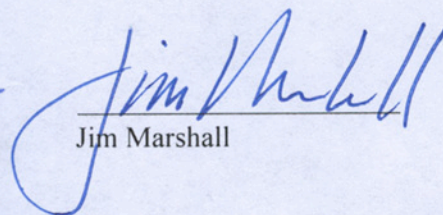
Improvement of the Resource Management Organization. Our 2009 report recommended review of the Academy's resource management organization to assess its effectiveness in the management and oversight of USMA's fiscal affairs. The DA IRAC review produced a similar recommendation. West Point has indicated that beginning in January 2010 there have been ongoing improvements and adjustments made in the Resource Management organization, and that these changes will continue into 2012.

Controls Regarding AR 15-6 Investigations. Although not directly discussed in our 2009 report, the issue of investigations conducted under Department of the Army Regulation (AR) 15-6 took on importance, and we spent considerable time both in our 2009 and 2010 visits in reviewing how AR 15-6 investigations impacted specific internal controls issues. AR 15-6 investigations are fact-finding investigations directed by commanders. DA's audit concluded that such investigations at West Point were not always properly coordinated with legal personnel and that files were not maintained as required. This was significant as we assessed how the \$2.9 million fraud committed by a DA civilian occurred and remained undetected for many months, despite multiple AR 15-6 investigations. However, after considerable inquiry, we are comfortable in concluding that West Point's AR 15-6 investigations relative to the major fraud were appropriate and timely, although, despite uncovering evidence of fraud, they failed to result in effective corrective action.

BOV Fiscal Inquiries Need Improvement. In the 2009 report, we recommended that the BOV expand the depth of its inquiries into the fiscal affairs of the Academy, especially in recognition of the limited scope and fragmented nature of the current level of independent financial review and oversight. West Point has imbedded additional presentations regarding fiscal issues into the annual meeting plan, but has declined our requests to hear directly from the Director of Resource Management (the chief financial officer) and the Director of Internal Review (the internal auditor), and instead has chosen to limit the BOV's interface on fiscal matters to the Chief of Staff. However, the two individuals will be present during selected BOV meetings. As we stated in 2009, we believe that it would be beneficial for the BOV to hear directly the unvarnished observations from the Director of Internal Review and Audit Compliance (IRAC) (the Academy's internal auditor) as well as the Directors of Resource Management both of the Academy and of the Garrison on a periodic basis.


John S. Rainey


Randolph D. Brock III


Jim Marshall



BOARD OF VISITORS

Organizational Meeting
16 February 2011



CALL TO ORDER



- Remarks, Superintendent, United States Military Academy (3 min)
- Remarks, Secretary of the Army's Representative (10 min)
- Board Business
 - New Member Oath of Office (2 min)
 - Election of 2011 Chair and Vice Chair (5 min)
 - 2011 Meeting Schedule(3 min)
 - Board Reports (5 min)
 - 2010 Annual Report Update
 - Final Brock-Rainey Report
- Board Inquiries
 - Mission, Vision, Priorities, Initiatives (45 min)
 - Fiscal Year 2011 Budget (5 min)
- West Point Upcoming Events (5 min)
- Remaining Board Business
 - BoV Discussion: Purpose of the Board, Goals and Objectives (45 min)
- Adjourn



REMARKS

Superintendent
United States Military Academy



REMARKS

Secretary of the Army's Representative



BOARD BUSINESS



- New Member Oath of Office

- Election of 2011 Chair and Vice Chair

- 2011 Board Schedule, Proposed Dates
 - Spring Meeting: Wednesday, 8 June or Wednesday, 22 June
 - Summer Meeting: Friday, 29 July
(arrival Thursday A.M., field training observation P.M.)

- Board Reports
 - 2010 Annual Report Update
 - Final Brock-Rainey Report



BOARD INQUIRIES



To ***educate, train, and inspire***
the Corps of Cadets so that each graduate
is a commissioned ***leader of character***
committed to the values of
Duty, Honor, Country
and prepared for a career of professional
excellence and service to the Nation as
an officer in the United States Army.



West Point is recognized as a preeminent leader development institution whose graduates -- a principal source of commissioned officers for the United States Army -- are leaders of character; the foundation of our professional military ethic, and a critical resource of intellectual capital for the nation.



- United States Corps of Cadets
- Connection to the US Army
- Positive Command Climate—One Team
- STRATCOM and Transparency
- Collaborations and partnerships
- Leader development of Staff and Faculty
- Sustainment of excellence and commitment to innovation and adaptation



International

- Cdr of German Army Heeresamt
MG Wolf-Joachim Claus
- People's Republic of China
Defense Attaché, MG ZHAO Ning
- Japanese Ground Self-Defense Force
Chief of Staff, GEN Yoshifumi Hibako
- Minister of Defense Brazil
Honorable Nelson Azevedo Jobin
- Australian Defense Force Academy
Commodore Bruce Kaefer
- HM Ambassador to the US, UK
Sir Nigel Sheinwald, K.C.M.G.
- Military Academy of Saint-Cyr
Commanding Gen, MG Eric Bonnemaïson
- Commander of Land Forces, UK
General Sir Nicholas Parker
- Afghan National Army Chief of Staff
General Karimi

National

- Honorable James A. Baker III
- Honorable James Clapper
- Honorable Eric K. Shinseki
- GEN(R) John Abizaid
- GEN(R) Barry McCaffrey
- GEN(R) Montgomery Meigs
- GEN(R) Richard Myers
- GEN(R) Dennis J. Reimer
- GEN Carter Ham
- GEN Ray Odierno
- GEN David Petraeus









West Point
The United States Military Academy

China – February 2011



West Point
The United States Military Academy

USMA Prep School






Mr. Boo Corrigan

- University of Notre Dame 1990
- Named Army Athletic Director
– 1 Feb 2011
- Associate Athletic Director,
Duke University – 2008-2011
- Associate Athletic Director,
University of Notre Dame – 2004-2008
- Associate Athletic Director for Marketing,
US Naval Academy, 2001-2004
- Proven administrator with 18 years of experience in
revenue generation, external affairs, staff management
and leadership





 **West Point**
The United States Military Academy

BREAK

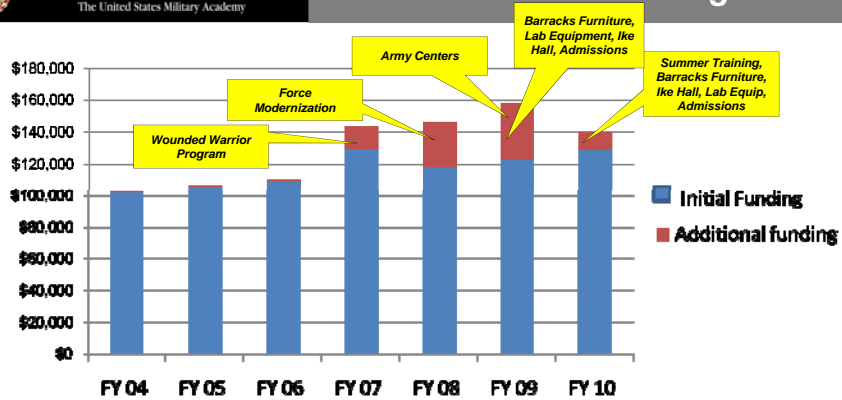


Budget Update for Board of Visitors

16 Feb 11

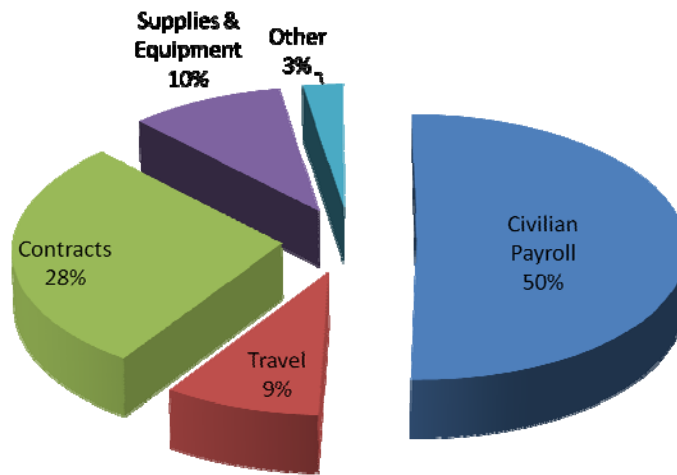


Historical USMA Funding Overview



CATEGORY	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10
INITIAL FUNDING	101,830.9	105,728.1	109,298.7	128,905.0	117,918.6	122,350.7	128,345.0
ADDTL FUNDING	929.0	480.0	1,000.0	14,900.0	28,205.0	35,781.7	12,418.4
TOTAL FUNDING	102,759.9	106,208.1	110,298.7	143,805.0	146,123.6	158,132.4	140,763.4
AUTH CORPS	4,000	4,000	4,200	4,200	4,400	4,400	4,400

Funding in (\$000s)



- Congress passed a continuing resolution through March 4, 2011
- Army provided planning targets based on FY10 execution
 - Fiscal Year 2010 USMA Execution was \$140.8M
 - Fiscal Year 2011 Planning Target is \$132.9M
- Working fiscal year 2011 unfinanced requirements submission to Army



- What is the current distribution of the FY11 Planning Target?
 - Dean \$53M
 - Commandant \$21M
 - Director of Intercollegiate Athletics \$13M
 - Director of Admissions \$ 5M
 - USMAPS \$ 5M
 - Cadet Mess Hall \$12M
 - West Point Staff \$21M
 - OEMA \$ 3M



Questions?



- **February**
25-27 – 100th Night Weekend
- **March**
10 – West Point Founders Day
11-13 – Plebe Parent Weekend
12-20 – Spring Break
30 Mar - 2 Apr – Global Leader Conference
- **April**
19-22 – Battle Command Conference
15-16 – Sandhurst Competition
30 – Hudson Valley Special Olympics
- **May**
15-20 – Graduation Week Activities
21 – Graduation



**REMAINING BOARD
BUSINESS**



CLOSING COMMENTS



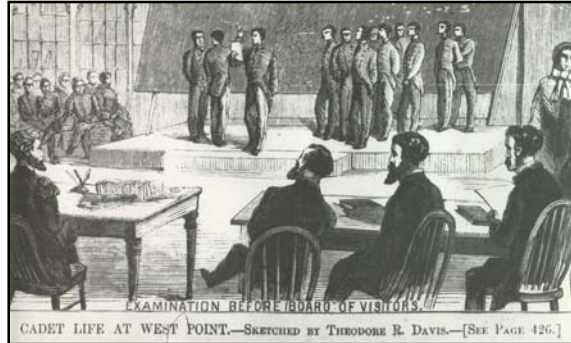
BACK-UP SLIDES



3 September	@ Northern Illinois
10 September	San Diego State
17 September	Northwestern
24 September	@ Ball State
1 October	Tulane (Homecoming)
8 October	@ Miami (Ohio)
22 October	@ Vanderbilt
29 October	Fordham
5 November	@ Air Force
12 November	Rutgers (@ Yankee Stadium)
19 November	@ Temple
10 December	vs. Navy (@ FedEx Field, Washington, DC)



United States Military Academy Board of Visitors



Orientation Briefing
as of February 2011



To **educate, train, and inspire**
the Corps of Cadets so that each graduate
is a commissioned **leader of character**
committed to the values of
Duty, Honor, Country
and prepared for a career of professional
excellence and service to the Nation as
an officer in the United States Army.



SUPERINTENDENT

Lieutenant General
David H. Huntoon, Jr.

BS, USMA Class of 1973
MA, International Relations,
Georgetown University
MMAS, CGSC Advanced Military
Studies

Overall responsibility for the
installation and the execution of the
Academy's mission



- “What” is the BoV
 - Governing Documents
 - Mission
 - History
- “Who” is the BoV
 - Structure of Membership
 - Subcommittees
 - Members
 - Attendance
- BoV Meeting information
 - Typical Meeting topics
 - Support Provided
 - Closed Sessions



- 10 United States Code, Section 4355
 - States how the Board is constituted
 - Board mission
 - Requirement for an Annual Report to the President

- Federal Advisory Committee Act (PL 92-463)
 - Role of Federal Advisory Committees
 - Complying with FACA
 - Committee must have an approved Charter

- Government in the Sunshine Act (PL 94-409)
 - Board Meetings must be announced 14 days prior to the scheduled meeting (Federal Register) and Open to the Public
 - Criteria for exceptions (Closed Sessions)



- USMA BoV Charter
 - Filed 16 October 2010(requirement to re-file every 2 years)
 - Objectives, Scope, and Membership align with 10 USC 4355
 - Board Meets at the call of DFO
 - Subcommittees authorized, but do not work independently of the Board

- USMA BoV Rules
 - Written and approved by the Board
 - Describes how the Board shall operate



To inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider

10 USC Section 4355



1815: First BoV meeting held at West Point

1816: Membership formalized; regulation approved by President James Madison. Congressional appointments made by Secretary of War.

1846: President began Congressional appointments to the Board

1948: Membership expanded to include Presidential appointees (10 U.S.C., 4355)



By law (10 USC Sec 4355) 9 Members of Congress, 6 Presidential Appointees

- 4 Senators
 - One is SASC Chairman, or his designee
 - Three others designated by VP or President pro tempore of the Senate, of which two must be from the Committee on Appropriations
- 5 Representatives
 - The Chairman of the HASC, or his designee
 - Four others designated by the Speaker of the House, two of whom are members from the Committee on Appropriations
- 6 Presidential Appointees
 - Three-year terms, 2 appointed new each year
 - If a member resigns, a successor shall be designated for the unexpired portion of the term



- **Annual Report Subcommittee**
 - Led by Mr. Randolph Brock III
 - Purpose: continuously prepare the Annual Report throughout the calendar year utilizing transcripts and other information provided at each of the four meetings, as well as prepare the letter to the President and compose recommendations and conclusions.



➤ **Senator Jack Reed (D-RI)**

- **USMA 1971**
- **USMA Board Member since May 1998**
- **Board Position:**
Senate “At Large”
- **Legislative Aide –**
Ms. Carolyn Chuhta



➤ **Senator Kay Bailey Hutchison (R-TX)**

- **USMA Board Member since January 2006 (Served on the Board previously from 1995-1999)**
- **Board Position: Senate Appropriations Committee**
- **Legislative Assistant –**
Mr. Kevin Kane





➤ **Senator Mary Landrieu (D-LA)**

- **USMA Board Member since May 2001**
- **Board Position: Senate Appropriations Committee**
- **Legislative Assistant –
Mr. Ross Nodurft**



➤ **Senator Richard Burr (R-NC)**

- **USMA Board Member since June 2009**
- **Board Position: Senate Armed Services Committee**
- **Legislative Assistant –
LTC Brooks Tucker**





➤ **Congressman Maurice Hinchey**
(D-22nd-NY)

- **Member since December 2001**
- **Board Position: House Appropriations Committee**
- **Legislative Assistant –
Mr. Liam Fitzsimmons**



➤ **Congressman Jerry Lewis**
(R-41st-CA)

- **Member since October 2009**
- **Chairman Emeritus HAC**
- **Legislative Assistant–
Mr. Spencer Freebairn**





- **Congressman John Shimkus**
(R-19th District, IL)
 - **USMA class of '80**
 - **Member since October 2009**
 - **Legislative Assistant –**
Mr. Grant Culp



- **Two Vacancies**
Speaker of the House will name:
 - **One HASC Member**
 - **One “At Large” Member**



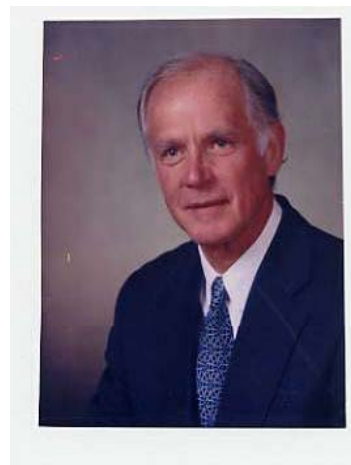
➤ **Mrs. Karen Hughes**

- **Global Vice-Chair, Burson-Marsteller**
- **Former Under Secretary of State for Public Diplomacy (2005-2007)**
- **Member since March 2008**
- **Appointment expired:
December 31, 2010**
- **Assistant – Ms. Jennifer Adams**
- **Continues to serve until new appointee is named**



➤ **Dr. Charles Younger, MD**

- **Orthopedic Surgeon**
- **Member since March 2002**
- **Appointment expired:
December 31, 2010**
- **Assistant – Ms. Bettye Mallams**
- **Continues to serve until new appointee is named**





- **Mr. John S. Rainey**
 - **Attorney and Businessman**
 - **Member since February 2006**
 - **Appointment expired:**
December 31, 2009
 - **Assistant – Ms. Terri Davis**
 - **Continues to serve until new appointee is named**



- **Mr. Randolph D. Brock III**
Vice Chairman
 - **Chairman, BoV Annual Report Subcommittee**
 - **Former Auditor of Accounts, Vermont**
 - **Certified Fraud Examiner**
 - **Member since February 2009**
 - **Appointment expires:**
December 31, 2011





- **Mr. Frederick V. Malek**
 - **Founder and Chairman, Thayer Lodging Group and Thayer Capital Partners**
 - **Member since February 2009**
 - **USMA Class of 1959**
 - **Appointment expires:**
December 31, 2011



- **Ms. Elizabeth Young McNally**
 - **Management Consultant, McKinsey & Company**
 - **USMA Class of 2000**
 - **Member since November 2010**
 - **Appointment expires:**
December 31, 2012





- Organizational Meeting held in Washington DC (Jan - Mar)
- Spring Meeting held in Washington DC (Apr - June)
- Summer Training Visits to USMA (July-Aug)
- Fall Annual Meeting held at West Point (Sep - Nov)
in conjunction with a home football game
- Complete Annual Report (Dec – Mar); the Board shall submit a written report to the President of its action and of the views within 60 days after the approval of the Annual Report.
- Congressional and Presidential Appointments to BoV



- By rule, 6 Members, including at least one Member of Congress, must be present as a quorum, otherwise no Board Business may be decided upon.
- BoV rules express that a Member missing three consecutive meetings would result in a letter written from the Board to the appointing authority expressing concern.



- Regular updates on Academy Programs from Superintendent, Dean, Commandant, Admissions, and Director of Intercollegiate Athletics
- Follow the BoV Inquiry Plan
- Topics as requested by the Board
- Topics as determined by the Superintendent



- All BoV meetings are announced and open to the public UNLESS a Closed Session is approved in advance. (driven by FACA / “Sunshine” Law)
- Approval Authority/Process: The DFO (USMA SGS) will coordinate for approval with the SECARMY / Committee Management Officer.



- Criteria which might lead us to request to close a session:
 - A subject which relates solely to the internal personnel rules and practices of an agency.
 - Involve accusing any person of a crime, or formally censuring any person.
 - Discloses information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
 - Discloses investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would interfere with enforcement proceedings, deprive a person of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of person privacy.
 - Classified Material



- In DC
 - USMA BoV team will schedule meeting location and coordinate with staffers / assistants
 - Expectation is that each member will make their own way to the meeting
 - Block rooms at a DC Hotel for the members and USMA S&F attending the meeting
- At USMA
 - USMA BoV team will block Hotel Room at Thayer Hotel/5-Star Inn
 - USMA BoV team coordinates for BoV venues (football game; observe training; lunch with cadets; hosted dinner)
 - USMA BoV team will make transportation arrangements (local – to/from airports and USMA; in/around USMA) Coordinates with CLL if MILAIR is needed for MOC

USMA BoV team provides administrative support to the Board throughout the year



- LTC David A. Jones, USMA Secretary of the General Staff and Designated Federal Officer (DFO)
 - David.Jones@usma.edu
 - (845) 938-4200

- Ms. Joy A. Pasquazi
BoV Conference Coordinator
 - Joy.Pasquazi@usma.edu
 - (845) 938-5078
 - (845) 938-3214 (fax)



Federal Advisory Committee Act (FACA) Training for the USMA Board of Visitors



OUTLINE

FACA Overview
FACA Major Requirements
FACA and the USMA BoV Rules
and Operating Procedures



Federal Advisory Committee Act

Public Law 92-463, effective January 5, 1973. Requires the establishment of a Committee Management Secretariat to provide Government-wide oversight of advisory committees. In addition, the Act establishes a framework covering the creation, management, operation, and termination of all advisory committees reporting to the Executive Branch.

Government in the Sunshine Act

Public Law 94-409, effective March 12, 1977. Section 5 (c) amended Section 10(d) of the Federal Advisory Committee Act. Serves as the basis for closing all or part of an advisory committee meeting.



- Enacted in 1972 (P.L. 92-463); codified at 5 U.S.C. App.
- GSA published its initial and revised "Federal Advisory Committee Management; Final Rule," 41 CFR Part 101-6, in the *Federal Register* on December 2, 1987 and October 5, 1989, respectively.
- The new "Federal Advisory Committee Management; Final Rule," 41 CFR Parts 101-6 and 102-3, was published in the *Federal Register* on July 19, 2001.



- FACA is one of the "Four Pillars of Openness in Government" Statutes:
 - *Administrative Procedure Act (APA)* – 1946
[5 U.S.C. 551-553]
 - *Freedom of Information Act (FOIA)* – 1966
[5 U.S.C. 552]
 - *Federal Advisory Committee Act (FACA)* – 1972
[5 U.S.C. App.]
 - *Government in the Sunshine Act* – 1977
[5 U.S.C. 552b]



- The Act was designed to fulfill two basic purposes:
 - *To Enhance Public Accountability of Advisory Committees.*
To control the undue influence of special interests by balancing committee membership, and to ensure that public access to committee deliberations is maximized.
 - *To Reduce Wasteful Expenditures on Advisory Committees.*
To improve the overall management of committee activities by establishing a set of management controls. These controls were designed to, among other objectives:
 - Monitor Federal advisory committee costs;
 - Identify and eliminate unproductive and/or unnecessary committees; and
 - Provide for an annual report of committee activities and accomplishments to the Congress.



- Defines an advisory committee:
 - "Any committee, board, commission, council, conference, panel, task force, or other similar group which is established by statute, or established or utilized by the President or by an agency official, for the purpose of obtaining advice or recommendations...." [41 CFR § 102-3.25; App. A-I, -II, & -III to Subpart A]
 - Includes *subcommittees*... [41 CFR §§ 102-3.25, 3.35 & 3.145; & p. 37729]
 - Other committees and groups not covered under FACA or GSA's Final Rule [41 CFR § 102-3.40]
- Provides standards that govern the establishment, operation, administration and termination of Federal advisory committees
- Federal advisory committees exist to advise and recommend — not to decide. (BoV Mission Verb = Inquire)
- FACA, similar to NEPA, was not intended to be a public participation statute, *per se*. They must be afforded the opportunity to observe the process.



Four sources of authority for establishing an advisory committee:

- "(a) *Required by statute*. By law where the Congress establishes an advisory committee, or specifically directs the President or an agency to establish it (*non-discretionary*);
- (b) *Presidential authority*. By Executive order of the President or other Presidential directive (*non-discretionary*);
- (c) *Authorized by statute*. By law where the Congress authorizes, but does not direct the President or an agency to establish it (*discretionary*); or
- (d) *Agency authority*. By an agency under general authority in title 5 of the United States Code or under other general agency-authorizing statutes (*discretionary*)."

[41 CFR § 102-3.50]

**Note: BoV operates
under authority of
Title 10 USC § 4355**



- FACA was intended to authorize the establishment of a system governing the creation and operation of advisory committees in the Executive Branch of the Federal Government. [see 41 CFR §§ 102-3.10 & 3.40]
- Agencies must establish uniform administrative guidelines and management controls that are consistent with the Act and the GSA Rule. [41 CFR §§ 102-3.105(b) & 3.115(c)]
- Agencies must maintain systematic information on the nature, functions, and operations of their advisory committees “for the duration of the advisory committee.” [41 CFR §§ 102-3.170 & 3.175(e)]
- Agency heads must designate Committee Management Officers (CMOs) who are responsible for exercising controls and supervision over the committee management program. [41 CFR §§ 102-3.105(c) & 3.115]



- Committees must be chartered before they can meet or conduct any business. [41 CFR §§ 102-3.70 & 3.75]
- Charters must be renewed every two years or they will be terminated under the sunset provisions of Sec. 14 of the Act, unless otherwise provided by law. [41 CFR § 102-3.55]
- Advisory committee memberships are to be fairly balanced in terms of the points of view represented and the functions to be performed. [FACA Sec. 5(b)(2); 41 CFR §§ 102-3.30(c) & 3.60(b)(3); Appendix A-III. to Subpart B]
- Advisory committee meetings are required to be open to the public, with limited exceptions. Meeting notices and agendas must be published in the *Federal Register* to accommodate public participation. [41 CFR §§ 102-3.150, 3.155 & 3.175(c)]



- Designated Federal Officers (DFOs) must approve all meetings and agendas, and attend meetings. [41 CFR § 102-3.120]
- Detailed minutes of each advisory committee meeting must be kept and must contain:
 - a. Time, date and place of the meeting;
 - b. A list of all persons who were present;
 - c. A complete and “accurate description of each matter discussed and the resolution, if any, made by the advisory committee regarding such matter” (*i.e.*, any conclusions reached, including any advice or recommendations provided by the committee); and
 - d. “Copies of each report or other document received, issued or approved by the advisory committee at the meeting.”

[41 CFR § 102-3.165; see also §§ 102-3.170 & 3.175(e)]



- Policies applying to advisory committee meetings:
 - “(a) Each advisory committee meeting [must be] held at a reasonable time and in a manner or place reasonably accessible to the public, to include facilities that are readily accessible to and usable by persons with disabilities...;
 - (b) The meeting room or other forum selected [must be] sufficient to accommodate advisory committee members, advisory committee or agency staff, and a reasonable number of interested members of the public;

[41 CFR § 102-3.140]



- Policies applying to advisory committee meetings (continued):
 - (c) Any member of the public is permitted to file a written statement with the advisory committee;
 - (d) Any member of the public may speak to or otherwise address the advisory committee if the agency's guidelines so permit; and
 - (e) Any advisory committee meeting conducted in whole or part by a teleconference, videoconference, the Internet, or other electronic medium [must meet] the requirements of this subpart.”

[41 CFR § 102-3.140]



- Recommendations of advisory committees should be the result of independent judgment. [FACA § 5(b)(3); 41 CFR § 102-3.105(g)]
- Advisory committees must be adequately funded by the appropriate agency. [41 CFR § 102-3.95(a)]
- Advisory committee members may be subject to ethics and conflict-of-interest statutes, regulations and other rules. [41 CFR § 102-3.105(h); Appendix A-IV. to Subpart C; and 5 CFR § 2634.903, .904 (OGE)]
- Agencies should practice openness and seek to be as inclusive as possible. [41 CFR § 102-3.95(d)]
- Agencies should continually seek feedback from advisory committee members regarding effectiveness of advisory committee's activities; and should regularly communicate to members how their advice has affected Agency programs and decision-making. [41 CFR § 102-3.95(e)]



- *Preparatory* and *administrative* meetings are not subject to the notice and open meeting requirements of FACA [41 CFR § 102-3.160(a) & (b)] (Note: be cautious in defining these types of meetings)
- All advisory committee documents must be available for contemporaneous public inspection and copying until the committee ceases to exist. [41 CFR §§ 102-3.170 & 3.175(e); & pp. 37731–2]
- Records must be maintained which will fully-disclose costs for the purpose of GAO audits and the FACA Annual Report. [41 CFR §§ 102-3.175(b) & (e)]
- Advisory committees will be terminated as soon as:
 - a. their stated objectives have been accomplished;
 - b. the committee’s work has become obsolete; or
 - c. the cost of the committee’s operation is excessive in relation to the benefits accruing to the Federal Government.[41 CFR §§ 102-3.30(b) & 3.55]



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FACA specific content courtesy of
Fred Butterfield
Designated Federal Officer
Clean Air Scientific Advisory Committee (CASAC)



Federal Advisory Committee Act (FACA) Training for the USMA Board of Visitors



Federal Register

**Thursday,
July 19, 2001**

Part II

General Services Administration

**41 CFR Parts 101–6 and 102–3
Federal Advisory Committee Management;
Final Rule**

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–6 and 102–3

[FPMR Amendment A–57]

RIN 3090–AG49

Federal Advisory Committee Management

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising Federal Property Management Regulations (FPMR) coverage on Federal advisory committee management and moving it into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand. This action is necessary due to legislative and policy changes that have occurred, and judicial decisions that have been issued since the regulation was last updated. It is based also on suggestions for improvement from other Federal agencies and interested parties, and clarifies how the regulation applies or does not apply to certain situations.

EFFECTIVE DATE: August 20, 2001.

FOR FURTHER INFORMATION CONTACT: Charles F. Howton, Deputy Director, Committee Management Secretariat (202) 273–3561, or electronically at the following Internet address: charles.howton@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

GSA's authority for administering the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. (also referred to as "the Act"), is contained in section 7 of the Act and Executive Order 12024 (42 FR 61445; 3 CFR 1977 Comp., p. 158). Under Executive Order 12024, the President delegated to the Administrator of General Services all of the functions vested in the President by the Act. GSA's responsibilities for administering the Act have been delegated to the Associate Administrator for Governmentwide Policy and to the Director of the Committee Management Secretariat.

In a previous issue of the **Federal Register** (62 FR 31550, June 10, 1997), GSA published an Advance Notice of Proposed Rulemaking (ANPRM) and requested comments. Additional

comments were requested from the Interagency Committee on Federal Advisory Committee Management. GSA requested comments on: (1) Suggested issues to address; (2) specific recommendations about changes needed in the current Federal Advisory Committee Management subpart; (3) examples of situations where FACA was either a useful tool or a hindrance to public involvement; and (4) GSA's intent to include illustrative examples and principles. On January 14, 2000, GSA published a proposed rule in the **Federal Register** (65 FR 2504) and requested comments over a 60-day period ending on March 14, 2000. All comments received were considered in drafting this final rule.

This final rule provides administrative and interpretive guidelines and management controls for Federal agencies to implement the provisions of the Act, and is intended to improve the management and operation of Federal advisory committees in the executive branch.

B. Discussion of Comments

Twenty-six commenters responded to the invitation for comments, including twenty commenters from the executive branch and six commenters from non-Federal sources. Of the twenty comments received from executive branch sources, three comments were submitted by subcomponents of a Federal department or agency. A total of fifty-nine specific issues or recommendations were identified, of which seven were either fully supportive of the proposed rule or concerned typographical errors. GSA addressed the disposition of the remaining fifty-two issues or recommendations as follows:

The Final Rule Should Include More Guidance Relating to the Management of Advisory Committees, Including the Impact of Other Statutes and Issues on Day-to-Day Operations

Several commenters provided suggestions regarding the addition of guidance on issues that, although not addressed by the Act, likely would improve the management of advisory committees. For example, one commenter suggested that the final rule include a provision to encourage agencies to streamline their internal processes and procedures in order to expedite the establishment of advisory committees. Other commenters requested that GSA: (1) Provide more detailed provisions on the compensation of advisory committee members and staff, and experts and consultants; (2) expand the range of

information required to be listed in an advisory committee's charter to include the nature and disposition of records; and (3) incorporate new regulatory requirements for increasing access to advisory committee information, such as providing meeting notices, minutes, and reports via the Internet.

In response to these recommendations, GSA expanded the number of examples included within the final rule to illustrate how other statutes or issues potentially could affect the effective management of advisory committees.

In addition, GSA reorganized the examples and other guidance into appendices to avoid any ambiguity between actions required by the Act and the final rule, and actions that are suggested only within an implementing framework of "best practices." In the final rule, a "Key Points and Principles" appendix appears at the end of each subpart to which it relates.

In applying the "best practices" offered in the appendices, users of the final rule should continue to examine the extent to which other factors, including agency-specific statutory provisions and internal agency procedures, may affect a specific advisory committee or program. Although GSA believes that the examples contained in the appendices to the final rule represent the circumstances most commonly encountered during the day-to-day management of advisory committees, the listing is not exhaustive and must be supplemented based upon the unique requirements of the user.

Provide Additional Guidance Regarding What Advisory Committees and Their Subcommittees Must Do To Comply With the Act

Many commenters expressed concern over language contained in the preamble to the proposed rule relating to coverage of subcommittees under the Act. The preamble to the proposed rule noted that:

The applicability of the procedural requirements contained in FACA and this proposed rule to subcommittees of advisory committees has been clarified. GSA's current FACA regulation does not make clear that subcommittees reporting to a parent committee are not subject to FACA. Indeed, the regulation states just the opposite, providing that "[s]ubcommittees that do not function independently of the full or parent advisory committee" are subject to all requirements of FACA except the requirement for a charter. (See 41 CFR 101–6.1007(b)(3).) This provision is problematic for two reasons. First, it applies FACA more broadly than the statute itself requires. Second, it essentially creates a special type

of advisory committee that is subject to some, but not all of FACA's requirements, which has no foundation in the statute. Under FACA, a group is either an advisory committee subject to all of the statutory requirements, or it is not an advisory committee, and therefore not subject to any of its requirements. Because a subcommittee which reports to a parent committee is not an "advisory committee" under FACA, there is no legal basis for applying any of FACA's requirements to such a subcommittee.

In evaluating the comments received, GSA notes that there were no objections to the exclusions contained in § 102-3.185 of the proposed rule (now § 102-3.160 of the final rule), relating to "What activities of an advisory committee are not subject to the notice and open meeting requirements of the Act?" The exclusions in § 102-3.160 of the final rule continue to cover the types of activities routinely performed by subcommittees. By this reasoning GSA sought to bring into harmony these activities with those provisions in the proposed rule differentiating subcommittees reporting to a parent advisory committee from those reporting directly to a Federal officer or agency.

However, the preamble to the proposed rule did not explain and describe adequately the legal framework for GSA's decision to differentiate subcommittees that report only to a parent advisory committee more clearly from advisory committees that report directly to a Federal officer or agency. The Act defines the term "advisory committee" as "any committee, * * * or any subcommittee or other subgroup thereof which is established or utilized by the President or an agency in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government". Under this definition, a subcommittee is an "advisory committee" subject to the Act if it provides advice to the President or a Federal officer or agency. Most subcommittees, however, report only to a parent advisory committee and it is the parent committee that is normally responsible for providing advice or recommendations to the Government. In this conventional scenario, the subcommittee is not subject to the Act because it is not providing advice to the Government.

Case law supports this conclusion. In *National Anti-Hunger Coalition v. Executive Committee*, 557 F.Supp. 524 (D.D.C.), *aff'd*, 711 F.2d 1071 (D.C. Cir. 1983), the question presented was whether the Act applied to task forces reporting to the Executive Committee of the President's Private Sector Survey on

Cost Control in the Federal Government. The task forces had no authority to make recommendations to agencies or to the President. Instead, their function was to do the "preliminary work of the survey, including fact-gathering, statistical evaluations, and the formulation of preliminary reports." (557 F.Supp. at 526). Although it was undisputed that the Executive Committee was subject to the Act, the court held that the Act did not apply to the task forces under the following reasoning:

There is no question that the task forces are intimately involved in the gathering of information about federal programs and the formulation of possible recommendations for consideration of the Committee. That is not enough to render them subject to the FACA. The Act itself applies only to committees "established or utilized by" the President or an agency "in the interest of obtaining advice or recommendations for the President or one or more agencies." The Act does not cover groups performing staff functions such as those performed by the so-called task forces. (557 F.Supp. at 529). (See also *Association of American Physicians and Surgeons v. Clinton*, 997 F.2d 898, 911-913 (D.C. Cir. 1993).)

GSA believes that as a result of this decision, subcommittees that report to a parent advisory committee generally are not subject to the Act. GSA also believes that subcommittees whose advice or recommendations are provided directly to a Federal officer or agency are subject to the Act. However, GSA further believes that this decision does not shield those subcommittees from coverage under the Act whose advice or recommendations are not subject to deliberation by their parent advisory committees.

From this reasoning, it is not permissible for parent advisory committees simply to "rubber-stamp" the advice or recommendations of their subcommittees, thereby depriving the public of its opportunity to know about, and participate contemporaneously in, an advisory committee's deliberations. Agencies are cautioned to avoid excluding the public from attending any meeting where a subcommittee develops advice or recommendations that are not expected to be reviewed and considered by the parent advisory committee before being submitted to a Federal officer or agency. These exclusions may run counter to the provisions of the Act that require contemporaneous access to the advisory committee deliberative process.

To address these issues more clearly, GSA strengthened language in the final rule by: (1) Adding a new § 102-3.35 that outlines policies relating to subcommittees; (2) clarifying language

in § 102-3.145 relating to subcommittee meetings; and (3) clarifying the examples contained in Appendix A to Subpart C.

Correct and Clarify the Definition of "Utilized"

Nine commenters recommended that GSA revise its definition of the term, "utilized" to conform to governing case law.

As noted by some of the commenters, the definition of the term "utilized" in § 102-3.30 of the proposed rule inadvertently misstated the applicable legal test. The proposed rule stated that a committee is "utilized within the meaning of the Act when the President or a Federal agency exercises actual management and control over its operation." This construction would require an agency both to have management of the committee and to exercise control over the committee before the committee can be deemed "utilized." The proper statement of the "utilized" test is whether an agency either has management of the committee or, in some fashion other than management, exercises control over the committee.

The controlling legal authority is *Washington Legal Foundation v. U. S. Sentencing Commission*, 17 F.3d 1446 (D.C. Cir. 1994). In that case, the appeals court gave structure to the U.S. Supreme Court's prior decision interpreting the term "utilized." (See *Public Citizen v. Department of Justice*, 491 U.S. 440 (1989).) The appeals court ruled that the word "utilized" indicates "something along the lines of actual management or control of the advisory committee." (17 F.3d at 1450). The operative criterion for determining whether a committee has sufficiently close ties to an agency in order to render it "utilized" is whether the agency has either *management* of the committee or exerts some other type of *control*, but not necessarily both.

Similarly, § 102-3.50(b) of the proposed rule (now § 102-3.185(b) of the final rule) used the phrase "actual management and control" with regard to section 15 of the Act. In explaining the relationship between Federal agencies and the National Academy of Sciences (NAS) and the National Academy of Public Administration (NAPA) covered by section 15 of the Act, § 102-3.50(b) of the proposed rule states that "[a]gencies must not manage or control the specific procedures adopted by each academy." However, committees covered by section 15 of the Act must be under *both* the actual management *and* the control of the academies, not that of a Federal agency. In this instance, the use of the conjunctive

word “and” is appropriate and indicates that the academies cannot relinquish *either* management or control of their committees to Federal agencies.

Accordingly, GSA revised the language contained in the final rule by changing *management and control* to *management or control* in the definition of the term “utilized,” now in § 102–3.25 of the final rule, and in those instances in which it appears in the “Key Points and Principles” guidance in the appendices to the final rule.

Clarify the Application of the Act to Agency Interactions With the Public

Several commenters noted that Federal agencies are increasingly reliant on local communities, individual citizens, and interested parties to obtain information, advice, or recommendations on which to base decisions. They expressed concerns that: (1) Uncertainty about the scope of the Act creates a disincentive for Federal officers and agencies wishing to engage in public outreach; (2) the requirements of the Act are being interpreted differently within and among agencies; and (3) GSA’s current regulations do not adequately differentiate between those groups and activities covered by the Act and others that are not. (See 41 CFR 101–6.10.)

GSA recognizes that the broad definition in the Act of an “advisory committee” might be interpreted to extend coverage by the Act to any gathering or two or more persons from whom the President or other Federal officers or agencies seek advice or recommendations. However, in the cases discussed above, the courts have rejected such a broad reading of “advisory committee.” GSA believes that the sections in the final rule on definitions and on groups not covered by the Act, §§ 102–3.25 and 102–3.40, respectively, clarify the limits of the coverage by, or scope of, the Act when applied together.

Within this group of comments, GSA noted a consistent theme related to the need for more information regarding public participation tools and techniques that would allow for more collaboration that is not subject to the Act. Although advisory committees support Federal decisions in a variety of situations, GSA believes that the ability of agencies to interact with the public in numerous other ways is particularly important because advisory committees are only one method for agencies to obtain the views of the public for their programs. Federal agencies may engage in continuous collaboration using diverse, but complimentary, tools, techniques, and methods. Whether or

not a selected approach includes the use of advisory committees, the potential or perceived applicability of the Act must not prevent constructive collaboration from taking place. Agencies are encouraged to contact GSA concerning not only the use of Federal advisory committees, but also for information about alternative forms of public involvement.

In GSA’s view, agencies have broad latitude to consult with the public using many different approaches that are not subject to the Act. Public consultation formats that generally fall outside of the scope of the Act include public meetings, information exchange forums, meetings initiated with or by non-governmental organizations, Federal participation on groups that are not established or utilized by the Government, and certain work products generated by contractors as a result of consultation with the public.

While FACA is not a public participation statute, it directly affects how the executive branch is held accountable for the use and management of Federal advisory committees as a major means of obtaining public involvement. Within this context, agencies wishing to consult with private individuals, non-governmental organizations, or with the public at large through other assemblages often must consider whether or not the Act applies to a given situation.

The number and range of scenarios presented by the commenters underscore the importance of presenting a clearer understanding of how advisory committees are established by Federal agencies or how the Government’s relationship with groups not established within the meaning of the Act may nevertheless become subject to the Act if they are *utilized*. Based upon the comments received, the circumstances under which advisory committees are *established* within the executive branch appear to be well understood. Accordingly, GSA retained the language contained in § 102–3.30 of the proposed rule in § 102–3.25 of the final rule and throughout subpart B.

However, as noted in the above discussion of the proposed rule’s treatment of the term “utilized,” agencies must determine whether or not their relationship with a group created by non-Federal entities constitutes *actual management or control* within the meaning of the Act. To help agencies make this determination, GSA has included within the final rule several new examples illustrating the application of the *actual management or control* test to different situations.

These additions are contained in the “Key Points and Principles” guidance in Appendix A to Subpart A.

Explain the Relationship Between Committees Established by the National Academy of Sciences (NAS) or the National Academy of Public Administration (NAPA) and the Act

The Federal Advisory Committee Act Amendments of 1997, Public Law 105–153, December 17, 1997, established separate procedures for committees that are managed and controlled by NAS or NAPA. Subpart E of the final rule contains implementing instructions for the new section 15 of FACA.

Clarify the Distinction Between Advisory Committees Subject to the Act and Operational Committees Not Covered by the Act

Five commenters suggested that further guidance in the final rule is necessary to assist agencies in differentiating an operational committee not covered by the Act from one that performs primarily advisory functions and is, therefore, subject to the Act. GSA added guidance within Appendix A to Subpart A listing those characteristics generally associated with committees having primarily operational, as opposed to advisory, functions.

Clarify the Applicability of the Act to Advisory Committee Meetings Conducted Through Electronic Means

Four commenters supported GSA’s language contained in the proposed rule extending the definition of “committee meeting” to meetings conducted in whole or part through electronic means. However, two commenters suggested additional clarifications, which GSA has adopted.

First, GSA slightly modified the definition of “committee meeting” contained in § 102–3.25 of the final rule to include a “gathering” of advisory committee members whether in person or through electronic means. This change was made to highlight coverage by the Act of both physical and “virtual” meetings conducted by such means as a teleconference, videoconference, the Internet, or other electronic medium.

Second, GSA amended the language contained in § 102–3.140 of the final rule to provide for adequate public access to advisory committee meetings that are conducted in whole or part through electronic means. This change complements existing policy covering advisory committee meetings that are held within a physical setting, such as a conference room, by ensuring that agencies adequately plan for public

participation by adding additional capability (such as a designated number of public call-in lines for a teleconference) to ensure access to committee deliberations.

Provide Additional Guidance on Balanced Representation and Selection of Members

One commenter expressed concern that the proposed rule did not contain sufficient guidance on balanced representation and the selection of members. GSA recognizes that the guidance contained in the proposed rule is limited to the language of the Act, but believes that the provisions of section 5(c) of the Act are broad enough to allow for agency discretion in determining advisory committee representation and membership relative to applicable statutes, Executive orders, and the needs of the agency responsible for the advisory committee.

However, GSA added a list of possible considerations within Appendix A to Subpart B that, while not comprehensive or universally applicable, may help in developing a plan for balancing an advisory committee's membership.

Emphasize the Importance of Maximizing an Advisory Committee's Independent Judgment

Five commenters offered various suggestions to address the requirement contained in section 5(b)(3) of the Act, which is intended to ensure that the work products of an advisory committee reflect the group's independent judgment.

Included among these suggestions were recommendations from the U.S. Office of Government Ethics (OGE) that GSA modify the language contained in § 102-3.155 of the proposed rule (now contained in Appendix A to Subpart C of the final rule) to clarify the applicability of conflict of interest statutes and other Federal ethics rules to advisory committee members. GSA adopted all of OGE's suggestions.

The remaining suggestions received concerned the appointment of advisory committee members, including a recommended change to § 102-3.155 of the proposed rule (now Appendix A to Subpart C) to clarify that: (1) An agency may appoint a member to an advisory committee based upon the recommendation of an organization to be represented; and (2) recommendations from an advisory committee may be a part of an agency's process to nominate new members. GSA adopted these changes and suggestions.

Provide Additional Guidance on the Management of Federal Records

GSA received suggestions from the National Archives and Records Administration (NARA) regarding three areas where additional guidance on records management issues could be useful. Specifically, NARA recommended that § 102-3.190 of the proposed rule: (1) Be expanded to include all recordkeeping requirements specified by the Act, not just those relating to advisory committee minutes; (2) include a statement that records should be scheduled for disposition before actual termination of the advisory committee; and (3) with regard to information that must be included within an advisory committee's charter, include a determination as to whether its records fall within the Presidential Records Act, 44 U.S.C. Chap 22.

GSA addressed these recommendations by expanding § 102-3.200 of the proposed rule (now Appendix A to Subpart D) to include additional guidance relating to records management and to highlight the applicability and importance of Federal recordkeeping statutes and policies to advisory committee operations. GSA decided to include this guidance within this appendix because the Act generally is silent on records management issues, with the exception of the responsibilities of the Committee Management Officer (CMO) in section 8(b)(2) of the Act.

Pursuant to the National Archives and Records Administration Act, 44 U.S.C. Chap. 21, the Archivist of the United States is responsible for records management in the Federal Government, including the issuance of regulations and guidance for records retention and disposition. The Archivist, working in conjunction with the agencies' Records Management Officers, also is responsible for identifying records that are appropriate for transfer to the permanent Archives of the United States and those that must be processed in accordance with the Presidential Records Act.

Strengthen Provisions Relating to the Public's Access to Advisory Committee Records

Two commenters suggested that the final rule contain more explicit guidance regarding the public's access to committee records under section 10(b) of the Act. In particular, the commenters recommended adding language describing the circumstances under which records may be withheld pursuant to the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552.

GSA believes that timely access to advisory committee records is an important element of the public access provisions of the Act and, therefore, agrees with these suggestions. GSA further believes that there are two separate, but equally important issues related to the availability of advisory committee records under section 10(b) of FOIA: (1) The extent to which records may be protected from disclosure under FOIA; and (2) the extent to which agencies may require that requests for non-exempt records be processed under the request and review process established by section 552(a)(3) of FOIA.

Section 10(b) of the Act provides that:

Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

The purpose of section 10(b) of the Act is to provide for the contemporaneous availability of advisory committee records that, when taken in conjunction with the ability to attend advisory committee meetings, ensures that interested parties have a meaningful opportunity to comprehend fully the work undertaken by the advisory committee. Records covered by the exemptions set forth in section 552(b) of FOIA generally may be withheld. However, it should be noted that FOIA Exemption 5 generally cannot be used to withhold documents reflecting an advisory committee's internal deliberations.

An opinion of the Office of Legal Counsel, U.S. Department of Justice, 12 Op. O.L.C. 73, April 29, 1988, entitled "Disclosure of Advisory Committee Deliberative Materials," concludes that FOIA Exemption 5 "is not generally applicable to materials prepared by or for an advisory committee, but that it does extend to protect privileged documents delivered from the agency to an advisory committee." The opinion further states that:

This construction gives meaning to exemption 5 without vitiating Congress' enumeration of deliberative documents such as working papers and drafts as subject to disclosure. It is also supported by a close reading of exemption 5 itself. Because by its terms exemption 5 protects only inter-agency and intra-agency documents and because an advisory committee is not an agency, documents do not receive the protection of exemption 5 by virtue of the fact that they are prepared by an advisory committee. On

the other hand, documents prepared by an agency do not lose the protection of exemption 5 by virtue of the fact that they are delivered to an advisory committee.

In determining whether or not such records fall within these narrow exclusions, the OLC opinion provides that consideration should be given to determining whether or not section 10(b) of FACA is applicable in the first instance. As noted in the OLC opinion:

Section 10(b) itself applies only to materials made available to or prepared for or by an advisory committee established by statute or reorganization plan or established or utilized by the President or an agency. 5 U.S.C. app. I, 3(2), 10(b). Accordingly, in determining whether a document is to be disclosed the first issue is not whether it is subject to an exemption under 5 U.S.C. 552 but whether it meets this threshold definition.

In explaining this threshold determination of whether particular records are subject to the section 10(b) disclosure requirement, the OLC opinion states that:

The courts and this Office have construed the concept of advisory committees established or utilized by the President or an agency to preclude section 10(b)'s application to the work prepared by a staff member of an advisory committee or a staffing entity within an advisory committee, such as an independent task force limited to gathering information, or a subcommittee of the advisory committee that is not itself established or utilized by the President or agency, so long as the material was not used by the committee as a whole.

Although advisory committee records may be withheld under the provisions

of FOIA if there is a *reasonable expectation* that the records sought fall within the exemptions contained in section 552(b) of FOIA, agencies may not require members of the public or other interested parties to file requests for non-exempt advisory committee records under the request and review process established by section 552(a)(3) of FOIA.

In *Food Chemical News v. Department of Health and Human Services*, 980 F.2d 1468, 299 U.S. App. DC 25, the appeals court held that:

Under section 10(b) of FACA an agency is generally obligated to make available for public inspection and copying all materials that were made available to or prepared for or by an advisory committee. Except with respect to those materials that the agency reasonably claims to be exempt from disclosure pursuant to FOIA, a member of the public need not request disclosure in order for FACA 10(b) materials to be made available. Thus, whenever practicable, all 10(b) materials must be available for public inspection and copying before or on the date of the advisory committee meeting to which they apply.

Accordingly, GSA included language within § 102-3.170 of the final rule describing the policy to be followed in implementing section 10(b) of the Act, and included additional guidance in Appendix A to Subpart D concerning the applicability of FOIA to records covered by section 10(b) of FACA.

Improve the Organization of the Final Rule

During the course of evaluating comments received from all sources,

GSA conducted a review of the proposed rule's general organization and structure for the purpose of achieving greater clarity and consistency in presentation. This effort led to a number of changes, such as redesignating the "Key Points and Principles" sections following each subpart as appendices. Other changes were made throughout the final rule to improve alignment between section headings and the material that follows. Similar changes were made within the appendices in order to improve the linkage between the examples or questions and the corresponding guidance.

In addition, GSA reorganized the final rule to redesignate subpart B as subpart E to improve the flow of information distinguishing Federal advisory committees subject to the Act from those committees created by the National Academy of Sciences (NAS) or the National Academy of Public Administration (NAPA) which, if not *utilized* by the executive branch, are not subject to the Act's provisions. Section numbers previously assigned in the proposed rule affected by the redesignation of subpart B as subpart E, subpart C as subpart B, subpart D as subpart C, and subpart E as subpart D have been changed accordingly.

C. Technical and Procedural Comments

The final rule incorporates several technical and procedural recommendations made by a range of commenters, particularly in the following sections or appendices:

Section/Appendix	Modification
102-3.60	Specific procedures for consulting with the Secretariat have been eliminated. GSA will issue separate guidance to agencies covering the administration of the consultation requirement.
Appendix A to Subpart B	Addition of guidance relating to the achievement of "balanced" advisory committee membership.
Appendix A to Subpart B	Addition of guidance covering the legal duration of the charter of an advisory committee required by statute where Congress authorizes the advisory committee for a period exceeding two years.
Appendix A to Subpart C	Addition of guidance addressing the designation of an alternate Designated Federal Officer (DFO).
102-3.130	All references to compensation limits imposed by the Act have been updated, and references to alternative similar agency compensation systems other than the General Schedule have been included.
102-3.130	All references to the word, "handicapped," have been replaced with the phrase, "with disabilities."
Appendix A to Subpart D	Addition of guidance regarding activities that are not subject to the notice and open meeting requirements of the Act.
102-3.165	The requirement for the completion of advisory committee meeting minutes now requires the DFO to ensure certification within the time limit specified.

D. Consultation With Other Federal Agencies

Pursuant to section 7(d) of the Act, the guidelines contained in this final

rule with respect to uniform fair rates of compensation for comparable services of members and staff of, and experts and consultants to advisory committees have

been established after consultation with the U.S. Office of Personnel Management (OPM).

Although not required by the Act, the guidelines contained in this final rule that refer to the applicability of conflict of interest statutes and other Federal ethics rules to advisory committee members have been established after consultation with the U.S. Office of Government Ethics (OGE).

Although not required by the Act, the guidelines contained in this final rule that relate to the management of advisory committee records have been established after consultation with the National Archives and Records Administration (NARA).

E. Executive Order 12866

GSA has determined that this final rule is a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

F. Regulatory Flexibility Act

GSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule does not impact small entities and applies only to Federal officers and agencies.

G. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

H. Small Business Regulatory Enforcement Fairness Act

This final rule is being submitted for Congressional review as prescribed under 5 U.S.C. 801.

List of Subjects in 41 CFR Parts 101-6 and 102-3

Advisory committees, Government property management.

Dated: July 5, 2001.

Stephen A. Perry,
Administrator of General Services.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

PART 101-6—MISCELLANEOUS REGULATIONS

1. Subpart 101-6.10 is revised to read as follows:

Subpart 101-6.10—Federal Advisory Committee Management

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 7, 5 U.S.C., App.; and E.O. 12024, 3 CFR, 1977 Comp., p. 158.

§ 101-6.1001 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

For Federal advisory committee management information previously contained in this subpart, see FMR part 102-3 (41 CFR part 102-3).

CHAPTER 102—[AMENDED]

2. Part 102-3 is added to subchapter A of chapter 102 to read as follows:

PART 102-3—FEDERAL ADVISORY COMMITTEE MANAGEMENT

Subpart A—What Policies Apply To Advisory Committees Established Within the Executive Branch?

Sec.

- 102-3.5 What does this subpart cover and how does it apply?
- 102-3.10 What is the purpose of the Federal Advisory Committee Act?
- 102-3.15 Who are the intended users of this part?
- 102-3.20 How does this part meet the needs of its audience?
- 102-3.25 What definitions apply to this part?
- 102-3.30 What policies govern the use of advisory committees?
- 102-3.35 What policies govern the use of subcommittees?
- 102-3.40 What types of committees or groups are not covered by the Act and this part?

Appendix A to Subpart A of Part 102-3—Key Points and Principles

Subpart B—How Are Advisory Committees Established, Renewed, Reestablished, and Terminated?

- 102-3.45 What does this subpart cover and how does it apply?
- 102-3.50 What are the authorities for establishing advisory committees?
- 102-3.55 What rules apply to the duration of an advisory committee?
- 102-3.60 What procedures are required to establish, renew, or reestablish a discretionary advisory committee?
- 102-3.65 What are the public notification requirements for discretionary advisory committees?
- 102-3.70 What are the charter filing requirements?
- 102-3.75 What information must be included in the charter of an advisory committee?
- 102-3.80 How are minor charter amendments accomplished?
- 102-3.85 How are major charter amendments accomplished?

Appendix A to Subpart B of Part 102-3—Key Points and Principles

Subpart C—How Are Advisory Committees Managed?

- 102-3.90 What does this subpart cover and how does it apply?
 - 102-3.95 What principles apply to the management of advisory committees?
 - 102-3.100 What are the responsibilities and functions of GSA?
 - 102-3.105 What are the responsibilities of an agency head?
 - 102-3.110 What are the responsibilities of a chairperson of an independent Presidential advisory committee?
 - 102-3.115 What are the responsibilities and functions of an agency Committee Management Officer (CMO)?
 - 102-3.120 What are the responsibilities and functions of a Designated Federal Officer (DFO)?
 - 102-3.125 How should agencies consider the roles of advisory committee members and staff?
 - 102-3.130 What policies apply to the appointment, and compensation or reimbursement of advisory committee members, staff, and experts and consultants?
- Appendix A to Subpart C of Part 102-3—Key Points and Principles

Subpart D—Advisory Committee Meeting and Recordkeeping Procedures

- 102-3.135 What does this subpart cover and how does it apply?
 - 102-3.140 What policies apply to advisory committee meetings?
 - 102-3.145 What policies apply to subcommittee meetings?
 - 102-3.150 How are advisory committee meetings announced to the public?
 - 102-3.155 How are advisory committee meetings closed to the public?
 - 102-3.160 What activities of an advisory committee are not subject to the notice and open meeting requirements of the Act?
 - 102-3.165 How are advisory committee meetings documented?
 - 102-3.170 How does an interested party obtain access to advisory committee records?
 - 102-3.175 What are the reporting and recordkeeping requirements for an advisory committee?
- Appendix A to Subpart D of Part 102-3—Key Points and Principles

Subpart E—How Does This Subpart Apply to Advice or Recommendations Provided to Agencies by the National Academy of Sciences or the National Academy of Public Administration?

- 102-3.180 What does this subpart cover and how does it apply?
 - 102-3.185 What does this subpart require agencies to do?
- Appendix A to Subpart E of Part 102-3—Key Points and Principles

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 7, 5 U.S.C., App.; and E.O. 12024, 3 CFR, 1977 Comp., p. 158.

Subpart A—What Policies Apply to Advisory Committees Established Within the Executive Branch?

§ 102–3.5 What does this subpart cover and how does it apply?

This subpart provides the policy framework that must be used by agency heads in applying the Federal Advisory Committee Act (FACA), as amended (or “the Act”), 5 U.S.C., App., to advisory committees they establish and operate. In addition to listing key definitions underlying the interpretation of the Act, this subpart establishes the scope and applicability of the Act, and outlines specific exclusions from its coverage.

§ 102–3.10 What is the purpose of the Federal Advisory Committee Act?

FACA governs the establishment, operation, and termination of advisory committees within the executive branch of the Federal Government. The Act defines what constitutes a Federal advisory committee and provides general procedures for the executive branch to follow for the operation of these advisory committees. In addition, the Act is designed to assure that the Congress and the public are kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees.

§ 102–3.15 Who are the intended users of this part?

(a) The primary users of this Federal Advisory Committee Management part are:

- (1) Executive branch officials and others outside Government currently involved with an established advisory committee;
- (2) Executive branch officials who seek to establish or utilize an advisory committee;
- (3) Executive branch officials and others outside Government who have decided to pursue, or who are already engaged in, a form of public involvement or consultation and want to avoid inadvertently violating the Act; and
- (4) Field personnel of Federal agencies who are increasingly involved with the public as part of their efforts to increase collaboration and improve customer service.

(b) Other types of end-users of this part include individuals and organizations outside of the executive branch who seek to understand and interpret the Act, or are seeking additional guidance.

§ 102–3.20 How does this part meet the needs of its audience?

This Federal Advisory Committee Management part meets the general and

specific needs of its audience by addressing the following issues and related topics:

(a) *Scope and applicability.* This part provides guidance on the threshold issue of what constitutes an advisory committee and clarifies the limits of coverage by the Act for the benefit of the intended users of this part.

(b) *Policies and guidelines.* This part defines the policies, establishes minimum requirements, and provides guidance to Federal officers and agencies for the establishment, operation, administration, and duration of advisory committees subject to the Act. This includes reporting requirements that keep Congress and the public informed of the number, purpose, membership, activities, benefits, and costs of these advisory committees. These requirements form the basis for implementing the Act at both the agency and Governmentwide levels.

(c) *Examples and principles.* This part provides summary-level key points and principles at the end of each subpart that provide more clarification on the role of Federal advisory committees in the larger context of public involvement in Federal decisions and activities. This includes a discussion of the applicability of the Act to different decisionmaking scenarios.

§ 102–3.25 What definitions apply to this part?

The following definitions apply to this Federal Advisory Committee Management part:

Act means the Federal Advisory Committee Act, as amended, 5 U.S.C., App.

Administrator means the Administrator of General Services.

Advisory committee subject to the Act, except as specifically exempted by the Act or by other statutes, or as not covered by this part, means any committee, board, commission, council, conference, panel, task force, or other similar group, which is established by statute, or established or utilized by the President or by an agency official, for the purpose of obtaining advice or recommendations for the President or on issues or policies within the scope of an agency official’s responsibilities.

Agency has the same meaning as in 5 U.S.C. 551(1).

Committee Management Officer (“CMO”), means the individual designated by the agency head to implement the provisions of section 8(b) of the Act and any delegated responsibilities of the agency head under the Act.

Committee Management Secretariat (“Secretariat”), means the organization established pursuant to section 7(a) of the Act, which is responsible for all matters relating to advisory committees, and carries out the responsibilities of the Administrator under the Act and Executive Order 12024 (3 CFR, 1977 Comp., p. 158).

Committee meeting means any gathering of advisory committee members (whether in person or through electronic means) held with the approval of an agency for the purpose of deliberating on the substantive matters upon which the advisory committee provides advice or recommendations.

Committee member means an individual who serves by appointment or invitation on an advisory committee or subcommittee.

Committee staff means any Federal employee, private individual, or other party (whether under contract or not) who is not a committee member, and who serves in a support capacity to an advisory committee or subcommittee.

Designated Federal Officer (“DFO”), means an individual designated by the agency head, for each advisory committee for which the agency head is responsible, to implement the provisions of sections 10(e) and (f) of the Act and any advisory committee procedures of the agency under the control and supervision of the CMO.

Discretionary advisory committee means any advisory committee that is established under the authority of an agency head or authorized by statute. An advisory committee referenced in general (non-specific) authorizing language or Congressional committee report language is discretionary, and its establishment or termination is within the legal discretion of an agency head.

Independent Presidential advisory committee means any Presidential advisory committee not assigned by the Congress in law, or by President or the President’s delegate, to an agency for administrative and other support.

Non-discretionary advisory committee means any advisory committee either required by statute or by Presidential directive. A *non-discretionary advisory committee* required by statute generally is identified specifically in a statute by name, purpose, or functions, and its establishment or termination is beyond the legal discretion of an agency head.

Presidential advisory committee means any advisory committee authorized by the Congress or directed by the President to advise the President.

Subcommittee means a group, generally not subject to the Act, that reports to an advisory committee and not directly to a Federal officer or

agency, whether or not its members are drawn in whole or in part from the parent advisory committee.

Utilized for the purposes of the Act, does not have its ordinary meaning. A committee that is not established by the Federal Government is *utilized* within the meaning of the Act when the President or a Federal office or agency exercises actual management or control over its operation.

§ 102–3.30 What policies govern the use of advisory committees?

The policies to be followed by Federal departments and agencies in establishing and operating advisory committees consistent with the Act are as follows:

(a) *Determination of need in the public interest.* A discretionary advisory committee may be established only when it is essential to the conduct of agency business and when the information to be obtained is not already available through another advisory committee or source within the Federal Government. Reasons for deciding that an advisory committee is needed may include whether:

(1) Advisory committee deliberations will result in the creation or elimination of (or change in) regulations, policies, or guidelines affecting agency business;

(2) The advisory committee will make recommendations resulting in significant improvements in service or reductions in cost; or

(3) The advisory committee's recommendations will provide an important additional perspective or viewpoint affecting agency operations.

(b) *Termination.* An advisory committee must be terminated when:

(1) The stated objectives of the committee have been accomplished;

(2) The subject matter or work of the committee has become obsolete by the passing of time or the assumption of the committee's functions by another entity;

(3) The agency determines that the cost of operation is excessive in relation to the benefits accruing to the Federal Government;

(4) In the case of a discretionary advisory committee, upon the expiration of a period not to exceed two years, unless renewed;

(5) In the case of a non-discretionary advisory committee required by Presidential directive, upon the expiration of a period not to exceed two years, unless renewed by authority of the President; or

(6) In the case of a non-discretionary advisory committee required by statute, upon the expiration of the time explicitly specified in the statute, or implied by operation of the statute.

(c) *Balanced membership.* An advisory committee must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.

(d) *Open meetings.* Advisory committee meetings must be open to the public except where a closed or partially-closed meeting has been determined proper and consistent with the exemption(s) of the Government in the Sunshine Act, 5 U.S.C. 552b(c), as the basis for closure.

(e) *Advisory functions only.* The function of advisory committees is advisory only, unless specifically provided by statute or Presidential directive.

§ 102–3.35 What policies govern the use of subcommittees?

(a) In general, the requirements of the Act and the policies of this Federal Advisory Committee Management part do not apply to subcommittees of advisory committees that report to a parent advisory committee and not directly to a Federal officer or agency. However, this section does not preclude an agency from applying any provision of the Act and this part to any subcommittee of an advisory committee in any particular instance.

(b) The creation and operation of subcommittees must be approved by the agency establishing the parent advisory committee.

§ 102–3.40 What types of committees or groups are not covered by the Act and this part?

The following are examples of committees or groups that are not covered by the Act or this Federal Advisory Committee Management part:

(a) *Committees created by the National Academy of Sciences (NAS) or the National Academy of Public Administration (NAPA).* Any committee created by NAS or NAPA in accordance with section 15 of the Act, except as otherwise covered by subpart E of this part;

(b) *Advisory committees of the Central Intelligence Agency and the Federal Reserve System.* Any advisory committee established or utilized by the Central Intelligence Agency or the Federal Reserve System;

(c) *Committees exempted by statute.* Any committee specifically exempted from the Act by law;

(d) *Committees not actually managed or controlled by the executive branch.* Any committee or group created by non-Federal entities (such as a contractor or private organization), provided that these committees or groups are not actually managed or controlled by the executive branch;

(e) *Groups assembled to provide individual advice.* Any group that meets with a Federal official(s), including a public meeting, where advice is sought from the attendees on an individual basis and not from the group as a whole;

(f) *Groups assembled to exchange facts or information.* Any group that meets with a Federal official(s) for the purpose of exchanging facts or information;

(g) *Intergovernmental committees.* Any committee composed wholly of full-time or permanent part-time officers or employees of the Federal Government and elected officers of State, local and tribal governments (or their designated employees with authority to act on their behalf), acting in their official capacities. However, the purpose of such a committee must be solely to exchange views, information, or advice relating to the management or implementation of Federal programs established pursuant to statute, that explicitly or inherently share intergovernmental responsibilities or administration (see guidelines issued by the Office of Management and Budget (OMB) on section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1534(b), OMB Memorandum M–95–20, dated September 21, 1995, available from the Committee Management Secretariat (MC), General Services Administration, 1800 F Street, NW., Washington, DC 20405–0002);

(h) *Intragovernmental committees.* Any committee composed wholly of full-time or permanent part-time officers or employees of the Federal Government;

(i) *Local civic groups.* Any local civic group whose primary function is that of rendering a public service with respect to a Federal program;

(j) *Groups established to advise State or local officials.* Any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies; and

(k) *Operational committees.* Any committee established to perform primarily operational as opposed to advisory functions. Operational functions are those specifically authorized by statute or Presidential directive, such as making or implementing Government decisions or policy. A committee designated operational may be covered by the Act if it becomes primarily advisory in nature. It is the responsibility of the administering agency to determine whether a committee is primarily operational. If so, it does not fall under

the requirements of the Act and this part.

Appendix A to Subpart A of Part 102-3—Key Points and Principles

This appendix provides additional guidance in the form of answers to frequently

asked questions and identifies key points and principles that may be applied to situations not covered elsewhere in this subpart. The guidance follows:

APPENDIX A TO SUBPART A

Key points and principles	Section(s)	Question(s)	Guidance
<p>I. FACA applies to advisory committees that are either “established” or “utilized” by an agency.</p>	<p>102-3.25, 102-3.40(f), 102-3.40(d), 102-</p>	<p>1. A local citizens group wants to meet with a Federal official(s) to help improve the condition of a forest’s trails and quality of concessions. May the Government meet with the group without chartering the group under the Act? 2. May an agency official attend meetings of external groups where advice may be offered to the Government during the course of discussions? 3. May an agency official participate in meetings of groups or organizations as a member without chartering the group under the Act? 4. Is the Act applicable to meetings between agency officials and their contractors, licensees, or other “private sector program partners?”</p>	<p>A. The answer to questions 1, 2, and 3 is yes, if the agency does not either “establish” or “utilize” (exercise “actual management or control” over) the group. (i) Although there is no precise legal definition of “actual management or control,” the following factors may be used by an agency to determine whether or not a group is “utilized” within the meaning of the Act: (a) Does the agency manage or control the group’s membership or otherwise determine its composition? (b) Does the agency manage or control the group’s agenda? (c) Does the agency fund the group’s activities? (ii) Answering “yes” to any or all of questions 1, 2, or 3 does not automatically mean the group is “utilized” within the meaning of the Act. However, an agency may need to reconsider the status of the group under the Act if the relationship in question essentially is indistinguishable from an advisory committee established by the agency. B. The answer to question 4 is no. Agencies often meet with contractors and licensees, individually and as a group, to discuss specific matters involving a contract’s solicitation, issuance, and implementation, or an agency’s efforts to ensure compliance with its regulations. Such interactions are not subject to the Act because these groups are not “established” or “utilized” for the purpose of obtaining advice or recommendations.</p>
<p>II. The development of consensus among all or some of the attendees at a public meeting or similar forum does not automatically invoke FACA.</p>	<p>102-3.25, 102-3.40(f), 102-3.40(d), 102-</p>	<p>1. If, during a public meeting of the “town hall” type called by an agency, it appears that the audience is achieving consensus, or a common point of view, is this an indication that the meeting is subject to the Act and must be stopped?</p>	<p>A. No, the public meeting need not be stopped. (i) A group must either be “established” or “utilized” by the executive branch in order for the Act to apply. (ii) Public meetings represent a chance for individuals to voice their opinions and/or share information. In that sense, agencies do not either “establish” the assemblage of individuals as an advisory committee or “utilize” the attendees as an advisory committee because there are no elements of either “management” or “control” present or intended.</p>

APPENDIX A TO SUBPART A—Continued

Key points and principles	Section(s)	Question(s)	Guidance
III. Meetings between a Federal official(s) and a collection of individuals where advice is sought from the attendees on an individual basis are not subject to the Act.	102–3.40(e)	<ol style="list-style-type: none"> 1. May an agency official meet with a number of persons collectively to obtain their individual views without violating the Act? 2. Does the concept of an “individual” apply only to “natural persons?” 	A. The answer to questions 1 and 2 is yes. The Act applies only where a group is established or utilized to provide advice or recommendations “as a group.” (i) A mere assemblage or collection of individuals where the attendees are providing individual advice is not acting “as a group” under the Act. (ii) In this respect, “individual” is not limited to “natural persons.” Where the group consists of representatives of various existing organizations, each representative individually may provide advice on behalf of that person’s organization without violating the Act, if those organizations themselves are not “managed or controlled” by the agency.
IV. Meetings between Federal, State, local, and tribal elected officials are not subject to the Act.	102–3.40(g)	1. Is the exclusion from the Act covering elected officials of State, local, and tribal governments acting in their official capacities also applicable to associations of State officials?	A. Yes. The scope of activities covered by the exclusion from the Act for intergovernmental activities should be construed broadly to facilitate Federal/State/local/tribal discussions on shared intergovernmental program responsibilities or administration. Pursuant to a Presidential delegation, the Office of Management and Budget (OMB) issued guidelines for this exemption, authorized by section 204(b) of the Unfunded Mandates Reform Act of 1995, 2U.S.C. 1534(b). (See OMB Memorandum M–95–20, dated September 21, 1995, published at 60 FR 50651 (September 29, 1995), and which is available from the Committee Management Secretariat (MC), General Services Administration, 1800 F Street, NW, Washington, DC 20405–0002).
V. Advisory committees established under the Act may perform advisory functions only, unless authorized to perform “operational” duties by the Congress or by Presidential directive.	102–3.30(e), 102–3.40(k)	1. Are “operational committees” subject to the Act, even if they may engage in some advisory activities?	A. No, so long as the operational functions performed by the committee constitute the “primary” mission of the committee. Only committees established or utilized by the executive branch in the interest of obtaining advice or recommendations are subject to the Act. However, without specific authorization by the Congress or direction by the President, Federal functions (decisionmaking or operations) cannot be delegated to, or assumed by, non-Federal individuals or entities.

APPENDIX A TO SUBPART A—Continued

Key points and principles	Section(s)	Question(s)	Guidance
VI. Committees authorized by the Congress in law or by Presidential directive to perform primarily “operational” functions are not subject to the Act.	102–3.40(k)	1. What characteristics are common to “operational committees?” 2. A committee created by the Congress by statute is responsible, for example, for developing plans and events to commemorate the contributions of wildlife to the enjoyment of the Nation’s parks. Part of the committee’s role includes providing advice to certain Federal agencies as may be necessary to coordinate these events. Is this committee subject to FACA?	A. In answer to question 1, non-advisory, or “operational” committees generally have the following characteristics: (i) Specific functions and/or authorities provided by the Congress in law or by Presidential directive; (ii) The ability to make and implement traditionally Governmental decisions; and (iii) The authority to perform specific tasks to implement a Federal program. B. Agencies are responsible for determining whether or not a committee primarily provides advice or recommendations and is, therefore, subject to the Act, or is primarily “operational” and not covered by FACA. C. The answer to question 2 is no. The committee is not subject to the Act because: (i) Its functions are to plan and implement specific tasks; (ii) The committee has been granted the express authority by the Congress to perform its statutorily required functions; and (iii) Its incidental role of providing advice to other Federal agencies is secondary to its primarily operational role of planning and implementing specific tasks and performing statutory functions.

Subpart B—How Are Advisory Committees Established, Renewed, Reestablished, and Terminated?

§ 102–3.45 What does this subpart cover and how does it apply?

Requirements for establishing and terminating advisory committees vary depending on the establishing entity and the source of authority for the advisory committee. This subpart covers the procedures associated with the establishment, renewal, reestablishment, and termination of advisory committees. These procedures include consulting with the Secretariat, preparing and filing an advisory committee charter, publishing notice in the **Federal Register**, and amending an advisory committee charter.

§ 102–3.50 What are the authorities for establishing advisory committees?

FACA identifies four sources of authority for establishing an advisory committee:

- (a) *Required by statute.* By law where the Congress establishes an advisory committee, or specifically directs the President or an agency to establish it (*non-discretionary*);
- (b) *Presidential authority.* By Executive order of the President or other Presidential directive (*non-discretionary*);
- (c) *Authorized by statute.* By law where the Congress authorizes, but does

not direct the President or an agency to establish it (*discretionary*); or

(d) *Agency authority.* By an agency under general authority in title 5 of the United States Code or under other general agency-authorizing statutes (*discretionary*).

§ 102–3.55 What rules apply to the duration of an advisory committee?

(a) An advisory committee automatically terminates two years after its date of establishment unless:

- (1) The statutory authority used to establish the advisory committee provides a different duration;
- (2) The President or agency head determines that the advisory committee has fulfilled the purpose for which it was established and terminates the advisory committee earlier;
- (3) The President or agency head determines that the advisory committee is no longer carrying out the purpose for which it was established and terminates the advisory committee earlier; or
- (4) The President or agency head renews the committee not later than two years after its date of establishment in accordance with § 102–3.60. If an advisory committee needed by the President or an agency terminates because it was not renewed in a timely manner, or if the advisory committee has been terminated under the provisions of § 102–3.30(b), it can be

reestablished in accordance with § 102–3.60.

(b) When an advisory committee terminates, the agency shall notify the Secretariat of the effective date of the termination.

§ 102–3.60 What procedures are required to establish, renew, or reestablish a discretionary advisory committee?

(a) *Consult with the Secretariat.* Before establishing, renewing, or reestablishing a discretionary advisory committee and filing the charter as addressed later in § 102–3.70, the agency head must consult with the Secretariat. As part of this consultation, agency heads are encouraged to engage in constructive dialogue with the Secretariat. With a full understanding of the background and purpose behind the proposed advisory committee, the Secretariat may share its knowledge and experience with the agency on how best to make use of the proposed advisory committee, suggest alternate methods of attaining its purpose that the agency may wish to consider, or inform the agency of a pre-existing advisory committee performing similar functions.

(b) *Include required information in the consultation.* Consultations covering the establishment, renewal, and reestablishment of advisory committees must, as a minimum, contain the following information:

(1) *Explanation of need.* An explanation stating why the advisory committee is essential to the conduct of agency business and in the public interest;

(2) *Lack of duplication of resources.* An explanation stating why the advisory committee's functions cannot be performed by the agency, another existing committee, or other means such as a public hearing; and

(3) *Fairly balanced membership.* A description of the agency's plan to attain fairly balanced membership. The plan will ensure that, in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee. Advisory committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.

§ 102-3.65 What are the public notification requirements for discretionary advisory committees?

A notice to the public in the **Federal Register** is required when a discretionary advisory committee is established, renewed, or reestablished.

(a) *Procedure.* Upon receiving notice from the Secretariat that its review is complete in accordance with § 102-3.60(a), the agency must publish a notice in the **Federal Register** announcing that the advisory committee is being established, renewed, or reestablished. For the establishment of a new advisory committee, the notice also must describe the nature and purpose of the advisory committee and affirm that the advisory committee is necessary and in the public interest.

(b) *Time required for notices.* Notices of establishment and reestablishment of advisory committees must appear at least 15 calendar days before the charter is filed, except that the Secretariat may approve less than 15 calendar days when requested by the agency for good cause. This requirement for advance notice does not apply to advisory committee renewals, notices of which may be published concurrently with the filing of the charter.

§ 102-3.70 What are the charter filing requirements?

No advisory committee may meet or take any action until a charter has been filed by the Committee Management Officer (CMO) designated in accordance with section 8(b) of the Act, or by another agency official designated by the agency head.

(a) *Requirement for discretionary advisory committees.* To establish, renew, or reestablish a discretionary advisory committee, a charter must be filed with:

(1) The agency head;

(2) The standing committees of the Senate and the House of Representatives having legislative jurisdiction of the agency, the date of filing with which constitutes the official date of establishment for the advisory committee;

(3) The Library of Congress, Anglo-American Acquisitions Division, Government Documents Section, Federal Advisory Committee Desk, 101 Independence Avenue, SE., Washington, DC 20540-4172; and

(4) The Secretariat, indicating the date the charter was filed in accordance with paragraph (a)(2) of this section.

(b) *Requirement for non-discretionary advisory committees.* Charter filing requirements for non-discretionary advisory committees are the same as those in paragraph (a) of this section, except the date of establishment for a Presidential advisory committee is the date the charter is filed with the Secretariat.

(c) *Requirement for subcommittees that report directly to the Government.* Subcommittees that report directly to a Federal officer or agency must comply with this subpart and include in a charter the information required by § 102-3.75.

§ 102-3.75 What information must be included in the charter of an advisory committee?

(a) *Purpose and contents of an advisory committee charter.* An advisory committee charter is intended to provide a description of an advisory committee's mission, goals, and objectives. It also provides a basis for evaluating an advisory committee's progress and effectiveness. The charter must contain the following information:

(1) The advisory committee's official designation;

(2) The objectives and the scope of the advisory committee's activity;

(3) The period of time necessary to carry out the advisory committee's purpose(s);

(4) The agency or Federal officer to whom the advisory committee reports;

(5) The agency responsible for providing the necessary support to the advisory committee;

(6) A description of the duties for which the advisory committee is responsible and specification of the authority for any non-advisory functions;

(7) The estimated annual costs to operate the advisory committee in dollars and person years;

(8) The estimated number and frequency of the advisory committee's meetings;

(9) The planned termination date, if less than two years from the date of establishment of the advisory committee;

(10) The name of the President's delegate, agency, or organization responsible for fulfilling the reporting requirements of section 6(b) of the Act, if appropriate; and

(11) The date the charter is filed in accordance with § 102-3.70.

(b) The provisions of paragraphs (a)(1) through (11) of this section apply to all subcommittees that report directly to a Federal officer or agency.

§ 102-3.80 How are minor charter amendments accomplished?

(a) *Responsibility and limitation.* The agency head is responsible for amending the charter of an advisory committee. Amendments may be either minor or major. The procedures for making changes and filing amended charters will depend upon the authority basis for the advisory committee. Amending any existing advisory committee charter does not constitute renewal of the advisory committee under § 102-3.60.

(b) *Procedures for minor amendments.* To make a minor amendment to an advisory committee charter, such as changing the name of the advisory committee or modifying the estimated number or frequency of meetings, the following procedures must be followed:

(1) *Non-discretionary advisory committees.* The agency head must ensure that any minor technical changes made to current charters are consistent with the relevant authority. When the Congress by law, or the President by Executive order, changes the authorizing language that has been the basis for establishing an advisory committee, the agency head or the chairperson of an independent Presidential advisory committee must amend those sections of the current charter affected by the new statute or Executive order, and file the amended charter as specified in § 102-3.70.

(2) *Discretionary advisory committees.* The charter of a discretionary advisory committee may be amended when an agency head determines that technical provisions of a filed charter are inaccurate, or specific provisions have changed or become obsolete with the passing of time, and that these amendments will not alter the advisory committee's objectives and scope

substantially. The agency must amend the charter language as necessary and file the amended charter as specified in § 102-3.70.

§ 102-3.85 How are major charter amendments accomplished?

Procedures for making major amendments to advisory committee charters, such as substantial changes in

objectives and scope, duties, and estimated costs, are the same as in § 102-3.80, except that for discretionary advisory committees an agency must:

(a) Consult with the Secretariat on the amended language, and explain the purpose of the changes and why they are necessary; and

(b) File the amended charter as specified in § 102-3.70.

Appendix A to Subpart B of Part 102-3—Key Points and Principles

This appendix provides additional guidance in the form of answers to frequently asked questions and identifies key points and principles that may be applied to situations not covered elsewhere in this subpart. The guidance follows:

APPENDIX A TO SUBPART B

Key points and principles	Section(s)	Question(s)	Guidance
I. Agency heads must consult with the Secretariat prior to establishing a discretionary advisory committee.	102-3.60, 102-3.115	1. Can an agency head delegate to the Committee Management Officer (CMO) responsibility for consulting with the Secretariat regarding the establishment, renewal, or reestablishment of discretionary advisory committees?	A. Yes. Many administrative functions performed to implement the Act may be delegated. However, those functions related to approving the final establishment, renewal, or reestablishment of discretionary advisory committees are reserved for the agency head. Each agency CMO should assure that their internal processes for managing advisory committees include appropriate certifications by the agency head.
II. Agency heads are responsible for complying with the Act, including determining which discretionary advisory committees should be established and renewed.	102-3.60(a), 102-3.105	1. Who retains final authority for establishing or renewing a discretionary advisory committee?	A. Although agency heads retain final authority for establishing or renewing discretionary advisory committees, these decisions should be consistent with § 102-3.105(e) and reflect consultation with the Secretariat under § 102-3.60(a).
III. An advisory committee must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.	102-3.30(c), 102-3.60(b)(3) ..	1. What factors should be considered in achieving a "balanced" advisory committee membership?	A. The composition of an advisory committee's membership will depend upon several factors, including: (i) The advisory committee's mission; (ii) The geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; (iii) The types of specific perspectives required, for example, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors; (iv) The need to obtain divergent points of view on the issues before the advisory committee; and (v) The relevance of State, local, or tribal governments to the development of the advisory committee's recommendations.
IV. Charters for advisory committees required by statute must be filed every two years regardless of the duration provided in the statute.	102-3.70(b)	1. If an advisory committee's duration exceeds two years, must a charter be filed with the Congress and GSA every two years?	A. Yes. Section 14(b)(2) of the Act provides that: Any advisory committee established by an Act of Congress shall file a charter upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

Subpart C—How Are Advisory Committees Managed?

§ 102-3.90 What does this subpart cover and how does it apply?

This subpart outlines specific responsibilities and functions to be carried out by the General Services Administration (GSA), the agency head, the Committee Management Officer (CMO), and the Designated Federal Officer (DFO) under the Act.

§ 102-3.95 What principles apply to the management of advisory committees?

Agencies are encouraged to apply the following principles to the management of their advisory committees:

(a) *Provide adequate support.* Before establishing an advisory committee, agencies should identify requirements and assure that adequate resources are available to support anticipated activities. Considerations related to support include office space, necessary supplies and equipment, Federal staff

support, and access to key decisionmakers.

(b) *Focus on mission.* Advisory committee members and staff should be fully aware of the advisory committee's mission, limitations, if any, on its duties, and the agency's goals and objectives. In general, the more specific an advisory committee's tasks and the more focused its activities are, the higher the likelihood will be that the advisory committee will fulfill its mission.

(c) *Follow plans and procedures.* Advisory committee members and their agency sponsors should work together to assure that a plan and necessary procedures covering implementation are in place to support an advisory committee's mission. In particular, agencies should be clear regarding what functions an advisory committee can perform legally and those that it cannot perform.

(d) *Practice openness.* In addition to achieving the minimum standards of public access established by the Act and this part, agencies should seek to be as inclusive as possible. For example, agencies may wish to explore the use of the Internet to post advisory committee information and seek broader input from the public.

(e) *Seek feedback.* Agencies continually should seek feedback from advisory committee members and the public regarding the effectiveness of the advisory committee's activities. At regular intervals, agencies should communicate to the members how their advice has affected agency programs and decisionmaking.

§ 102–3.100 What are the responsibilities and functions of GSA?

(a) Under section 7 of the Act, the General Services Administration (GSA) prepares regulations on Federal advisory committees to be prescribed by the Administrator of General Services, issues other administrative guidelines and management controls for advisory committees, and assists other agencies in implementing and interpreting the Act. Responsibility for these activities has been delegated by the Administrator to the GSA Committee Management Secretariat.

(b) The Secretariat carries out its responsibilities by:

- (1) Conducting an annual comprehensive review of Governmentwide advisory committee accomplishments, costs, benefits, and other indicators to measure performance;
- (2) Developing and distributing Governmentwide training regarding the Act and related statutes and principles;
- (3) Supporting the Interagency Committee on Federal Advisory Committee Management in its efforts to improve compliance with the Act;
- (4) Designing and maintaining a Governmentwide shared Internet-based system to facilitate collection and use of information required by the Act;
- (5) Identifying performance measures that may be used to evaluate advisory committee accomplishments; and
- (6) Providing recommendations for transmittal by the Administrator to the

Congress and the President regarding proposals to improve accomplishment of the objectives of the Act.

§ 102–3.105 What are the responsibilities of an agency head?

The head of each agency that establishes or utilizes one or more advisory committees must:

- (a) Comply with the Act and this Federal Advisory Committee Management part;
- (b) Issue administrative guidelines and management controls that apply to all of the agency's advisory committees subject to the Act;
- (c) Designate a Committee Management Officer (CMO);
- (d) Provide a written determination stating the reasons for closing any advisory committee meeting to the public, in whole or in part, in accordance with the exemption(s) of the Government in the Sunshine Act, 5 U.S.C. 552b(c), as the basis for closure;
- (e) Review, at least annually, the need to continue each existing advisory committee, consistent with the public interest and the purpose or functions of each advisory committee;
- (f) Determine that rates of compensation for members (if they are paid for their services) and staff of, and experts and consultants to advisory committees are justified and that levels of agency support are adequate;
- (g) Develop procedures to assure that the advice or recommendations of advisory committees will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(h) Assure that the interests and affiliations of advisory committee members are reviewed for conformance with applicable conflict of interest statutes, regulations issued by the U.S. Office of Government Ethics (OGE) including any supplemental agency requirements, and other Federal ethics rules;

- (i) Designate a Designated Federal Officer (DFO) for each advisory committee and its subcommittees; and
- (j) Provide the opportunity for reasonable participation by the public in advisory committee activities, subject to § 102–3.140 and the agency's guidelines.

§ 102–3.110 What are the responsibilities of a chairperson of an independent Presidential advisory committee?

The chairperson of an independent Presidential advisory committee must:

- (a) Comply with the Act and this Federal Advisory Committee Management part;

(b) Consult with the Secretariat concerning the designation of a Committee Management Officer (CMO) and Designated Federal Officer (DFO); and

(c) Consult with the Secretariat in advance regarding any proposal to close any meeting in whole or in part.

§ 102–3.115 What are the responsibilities and functions of an agency Committee Management Officer (CMO)?

In addition to implementing the provisions of section 8(b) of the Act, the CMO will carry out all responsibilities delegated by the agency head. The CMO also should ensure that sections 10(b), 12(a), and 13 of the Act are implemented by the agency to provide for appropriate recordkeeping. Records to be kept by the CMO include, but are not limited to:

(a) *Charter and membership documentation.* A set of filed charters for each advisory committee and membership lists for each advisory committee and subcommittee;

(b) *Annual comprehensive review.* Copies of the information provided as the agency's portion of the annual comprehensive review of Federal advisory committees, prepared according to § 102–3.175(b);

(c) *Agency guidelines.* Agency guidelines maintained and updated on committee management operations and procedures; and

(d) *Closed meeting determinations.* Agency determinations to close or partially close advisory committee meetings required by § 102–3.105.

§ 102–3.120 What are the responsibilities and functions of a Designated Federal Officer (DFO)?

The agency head or, in the case of an independent Presidential advisory committee, the Secretariat, must designate a Federal officer or employee who must be either full-time or permanent part-time, to be the DFO for each advisory committee and its subcommittees, who must:

- (a) Approve or call the meeting of the advisory committee or subcommittee;
- (b) Approve the agenda, except that this requirement does not apply to a Presidential advisory committee;
- (c) Attend the meetings;
- (d) Adjourn any meeting when he or she determines it to be in the public interest; and
- (e) Chair the meeting when so directed by the agency head.

§ 102–3.125 How should agencies consider the roles of advisory committee members and staff?

FACA does not assign any specific responsibilities to members of advisory

committees and staff, although both perform critical roles in achieving the goals and objectives assigned to advisory committees. Agency heads, Committee Management Officers (CMOs), and Designated Federal Officers (DFOs) should consider the distinctions between these roles and how they relate to each other in the development of agency guidelines implementing the Act and this Federal Advisory Committee Management part. In general, these guidelines should reflect:

(a) *Clear operating procedures.* Clear operating procedures should provide for the conduct of advisory committee meetings and other activities, and specify the relationship among the advisory committee members, the DFO, and advisory committee or agency staff;

(b) *Agency operating policies.* In addition to compliance with the Act, advisory committee members and staff may be required to adhere to additional agency operating policies; and

(c) *Other applicable statutes.* Other agency-specific statutes and regulations may affect the agency's advisory committees directly or indirectly. Agencies should ensure that advisory committee members and staff understand these requirements.

§ 102-3.130 What policies apply to the appointment, and compensation or reimbursement of advisory committee members, staff, and experts and consultants?

In developing guidelines to implement the Act and this Federal Advisory Committee Management part at the agency level, agency heads must address the following issues concerning advisory committee member and staff appointments, and considerations with respect to uniform fair rates of compensation for comparable services, or expense reimbursement of members, staff, and experts and consultants:

(a) *Appointment and terms of advisory committee members.* Unless otherwise provided by statute, Presidential directive, or other establishment authority, advisory committee members serve at the pleasure of the appointing or inviting authority. Membership terms are at the sole discretion of the appointing or inviting authority.

(b) *Compensation guidelines.* Each agency head must establish uniform compensation guidelines for members and staff of, and experts and consultants to an advisory committee.

(c) *Compensation of advisory committee members not required.* Nothing in this subpart requires an agency head to provide compensation to

any member of an advisory committee, unless otherwise required by a specific statute.

(d) *Compensation of advisory committee members.* When an agency has authority to set pay administratively for advisory committee members, it may establish appropriate rates of pay (including any applicable locality pay authorized by the President's Pay Agent under 5 U.S.C. 5304(h)), not to exceed the rate for level IV of the Executive Schedule under 5 U.S.C. 5315, unless a higher rate expressly is allowed by another statute. However, the agency head personally must authorize a rate of basic pay in excess of the maximum rate of basic pay established for the General Schedule under 5 U.S.C. 5332, or alternative similar agency compensation system. This maximum rate includes any applicable locality payment under 5 U.S.C. 5304. The agency may pay advisory committee members on either an hourly or a daily rate basis. The agency may not provide additional compensation in any form, such as bonuses or premium pay.

(e) *Compensation of staff.* When an agency has authority to set pay administratively for advisory committee staff, it may establish appropriate rates of pay (including any applicable locality pay authorized by the President's Pay Agent under 5 U.S.C. 5304(h)), not to exceed the rate for level IV of the Executive Schedule under 5 U.S.C. 5315, unless a higher rate expressly is allowed by another statute. However, the agency head personally must authorize a rate of basic pay in excess of the maximum rate of basic pay established for the General Schedule under 5 U.S.C. 5332, or alternative similar agency compensation system. This maximum rate includes any applicable locality payment under 5 U.S.C. 5304. The agency must pay advisory committee staff on an hourly rate basis. The agency may provide additional compensation, such as bonuses or premium pay, so long as aggregate compensation paid in a calendar year does not exceed the rate for level IV of the Executive Schedule, with appropriate proration for a partial calendar year.

(f) *Other compensation considerations.* In establishing rates of pay for advisory committee members and staff, the agency must comply with any applicable statutes, Executive orders, regulations, or administrative guidelines. In determining an appropriate rate of basic pay for advisory committee members and staff, an agency must give consideration to the significance, scope, and technical complexity of the matters with which

the advisory committee is concerned, and the qualifications required for the work involved. The agency also should take into account the rates of pay applicable to Federal employees who have duties that are similar in terms of difficulty and responsibility. An agency may establish rates of pay for advisory committee staff based on the pay these persons would receive if they were covered by the General Schedule in 5 U.S.C. Chapter 51 and Chapter 53, subchapter III, or by an alternative similar agency compensation system.

(g) *Compensation of experts and consultants.* Whether or not an agency has other authority to appoint and compensate advisory committee members or staff, it also may employ experts and consultants under 5 U.S.C. 3109 to perform work for an advisory committee. Compensation of experts and consultants may not exceed the maximum rate of basic pay established for the General Schedule under 5 U.S.C. 5332 (that is, the GS-15, step 10 rate, excluding locality pay or any other supplement), unless a higher rate expressly is allowed by another statute. The appointment and compensation of experts and consultants by an agency must be in conformance with applicable regulations issued by the U. S. Office of Personnel Management (OPM) (See 5 CFR part 304.).

(h) *Federal employees assigned to an advisory committee.* Any advisory committee member or staff person who is a Federal employee when assigned duties to an advisory committee remains covered during the assignment by the compensation system that currently applies to that employee, unless that person's current Federal appointment is terminated. Any staff person who is a Federal employee must serve with the knowledge of the Designated Federal Officer (DFO) for the advisory committee to which that person is assigned duties, and the approval of the employee's direct supervisor.

(i) *Other appointment considerations.* An individual who is appointed as an advisory committee member or staff person immediately following termination of another Federal appointment with a full-time work schedule may receive compensation at the rate applicable to the former appointment, if otherwise allowed by applicable law (without regard to the limitations on pay established in paragraphs (d) and (e) of this section). Any advisory committee staff person who is not a current Federal employee serving under an assignment must be appointed in accordance with applicable agency procedures, and in consultation with the DFO and the

members of the advisory committee involved.

(j) *Gratuitous services.* In the absence of any special limitations applicable to a specific agency, nothing in this subpart prevents an agency from accepting the gratuitous services of an advisory committee member or staff person who is not a Federal employee, or expert or consultant, who agrees in advance and in writing to serve without compensation.

(k) *Travel expenses.* Advisory committee members and staff, while engaged in the performance of their

duties away from their homes or regular places of business, may be allowed reimbursement for travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, for persons employed intermittently in the Government service.

(l) Services for advisory committee members with disabilities. While performing advisory committee duties, an advisory committee member with disabilities may be provided services by a personal assistant for employees with disabilities, if the member qualifies as

an individual with disabilities as provided in section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791, and does not otherwise qualify for assistance under 5 U.S.C. 3102 by reason of being a Federal employee.

Appendix A to Subpart C of Part 102-3—Key Points and Principles

This appendix provides additional guidance in the form of answers to frequently asked questions and identifies key points and principles that may be applied to situations not covered elsewhere in this subpart. The guidance follows:

APPENDIX A TO SUBPART C

Key points and principles	Section	Question(s)	Guidance
I. FACA does not specify the manner in which advisory committee members and staff must be appointed.	102-3.105, 102-3.130(a)	1. Does the appointment of an advisory committee member necessarily result in a lengthy process?	A. No. Each agency head may specify those policies and procedures, consistent with the Act and this part, or other specific authorizing statute, governing the appointment of advisory committee members and staff. B. Some factors that affect how long the appointment process takes include: (i) Solicitation of nominations; (ii) Conflict of interest clearances; (iii) Security or background evaluations; (iv) Availability of candidates; and (v) Other statutory or administrative requirements. C. In addition, the extent to which agency heads have delegated responsibility for selecting members varies from agency to agency and may become an important factor in the time it takes to finalize the advisory committee's membership.
II. Agency heads retain the final authority for selecting advisory committee members, unless otherwise provided for by a specific statute or Presidential directive.	102-3.130(a)	1. Can an agency head select for membership on an advisory committee from among nominations submitted by an organization? 2. If so, can different persons represent the organization at different meetings?	A. The answer to question 1 is yes. Organizations may propose for membership individuals to represent them on an advisory committee. However, the agency head establishing the advisory committee, or other appointing authority, retains the final authority for selecting all members. B. The answer to question 2 also is yes. Alternates may represent an appointed member with the approval of the establishing agency, where the agency head is the appointing authority.
III. An agency may compensate advisory committee members and staff, and also employ experts and consultants.	102-3.130(d), 102-3.130(g), 102-3.130(e),	1. May members and staff be compensated for their service or duties on an advisory committee? 2. Are the guidelines the same for compensating both members and staff? 3. May experts and consultants be employed to perform other advisory committee work?	A. The answer to question 1 is yes. (i) However, FACA limits compensation for advisory committee members and staff to the rate for level IV of the Executive Schedule, unless higher rates expressly are allowed by other statutes. (ii) Although FACA provides for compensation guidelines, the Act does not require an agency to compensate its advisory committee members.

APPENDIX A TO SUBPART C—Continued

Key points and principles	Section	Question(s)	Guidance
			<p>B. The answer to question 2 is no. The guidelines for compensating members and staff are similar, but not identical. For example, the differences are that: (i) An agency “may” pay members on either an hourly or a daily rate basis, and “may not” provide additional compensation in any form, such as bonuses or premium pay; while (ii) An agency “must” pay staff on an hourly rate basis only, and “may” provide additional compensation, so long as aggregate compensation paid in a calendar year does not exceed the rate for level IV of the Executive Schedule, with appropriate proration for a partial calendar year.</p> <p>C. The answer to question 3 is yes. Other work not part of the duties of advisory committee members or staff may be performed by experts and consultants. For additional guidance on the employment of experts and consultants, agencies should consult the applicable regulations issued by the U. S. Office of Personnel Management (OPM). (See 5 CFR part 304.)</p>
<p>IV. Agency heads are responsible for ensuring that the interests and affiliations of advisory committee members are reviewed for conformance with applicable conflict of interest statutes and other Federal ethics rules..</p>	<p>102–3.105(h)</p>	<p>1. Are all advisory committee members subject to conflict of interest statutes and other Federal ethics rules? 2. Who should be consulted for guidance on the proper application of Federal ethics rules to advisory committee members?</p>	<p>A. The answer to question 1 is no. Whether an advisory committee member is subject to Federal ethics rules is dependent on the member’s status. The determination of a member’s status on an advisory committee is largely a personnel classification matter for the appointing agency. Most advisory committee members will serve either as a “representative” or a “special Government employee” (SGE), based on the role the member will play. In general, SGEs are covered by regulations issued by the U. S. Office of Government Ethics (OGE) and certain conflict of interest statutes, while representatives are not subject to these ethics requirements.</p> <p>B. The answer to question 2 is the agency’s Designated Agency Ethics Official (DAEO), who should be consulted prior to appointing members to an advisory committee in order to apply Federal ethics rules properly.</p>
<p>V. An agency head may delegate responsibility for appointing a Committee Management Officer (CMO) or Designated Federal Officer (DFO); however, there may be only one CMO for each agency..</p>	<p>102–3.105(c), 102–3.105(i)</p>	<p>1. Must an agency’s CMO and each advisory committee DFO be appointed by the agency head?</p>	<p>A. The answer to question 1 is no. The agency head may delegate responsibility for appointing the CMO and DFOs. However, these appointments, including alternate selections, should be documented consistent with the agency’s policies and procedures.</p>

APPENDIX A TO SUBPART C—Continued

Key points and principles	Section	Question(s)	Guidance
<p>VI. FACA is the principal statute pertaining to advisory committees. However, other statutes may impact their use and operations..</p>	<p>102–3.125(c)</p>	<p>2. May an agency have more than one CMO?</p> <p>1. Do other statutes or regulations affect the way an agency carries out its advisory committee management program?</p>	<p>B. The answer to question 2 also is no. The functions of the CMO are specified in the Act and include oversight responsibility for all advisory committees within the agency. Accordingly, only one CMO may be appointed to perform these functions. The agency may, however, create additional positions, including those in its sub-components, which are subordinate to the CMO's agencywide responsibilities and functions.</p> <p>A. Yes. While the Act provides a general framework for managing advisory committees Governmentwide, other factors may affect how advisory committees are managed. These include: (i) The statutory or Presidential authority used to establish an advisory committee; (ii) A statutory limitation placed on an agency regarding its annual expenditures for advisory committees; (iii) Presidential or agency management directives; (iv) The applicability of conflict of interest statutes and other Federal ethics rules; (v) Agency regulations affecting advisory committees; and (vi) Other requirements imposed by statute or regulation on an agency or its programs, such as those governing the employment of experts and consultants or the management of Federal records.</p>

Subpart D—Advisory Committee Meeting and Recordkeeping Procedures

§ 102–3.135 What does this subpart cover and how does it apply?

This subpart establishes policies and procedures relating to meetings and other activities undertaken by advisory committees and their subcommittees. This subpart also outlines what records must be kept by Federal agencies and what other documentation, including advisory committee minutes and reports, must be prepared and made available to the public.

§ 102–3.140 What policies apply to advisory committee meetings?

The agency head, or the chairperson of an independent Presidential advisory committee, must ensure that:

(a) Each advisory committee meeting is held at a reasonable time and in a manner or place reasonably accessible to the public, to include facilities that are readily accessible to and usable by persons with disabilities, consistent with the goals of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794;

(b) The meeting room or other forum selected is sufficient to accommodate advisory committee members, advisory committee or agency staff, and a

reasonable number of interested members of the public;

(c) Any member of the public is permitted to file a written statement with the advisory committee;

(d) Any member of the public may speak to or otherwise address the advisory committee if the agency's guidelines so permit; and

(e) Any advisory committee meeting conducted in whole or part by a teleconference, videoconference, the Internet, or other electronic medium meets the requirements of this subpart.

§ 102–3.145 What policies apply to subcommittee meetings?

If a subcommittee makes recommendations directly to a Federal officer or agency, or if its recommendations will be adopted by the parent advisory committee without further deliberations by the parent advisory committee, then the subcommittee's meetings must be conducted in accordance with all openness requirements of this subpart.

§ 102–3.150 How are advisory committee meetings announced to the public?

(a) A notice in the **Federal Register** must be published at least 15 calendar days prior to an advisory committee meeting, which includes:

(1) The name of the advisory committee (or subcommittee, if applicable);

(2) The time, date, place, and purpose of the meeting;

(3) A summary of the agenda, and/or topics to be discussed;

(4) A statement whether all or part of the meeting is open to the public or closed; if the meeting is closed state the reasons why, citing the specific exemption(s) of the Government in the Sunshine Act, 5 U.S.C. 552b(c), as the basis for closure; and

(5) The name and telephone number of the Designated Federal Officer (DFO) or other responsible agency official who may be contacted for additional information concerning the meeting.

(b) In exceptional circumstances, the agency or an independent Presidential advisory committee may give less than 15 calendar days notice, provided that the reasons for doing so are included in the advisory committee meeting notice published in the **Federal Register**.

§ 102–3.155 How are advisory committee meetings closed to the public?

To close all or part of an advisory committee meeting, the Designated Federal Officer (DFO) must:

(a) *Obtain prior approval.* Submit a request to the agency head, or in the case of an independent Presidential

advisory committee, the Secretariat, citing the specific exemption(s) of the Government in the Sunshine Act, 5 U.S.C. 552b(c), that justify the closure. The request must provide the agency head or the Secretariat sufficient time (generally, 30 calendar days) to review the matter in order to make a determination before publication of the meeting notice required by § 102-3.150.

(b) *Seek General Counsel review.* The General Counsel of the agency or, in the case of an independent Presidential advisory committee, the General Counsel of GSA should review all requests to close meetings.

(c) *Obtain agency determination.* If the agency head, or in the case of an independent Presidential advisory committee, the Secretariat, finds that the request is consistent with the provisions in the Government in the Sunshine Act and FACA, the appropriate agency official must issue a determination that all or part of the meeting be closed.

(d) *Assure public access to determination.* The agency head or the chairperson of an independent Presidential advisory committee must make a copy of the determination available to the public upon request.

§ 102-3.160 What activities of an advisory committee are not subject to the notice and open meeting requirements of the Act?

The following activities of an advisory committee are excluded from the procedural requirements contained in this subpart:

(a) *Preparatory work.* Meetings of two or more advisory committee or subcommittee members convened solely to gather information, conduct research, or analyze relevant issues and facts in preparation for a meeting of the advisory committee, or to draft position papers for deliberation by the advisory committee; and

(b) *Administrative work.* Meetings of two or more advisory committee or subcommittee members convened solely to discuss administrative matters of the advisory committee or to receive administrative information from a Federal officer or agency.

§ 102-3.165 How are advisory committee meetings documented?

(a) The agency head or, in the case of an independent Presidential advisory committee, the chairperson must ensure that detailed minutes of each advisory committee meeting, including one that is closed or partially closed to the public, are kept. The chairperson of each advisory committee must certify the accuracy of all minutes of advisory committee meetings.

(b) The minutes must include:

(1) The time, date, and place of the advisory committee meeting;

(2) A list of the persons who were present at the meeting, including advisory committee members and staff, agency employees, and members of the public who presented oral or written statements;

(3) An accurate description of each matter discussed and the resolution, if any, made by the advisory committee regarding such matter; and

(4) Copies of each report or other document received, issued, or approved by the advisory committee at the meeting.

(c) The Designated Federal Officer (DFO) must ensure that minutes are certified within 90 calendar days of the meeting to which they relate.

§ 102-3.170 How does an interested party obtain access to advisory committee records?

Timely access to advisory committee records is an important element of the public access requirements of the Act. Section 10(b) of the Act provides for the contemporaneous availability of advisory committee records that, when taken in conjunction with the ability to attend committee meetings, provide a meaningful opportunity to comprehend fully the work undertaken by the advisory committee. Although advisory committee records may be withheld under the provisions of the Freedom of Information Act (FOIA), as amended, if there is a *reasonable expectation* that the records sought fall within the exemptions contained in section 552(b) of FOIA, agencies may not require members of the public or other interested parties to file requests for non-exempt advisory committee records under the request and review process established by section 552(a)(3) of FOIA.

§ 102-3.175 What are the reporting and recordkeeping requirements for an advisory committee?

(a) *Presidential advisory committee follow-up report.* Within one year after a Presidential advisory committee has submitted a public report to the President, a follow-up report required by section 6(b) of the Act must be prepared and transmitted to the Congress detailing the disposition of the advisory committee's recommendations. The Secretariat shall assure that these reports are prepared and transmitted to the Congress as directed by the President, either by the President's delegate, by the agency responsible for providing support to a Presidential advisory committee, or by the responsible agency or organization designated in the charter of the

Presidential advisory committee pursuant to § 102-3.75(a)(10). In performing this function, GSA may solicit the assistance of the President's delegate, the Office of Management and Budget (OMB), or the responsible agency Committee Management Officer (CMO), as appropriate. Reports shall be consistent with specific guidance provided periodically by the Secretariat.

(b) *Annual comprehensive review of Federal advisory committees.* To conduct an annual comprehensive review of each advisory committee as specified in section 7(b) of the Act, GSA requires Federal agencies to report information on each advisory committee for which a charter has been filed in accordance with § 102-3.70, and which is in existence during any part of a Federal fiscal year. Committee Management Officers (CMOs), Designated Federal Officers (DFOs), and other responsible agency officials will provide this information by data filed electronically with GSA on a fiscal year basis, using a Governmentwide shared Internet-based system that GSA maintains. This information shall be consistent with specific guidance provided periodically by the Secretariat. The preparation of these electronic submissions by agencies has been assigned interagency report control number (IRCN) 0304-GSA-AN.

(c) *Annual report of closed or partially-closed meetings.* In accordance with section 10(d) of the Act, advisory committees holding closed or partially-closed meetings must issue reports at least annually, setting forth a summary of activities and such related matters as would be informative to the public consistent with the policy of 5 U.S.C. 552(b).

(d) *Advisory committee reports.* Subject to 5 U.S.C. 552, 8 copies of each report made by an advisory committee, including any report of closed or partially-closed meetings as specified in paragraph (c) of this section and, where appropriate, background papers prepared by experts or consultants, must be filed with the Library of Congress as required by section 13 of the Act for public inspection and use at the location specified § 102-3.70(a)(3).

(e) *Advisory committee records.* Official records generated by or for an advisory committee must be retained for the duration of the advisory committee. Upon termination of the advisory committee, the records must be processed in accordance with the Federal Records Act (FRA), 44 U.S.C. Chapters 21, 29-33, and regulations issued by the National Archives and Records Administration (NARA) (see 36 CFR parts 1220, 1222, 1228, and 1234),

or in accordance with the Presidential Records Act (PRA), 44 U.S.C. Chapter 22.

Appendix A to Subpart D of Part 102-3—Key Points and Principles

This appendix provides additional guidance in the form of answers to frequently

asked questions and identifies key points and principles that may be applied to situations not covered elsewhere in this subpart. The guidance follows:

APPENDIX A TO SUBPART D

Key points and principles	Section(s)	Question(s)	Guidance
I. With some exceptions, advisory committee meetings are open to the public.	102-3.140, 102-3.145(a), 102-3.155.	1. Must all advisory committee and subcommittee meetings be open to the public?	A. No. Advisory committee meetings may be closed when appropriate, in accordance with the exemption(s) for closure contained in the Government in the Sunshine Act, 5 U.S.C. 552b(c). (i) Subcommittees that report to a parent advisory committee, and not directly to a Federal officer or agency, are not required to open their meetings to the public or comply with the procedures in the Act for announcing meetings. (ii) However, agencies are cautioned to avoid excluding the public from attending any meeting where a subcommittee develops advice or recommendations that are not expected to be reviewed and considered by the parent advisory committee before being submitted to a Federal officer or agency. These exclusions may run counter to the provisions of the Act requiring contemporaneous access to the advisory committee deliberative process.
II. Notices must be published in the Federal Register announcing advisory committee meetings.	102-3.150	1. Can agencies publish a single Federal Register notice announcing multiple advisory committee meetings?	A. Yes, agencies may publish a single notice announcing multiple meetings so long as these notices contain all of the information required by § 102-3.150. (i) "Blanket notices" should not announce meetings so far in advance as to prevent the public from adequately being informed of an advisory committee's schedule. (ii) An agency's Office of General Counsel should be consulted where these notices include meetings that are either closed or partially closed to the public.

APPENDIX A TO SUBPART D—Continued

Key points and principles	Section(s)	Question(s)	Guidance
<p>III. Although certain advisory committee records may be withheld under the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552, agencies may not require the use of FOIA procedures for records available under section 10(b) of FACA.</p>	<p>102-3.170</p>	<p>1. May an agency require the use of its internal FOIA procedures for access to advisory committee records that are not exempt from release under FOIA?</p>	<p>A. No. Section 10(b) of FACA provides that: Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist. (i) The purpose of section 10(b) of the Act is to provide for the contemporaneous availability of advisory committee records that, when taken in conjunction with the ability to attend advisory committee meetings, provide a meaningful opportunity to comprehend fully the work undertaken by the advisory committee. (ii) Although advisory committee records may be withheld under the provisions of FOIA if there is a reasonable expectation that the records sought fall within the exemptions contained in section 552(b) of FOIA, agencies may not require members of the public or other interested parties to file requests for non-exempt advisory committee records under the request and review process established by section 552(a)(3) of FOIA. (iii) Records covered by the exemptions set forth in section 552(b) of FOIA may be withheld. An opinion of the Office of Legal Counsel (OLC), U.S. Department of Justice concludes that: FACA requires disclosure of written advisory committee documents, including predecisional materials such as drafts, working papers, and studies. The disclosure exemption available to agencies under exemption 5 of FOIA for predecisional documents and other privileged materials is narrowly limited in the context of FACA to privileged "inter-agency or intra-agency" documents prepared by an agency and transmitted to an advisory committee. The language of the FACA statute and its legislative history support this restrictive application of exemption 5 to requests for public access to advisory committee documents. Moreover, since an advisory committee is not itself an agency, this construction is supported by the express language of exemption 5 which applies only to inter-agency or intra-agency materials. (iv) Agencies first should determine, however, whether or not records being sought by the public fall within the scope of FACA in general, and section 10(b) of the Act in particular, prior to applying the available exemptions under FOIA. (See OLC Opinion 12 Op. O.L.C. 73, dated April 29, 1988, which is available from the Committee Management Secretariat (MC), General Services Administration, 1800 F Street, NW., Washington, DC 20405-0002.)</p>

APPENDIX A TO SUBPART D—Continued

Key points and principles	Section(s)	Question(s)	Guidance
<p>IV. Advisory committee records must be managed in accordance with the Federal Records Act (FRA), 44 U.S.C. Chapters 21, 29–33, and regulations issued by the National Archives and Records Administration (NARA) (see 36 CFR parts 1220, 1222, 1228, and 1234), or the Presidential Records Act (PRA), 44 U.S.C. Chapter 22.</p>	<p>102–175(e)</p>	<p>1. How must advisory committee records be treated and preserved?</p>	<p>A. In order to ensure proper records management, the Committee Management Officer (CMO), Designated Federal Officer (DFO), or other representative of the advisory committee, in coordination with the agency's Records Management Officer, should clarify upon the establishment of the advisory committee whether its records will be managed in accordance with the FRA or the PRA.</p> <p>B. Official records generated by or for an advisory committee must be retained for the duration of the advisory committee. Responsible agency officials are encouraged to contact their agency's Records Management Officer or NARA as soon as possible after the establishment of the advisory committee to receive guidance on how to establish effective records management practices. Upon termination of the advisory committee, the records must be processed in accordance with the FRA and regulations issued by NARA, or in accordance with the PRA.</p> <p>C. The CMO, DFO, or other representative of an advisory committee governed by the FRA, in coordination with the agency's Records Management Officer, must contact NARA in sufficient time to review the process for submitting any necessary disposition schedules of the advisory committee's records upon termination. In order to ensure the proper disposition of the advisory committee's records, disposition schedules need to be submitted to NARA no later than 6 months before the termination of the advisory committee.</p> <p>D. For Presidential advisory committees governed by the PRA, the CMO, DFO, or other representative of the advisory committee should consult with the White House Counsel on the preservation of any records subject to the PRA, and may also confer with NARA officials.</p>

Subpart E—How Does This Subpart Apply to Advice or Recommendations Provided to Agencies by the National Academy of Sciences or the National Academy of Public Administration?

§ 102–3.180 What does this subpart cover and how does it apply?

This subpart provides guidance to agencies on compliance with section 15 of the Act. Section 15 establishes requirements that apply only in connection with a funding or other written agreement involving an agency's use of advice or recommendations provided to the agency by the National Academy of Sciences (NAS) or the National Academy of Public Administration (NAPA), if such advice or recommendations were developed by use of a committee created by either academy. For purposes of this subpart,

NAS also includes the National Academy of Engineering, the Institute of Medicine, and the National Research Council. Except with respect to NAS committees that were the subject of judicial actions filed before December 17, 1997, no part of the Act other than section 15 applies to any committee created by NAS or NAPA.

§ 102–3.185 What does this subpart require agencies to do?

(a) *Section 15 requirements.* An agency may not use any advice or recommendation provided to an agency by the National Academy of Sciences (NAS) or the National Academy of Public Administration (NAPA) under an agreement between the agency and an academy, if such advice or recommendation was developed by use of a committee created by either academy, unless:

(1) The committee was not subject to any actual management or control by an agency or officer of the Federal Government; and

(2) In the case of NAS, the academy certifies that it has complied substantially with the requirements of section 15(b) of the Act; or

(3) In the case of NAPA, the academy certifies that it has complied substantially with the requirements of sections 15(b) (1), (2), and (5) of the Act.

(b) *No agency management or control.* Agencies must not manage or control the specific procedures adopted by each academy to comply with the requirements of section 15 of the Act that are applicable to that academy. In addition, however, any committee created and used by an academy in the development of any advice or recommendation to be provided by the

academy to an agency must be subject to both actual management and control by that academy and not by the agency.

(c) *Funding agreements.* Agencies may enter into contracts, grants, and cooperative agreements with NAS or NAPA that are consistent with the requirements of this subpart to obtain advice or recommendations from such academy. These funding agreements require, and agencies may rely upon, a written certification by an authorized

representative of the academy provided to the agency upon delivery to the agency of each report containing advice or recommendations required under the agreement that:

(1) The academy has adopted policies and procedures that comply with the applicable requirements of section 15 of the Act; and

(2) To the best of the authorized representative's knowledge and belief, these policies and procedures

substantially have been complied with in performing the work required under the agreement.

Appendix A to Subpart E of Part 102-3—Key Points and Principles

This appendix provides additional guidance in the form of answers to frequently asked questions and identifies key points and principles that may be applied to situations not covered elsewhere in this subpart. The guidance follows:

APPENDIX A TO SUBPART E

Key points and principles	Section(s)	Question(s)	Guidance
I. Section 15 of the Act allows the National Academy of Sciences (NAS) and the National Academy of Public Administration (NAPA) to adopt separate procedures for complying with FACA.	102-3.185(a)	1. May agencies rely upon an academy certification regarding compliance with section 15 of the Act if different policies and procedures are adopted by NAS and NAPA?	A. Yes. NAS and NAPA are completely separate organizations. Each is independently chartered by the Congress for different purposes, and Congress has recognized that the two organizations are structured and operate differently. Agencies should defer to the discretion of each academy to adopt policies and procedures that will enable it to comply substantially with the provisions of section 15 of the Act that apply to that academy.
II. Section 15 of the Act allows agencies to enter into funding agreements with NAS and NAPA without the academies' committees being "managed" or "controlled".	102-3.185(c)	1. Can an agency enter into a funding agreement with an academy which provides for the preparation of one or more academy reports containing advice or recommendations to the agency, to be developed by the academy by use of a committee created by the academy, without subjecting an academy to "actual management or control" by the agency?	A. Yes, if the members of the committee are selected by the academy and if the committee's meetings, deliberations, and the preparation of reports are all controlled by the academy. Under these circumstances, neither the existence of the funding agreement nor the fact that it contemplates use by the academy of an academy committee would constitute actual management or control of the committee by the agency.

[FR Doc. 01-17350 Filed 7-18-01; 8:45 am]

BILLING CODE 6820-34-U



***USMA Board of Visitors
2011 Spring Meeting
22 June 2011***

Location: Senate Dirksen Building 562

Uniform: Military – ASU or Class A/Civilian – Business Attire

1130-1200 BoV members and USMA Staff & Faculty arrive, light luncheon served

1200-1530 **2011 Spring Meeting in Session**

- **Executive Update, Superintendent, United States Military Academy (30 min)**
- **Army Update, Secretary of the Army's Representative (15 min)**
- **Board Business**
 - Approval of the 16 February Spring Meeting Minutes (5 min) (*Chairman*)
- **USMA Update**
 - Military Program (15 min) (*Commandant*)
 - Physical Program (15 min) (*Commandant*)
 - (15 Minute Break - Executive time)
 - Intercollegiate Athletics (30 min) (*Director of Intercollegiate Athletics*)
 - 2011 Highlights
 - AY 11/12 Highlights
 - Football Schedule
 - Fiscal Year 2011 (60 min) (*Chief of Staff*)
 - Budget
 - Cadet Barracks Modernization
 - Civilian/Military Reductions
- **West Point Upcoming Events/Activities (5 min) (*LTC Jones*)**
- **Remaining Board Business/Adjourn (5 min)**

MINUTES
BOARD OF VISITORS ORGANIZATIONAL MEETING
June 22, 2011
WASHINGTON, DC

1. **DESIGNATED FEDERAL OFFICER'S REMARKS.** Lieutenant Colonel (LTC) David Jones, Designated Federal Officer (DFO) for the United States Military Academy (USMA) Board of Visitors (BoV or Board) stated for the record that the BoV operates under the authority of US Code Title 10, Section 4355. The Board is an Advisory Board subject to the Federal Advisory Committee Act.
2. **CHAIRMAN'S REMARKS.** Chairman Fred Malek called the meeting to order at 12:20 p.m.
3. **ADMINISTRATIVE ANNOUNCEMENTS.** Meeting packages included BoV attendance records and briefing slides.
4. **ROLL CALL.** For the record, a quorum of the Board was present. A list of attendees, annotated to reflect members arriving late or departing early, is appended to these minutes.
5. **MR. SALT'S REMARKS.** Principal Deputy Assistant Secretary of the Army, Mr. Terrence ("Rock") Salt, addressed the BoV on the great leadership experienced in the Army and the bridging of that leadership from General Casey to General Dempsey and then soon to General Odierno. There is a sense of an arc of continuity, bringing the insights that each individual has to offer.

The SECARMY and the Undersecretary have been engaged in Secretary Gates' efforts to align fiscal resources with strategies. The Quadrennial Defense Review (QDR) is underway and President Obama has called for a four hundred billion dollar reduction over the next decade. Secretary Gates had already initiated a major effort that was designed to reduce the cost of the military and defense establishment defense capabilities. Secretary Gates' focus is to balance available investment dollars and financial resources, with strategy and capabilities that align with strategic focus.

Secretary Gates outlined four categories. The first was additional efficiencies. In the last POM, the Army's share was just under thirty billion dollars. The Army identified those efficiencies and realigned resources. The emphasis was to look at efficiencies and focus more on ensuring the right sort of combat forces and the right engagement.

The second category is taking a serious look at policies, programs, processes, and mandates that are driving cost increases and making sure that processes are aligned with outcomes. The third area is a requirement to develop options to reduce or eliminate marginal missions.

Finally, Secretary Gates asked for the development of specific alternative modifications to the QDR strategy that are tied to options that would reduce force structure or capabilities to execute

strategies. The end result intended is a military with force, weapons, and other capabilities that align with strategy.

There will be a new phase with almost certainly less Army forces. The issue being addressed now by the Secretary, the Chief of Staff, and the Vice Chief of Staff, General Chiarelli, is in stepping back from the Army Force Generator (ARFORGEN) model for the Army in terms of the force generator to a post-Iraq and Afghanistan strategy, how best to align force structure and capability with consideration to Congress' discussion of debt reduction. At the end of the day, regardless of decisions made between the Congress and the Executive branch, the Defense Department and the Army need to be capable and aligned with strategic mission.

6. BOARD BUSINESS.

a. **APPROVAL OF THE 2011 SPRING MEETING MINUTES.** A quorum being in attendance, Congressman Lewis moved to approve the minutes. Congressman Hinchey seconded the motion. The 2011 Spring Meeting Minutes were unanimously approved.

7. USMA UPDATES.

a. **MISSION, VISION, PRIORITIES, INITIATIVES.** LTG Huntoon, 58th Superintendent of the United States Military Academy at West Point, focused attention on the top mission of USMA, the mission of educating, training and inspiring the Corps of Cadets so that they become Leaders of Character that the Army and the Nation require and also the business of a career of professional excellence and service to the Nation as an Officer in the United States Army.

Retention of West Point graduates at the end of their initial service obligation of five years active duty has been around the 50% mark. USMA is confident that an increase over the next decade will bring that retention up into or above the 60% range after five years and into eight, 10 and 15 years. In large measure, this is a function of additional service obligations like graduate school and aviation training. It is an increased commitment to this concept that represents the second half of the mission, the focus on a career as a service Officer in the United States Army.

As part of the transition plan developed over the last ten months, West Point's priorities are:

- United States Corps of Cadets
- Connection to the US Army
- Positive Command Climate–One Team
- Strategic Communications and Transparency
- Collaborations and Partnerships
- Leader Development of Staff and Faculty
- Sustainment of Excellence
- Commitment to Innovation and Adaptation

West Point is very much focused on the United States Corps of Cadets, daily reaffirming the connection to the United States Army, whether in direct or indirect support of the mission of the Army, or by the presence of Army leaders fresh from the campaigns in Iraq and Afghanistan.

West Point is focused upon the one-team positive command climate and in providing cadets with a sense of their own near-term future.

During the spring at West Point, Yearlings are involved in Cadet Leader Development Training and hundreds of cadets are deployed around the world and in the continental United States participating in military training, Airborne School, Air Assault School, other military schools' programs, and in cultural immersion programs in places from Beijing to Santiago to Amman.

Great emphasis is placed upon the strategic communications of the West Point mission. In an era of defining fiscal resources, we need to speak compellingly about the ability to sustain the excellence which marks West Point.

USMA is focused in a number of ways on collaborations and partnerships with the United States Army and the Department of Defense. We benchmark first tier college and university organizations to learn from what they are doing. That is in addition to the collaborations and partnerships within the Federal government.

The Academy is currently conducting a broad review of its Leader Development System. The Leader Development System includes graduates and others, conducted as a cross-department study into the fall of this year and possibly into the early winter. In the next few months the comprehensive review of what is now called the West Point Leader Development System will be unveiled, to include Leader Development of faculty and staff.

West Point is committed to the sustainment of excellence, innovation and adaptation. One of the key elements of sustainment of excellence is the commitment to create new barracks for cadets and to renovate the remainder of the barracks. Forty percent of the United States Corps of Cadets are living three cadets in two cadet rooms. USMA is clearly on track in academic excellence as is evidenced by the quality of the incoming class of 2015 that arrives for R-Day on June 27th.

Among the events that have taken place this spring at USMA was an impromptu gathering by the Corps of Cadets upon news of the capture of Osama Bin Laden. It was displayed on the front page of the Daily Mail in London and a number of other journals around the world.

At the Sandhurst Competition this year, there were 50 teams: West Point, Naval Academy, the Air Force Academy, several ROTC teams, seven international teams, and 32 teams from West Point - one per cadet company. It was a great example of the critical thinking skills that the Academy is working very hard to develop among cadets. Those critical and creative thinking skills, regardless of the crisis or the conflict allow West Point graduates to accomplish the mission.

Other spring events included the Special Olympics, run by the United States Corps of Cadets. It's an example of the kind of community outreach and community service that marks the United States Military. The Summer Leader Seminar gave 1,000 high school students an intense week to get a sense of West Point ex parte from the hopes and desires of their parents or siblings,

grandfathers or grandmothers, friends or coaches. The students who attend this seminar, largely not only come to West Point, but they do extremely well.

Graduation was held at West Point on May 21st. Mrs. Michelle Obama, the First Lady, came and spoke to the graduating class at their banquet and Admiral Mullen was the Commencement Speaker. Graduation was also attended by the Secretary of the Army, the Honorable John M. McHugh.

Two days prior to graduation General Dempsey flew up from Washington to speak with the graduating class about his primary focus as the new Chief of Staff of the Army. He spoke of trust, discipline and fitness -- things that resonate with the Class of 2011. Most importantly he said to them, "I trust you. I trust you and I really think you will do what is right for your Army and for the Nation."

b. MILITARY PROGRAM/PHYSICAL PROGRAM. BG Rapp's brief to the Board on Military and Physical Programs at West Point focused upon the Character Development Program and West Point as a 'College of Officership'. Cadets receive the bulk of their military training in the Summer Military Training Program.

The primary leader development audience for training in Cadet Basic Training (CBT) is not 1,250 new cadets, but the 230 upper class cadets who are training them. In the Leader Training Program upper class cadets spend two weeks learning how to train new cadets, becoming proficient, not only in the individual fields, but also in how to teach and coach those skills. When cadets are taught how to teach, and how to lead small groups they become much more accomplished leaders and train new cadets brilliantly. This occurs over six weeks of Cadet Basic Training.

Cadet Field Training (CFT) is a four week program. The purpose of CFT is development of advanced individual proficiency, team/squad skills, marksmanship, land navigation, first aid and development of upper-class cadets as leaders.

During the Second or First Class summers, cadets receive Cadet Troop Leader Training (CTLT) and Advanced Individual Academic Development (AIAD) where they may have the opportunity to serve as a "3rd LT" with a unit, serve as a leader at West Point during summer training or participate in at least one individual development program. Cadets are sent all over the world in CTLT and on Academic Individual Advanced Development (AIAD). They benefit from military development opportunities like Airborne or Air Assault School, academic or overseas experiences.

Cadet Leader Development Training (CLDT) occurs in the field over three and a half weeks and is designed to teach cadets the skills needed for leadership under stress while solving complex tactical problems.

Recent training initiatives for the Corps of Cadets have been the addition of:

- Cadet Leader Development Training
- Cadet leaders as teachers and trainers
- Accountability for results based upon thorough assessments
- Higher expectations in select skills: marksmanship and weapons handling, medical, navigation, communications, urban ops, patrolling, teaching cadets to plan and manage training
- An increased emphasis on caring and accounting for equipment

The recent loss of the opportunity to attend armor training resulting from the move of the Armor School from Fort Knox to Fort Benning has been mitigated by using that time for additional training at West Point in urban ops.

The initiative for cadets as trainers has been extremely positive. Cadets are taught personal accountability in being responsible for that Soldier and those resources in their care. The quality of Leader Development has improved exponentially by utilizing upper-class cadets and not relying on the Active Duty Task Force for training. Cadets are taught to plan, manage and train because that's what they will do as Lieutenants.

Goals for the Physical Program at West Point are designed to promote personal and unit fitness, physical and mental courage, a lifetime of physical activity, a balanced & healthy lifestyle and the ability to face adversity and stress.

Fourth Class cadets receive CBT Combatives I, Boxing (men), Fundamentals of Combatives (women) and Military Movement.

Third Class cadets receive CFT Combatives III, Fundamentals of Personal Fitness and a lifetime sport.

Second Class cadets receive CBT/CFT-Cadre, Survival Swimming, Combat Applications and complete the indoor obstacle course test.

First Class cadets receive CBT/CFT – Cadre and Army Fitness Development.

All classes participate in competitive sports and are required to take the Army Physical Fitness Test (APFT) each semester.

The goal is more than just physical fitness. It is physical and mental toughness and building of the Warrior Ethos to face adversities and stress. There are four components to the Physical Program. The first is instruction. The second component is athletics. The third is assessment and the fourth is individual physical development.

MX400 is the capstone course for development of officers and is meant to synthesize, not just the military science classes, but the instruction in the Professional Military Ethic. It synthesizes with the leadership instruction in the Behavioral Sciences and Leadership Department, the community and other people for cultural awareness, from the Social Sciences Department and

the History Department, and honor instruction. MX400 equips cadets to deal with the difficult ethical issues that may be faced on the battlefield.

MX400 goals are:

- To hone judgment and refine decision-making ability
- To broaden the cadets' perspective on the expanding scope of responsibilities and expertise required during a career in the profession of arms
- To develop a distinctive professional outlook based on an officer's (vice cadet's) way of thinking that is firmly grounded upon a synthesis of battle command, military professionalism, and military leadership concepts
- To stimulate a personal, professional ethic that prizes life-long learning and professional growth as an Army officer

c. INTERCOLLEGIATE ATHLETICS. Eugene 'Boo' Corrigan, Director of Intercollegiate Athletics at West Point briefed that West Point strives to recruit the best coaches not only with a proven ability to produce winning teams, but with an ability to create Leaders of Character.

West Point teams and individuals alike compete at the highest levels with five league championships in Women's Soccer, Sprint Football, Men's Tennis, Women's Tennis and Golf.

West Point qualified for NCAA Championships in 2010-2011 in Men's Tennis, Women's Tennis, Rifle and Golf. Army defeated SMU in the Bell Helicopter Armed Forces Bowl and had Twelve Conference Players of the Year this past season.

West Point Athletes also excel in the area of academic achievement. Cadets honored this year for Superior Academic Achievement were: Erin Anthony, Nate Hedgecock, Carson Homme, Ben Koenigsfeld, and Jordan Trimble.

d. RESOURCES. COL Stafford, USMA Chief of Staff, updated the Board on FY2011 funding. The Army has allocated the Academy a one hundred thirty-one million dollar base-line budget that is above the one hundred twenty-eight million dollars allocated last year. This reflects the increase in salaries as well as modest increases in requirements from the Academy. It demonstrates the support of the United States Army to the United States Military Academy.

Unfunded requirements total twenty-two million dollars. That's what the Academy is seeking for mid-year and year end funding in order to sustain the Academy. USMA is postured very well to compete in midyear funding largely because of execution of dollars already received and for having truly articulated the Academy's real requirements.

Midyear unfunded requirements include Cadet Mess equipment replacement, furniture, fixtures, and laboratory equipment (desks, beakers, platforms and everything that is required for the new Science Center space).

Cadet Quality of Life unfunded requirements go largely toward infrastructure requirements and include the deconstruction of Central Apartments, which will create the space needed to construct new barracks. It also provides swing space for the other half, the Science Center renovation of Bartlett Hall.

Additional funding is also required to move temporary facilities no longer being used at Fort Huachuca to West Point for summer training. This will provide enough room for a full cadet company as we replace the existing tin structures in 2016. In the interim, they provide the space needed for ROTC, and international cadets who come to West Point for Cadet Field Training.

Finally within Cadet Quality of Life, USCC has reorganized from thirty-two to thirty-six companies, additional unfunded requirements for wall lockers and furniture for offices for Tactical Officers and NCOs.

Twelve million dollars at year end includes a lot of infrastructure, new stadium lighting for several athletic fields, and further enhancement and improvement of Eisenhower Hall in addition to other infrastructure requirements.

West Point faces a civilian manpower reduction for this fiscal year of approximately ten percent. That equates to seventy-one positions at the Academy cut across different roles and missions. The Academy is approaching this from a functional perspective identifying what it will stop doing, what organizations are going to cease to exist, and what can be consolidated in order to accomplish the mission in a more efficient manner.

USMA is reorganizing. It's critical to labor relations to provide employment and/or transition assistance for those people whose positions have been eliminated. The Academy will cycle through a voluntary separation initiative program and a voluntary early retirement program to create enough vacancies for those who want to continue to work, as well as providing an opportunity to apply for and obtain employment at the Academy. In the worst case, there will be a reduction in force at the Academy to meet final numbers. This will not be the last set of civilian cuts we will face. Two more cuts across the next five years are anticipated as the Army right sizes to meet the economy and global commitments. USMA will be transparent about the process, keeping people informed and moving forward.

The Army selected USMA as a Net Zero installation and will incur costs in terms of metering and in terms of replacement of old systems.

Areas identified for any additional MILCON funding that may become available are temporarily relocating and rebuilding the infrastructure of the outdated Wastewater Treatment Plant and moving the Ammunition Supply Point.

8. ACTION ITEMS. The Board requested a report on retention of graduates and a comprehensive report on the true cost of educating cadets. Also requested was an update on communications to alumni, particularly more recent graduates and a focus group discussion with various constituencies during the next visit to the Academy.

9. **ADJOURNMENT.** There being no further comments, Mr. Malek moved to adjourn. The motion was carried and unanimously agreed upon. This concluded the 2011 Spring Meeting of the USMA Board of Visitors.

Certified by:



Mr. Fred Malek
Chairman
USMA Board of Visitors



DAVID A. JONES
LTC, US Army
Designated Federal Officer,
USMA Board of Visitors

APPENDIX TO THE MINUTES:

ROLL CALL

Congressional Members:

Senator Jack Reed	(departed 1302)
Senator Kay Bailey Hutchison	(arrived at 1241) (departed 1444)
Senator Mary Landrieu	(arrived at 1309) (departed 1445)
Senator Richard Burr	(departed at 1302)
Congressman Jerry Lewis	(departed at 1235)
Congressman Maurice Hinchey	(departed at 1415)
Congressman John Shimkus	(departed 1405)

Presidential Appointees:

Mr. Frederic Malek, Chairman of the BoV
Mr. Randolph Brock, Vice Chairman of the BoV
Mr. John Rainey
Dr. Charles Younger (departed at 1445)
Ms. Elizabeth McNally (departed at 1510)

The following members were absent:

Ms. Karen Hughes

Based on the BOV attendance, a quorum was present.

Other attendees:

The Honorable Rock Salt, Principal Deputy Assistant Secretary of the Army for Civil Works
LTC Paul Taylor, OCLL

Congressional Military Legislative Liaisons

Ms. Carolyn Chuhta, MLA to Sen. Reed
Mr. Kevin Kane, MLA to Sen. Hutchison
Mr. Ross Nordurft, MLA to Senator Landrieu
SGM Jesse Boettcher, MLA to Senator Burr
MAJ Brett Robinson, MF to Senator Burr
Mr. Spencer Freebairn, MLA to Rep. Lewis
Ms. Andrea Alvord, Navy MF to Rep. Hinchey
Mr. Grant Culp, MLA to Rep. Shimkus
Mr. Dan Sadlosky, MLA to Nan Hayworth

USMA command and staff members in attendance:

LTG David Huntoon, 58th Superintendent of the United States Military Academy

BG William Rapp, Commandant of Cadets

COL Gus Stafford, USMA Chief of Staff

Ms. Maureen Fitzgerald, Director of Strategic Communications

Mr. Eugene (Boo) Corrigan, Director of Intercollegiate Athletics

LTC Sherri Reed, Director of Public Affairs

LTC David Jones, Secretary to the General Staff

MAJ Adam Sawyer, Superintendent's Aide

Ms. Joy Pasquazi, BoV Conference Specialist

Members of the Public

BG (Ret.) Samuel K. Lessey

Mr. Greg Mathieson, MAI photo

Ms. Susan Fulton, USMA Class of '80

Mr. Luis Petarque, HDR Architecture



United States Military Academy Board of Visitors Meeting

22 June 2011



CALL TO ORDER



- | | |
|-----------|--|
| 1200-1230 | USMA Superintendent Update |
| 1230-1245 | Secretary of the Army Representative Remarks |
| 1245-1315 | Military and Physical Program Update |
| 1315-1330 | Executive Time |
| 1330-1400 | Intercollegiate Athletics Update |
| 1400-1500 | USMA Update |
| 1500- | BoV Business |



REMARKS

Superintendent
United States Military Academy



To ***educate, train, and inspire***
the Corps of Cadets so that each graduate
is a commissioned ***leader of character***
committed to the values of
Duty, Honor, Country
and prepared for a career of professional
excellence and service to the Nation as
an officer in the United States Army.



- **United States Corps of Cadets**
- **Connection to the US Army**
- **Positive Command Climate–One Team**
- **STRATCOM and Transparency**
- **Collaborations and partnerships**
- **Leader development of Staff and Faculty**
- **Sustainment of excellence and commitment to innovation and adaptation**



- ✓ **United States Corps of Cadets**
 - ✓ **Connection to the US Army**
 - ✓ **Positive Command Climate–One Team**
 - ✓ **STRATCOM and Transparency**
 - ✓ **Collaborations and partnerships**
- Leader development of Staff and Faculty**
- Sustainment of excellence and commitment to innovation and adaptation**



- 13,954 Applicants
- 1,250 Admitted
- 17% Women
- 10% Hispanic
- 10% African-American
- 6% Asian
- 14 International
- 21 Combat Vets



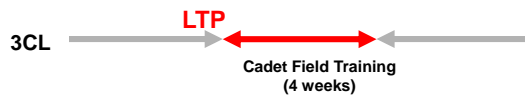


Summer Training Update

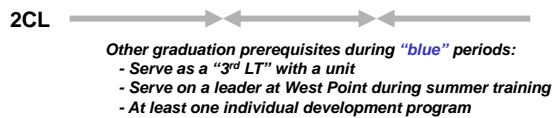
LTP = Leader Training Program



- CBT Purposes:**
- Bring new cadets into culture
 - Proficiency as individual Soldier
 - Develop upperclass cadets as leaders



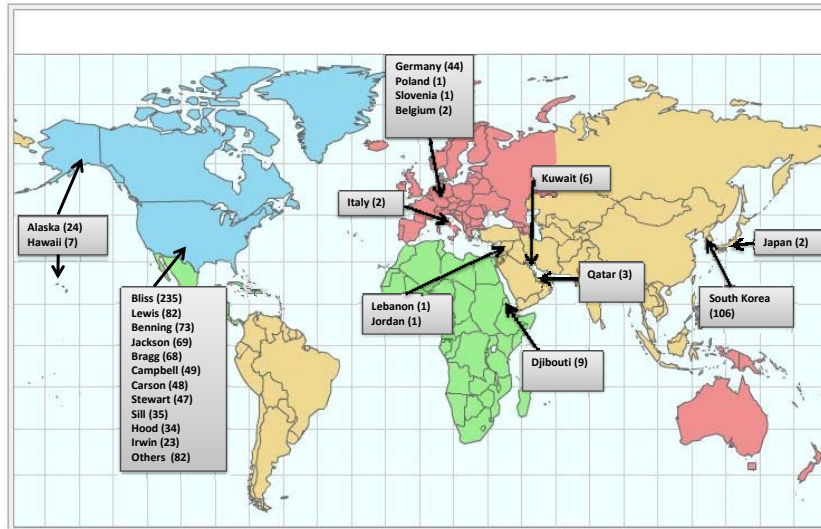
- CFT Purposes:**
- Advanced individual proficiency
 - Team/squad skills
 - Develop upperclass cadets as leaders



- CTLT/AID Purposes:**
- Experience the active duty Army
 - Developmental opportunities



- CLDT Purposes:**
- Leadership under stress
 - Solve complex tactical problems



CTLT in US: 876 CTLT Overseas: 178

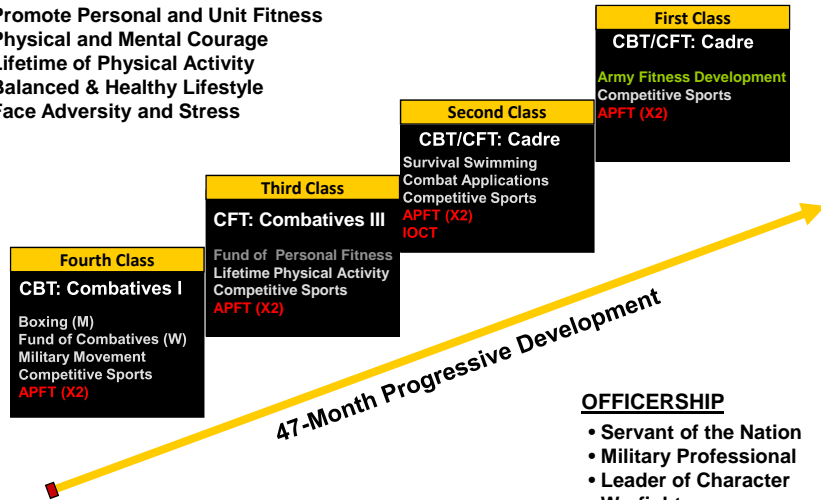


- **Addition of Cadet Leader Development Training**
- **Cadet leaders as teachers and trainers**
- **Accountability for results—based on thorough assessments**
- **Much higher expectations in select skills: marksmanship and weapons handling, medical, navigation, commo, urban ops, patrolling**
- **Teaching cadets to plan and manage training**
- **Increased emphasis on caring and accounting for equipment**
- **Loss of armor training**



PHYSICAL GOALS

- Promote Personal and Unit Fitness
- Physical and Mental Courage
- Lifetime of Physical Activity
- Balanced & Healthy Lifestyle
- Face Adversity and Stress



Curriculum:

Moved the Master Fitness Trainer sequence to the 2nd Class and 1st Class year to better prepare emerging lieutenants for unit fitness requirements

Risk Mitigation:

USA Boxing certification of boxing instructors
 Red Cross certification of aquatics instructors
 Annual American Heart Association AED/CPR certification
 Certified athletic trainers on-site for all instruction

Testing:

Indoor Obstacle Course graduation requirement



- To hone judgment and refine decision-making ability
- To broaden the cadets' perspective on the expanding scope of responsibilities and expertise required during a career in the profession of arms
- To develop a distinctive professional outlook based on an officer's (vice cadet's) way of thinking that is firmly grounded upon a synthesis of battle command, military professionalism, and military leadership concepts
- To stimulate a personal, professional ethic that prizes life-long learning and professional growth as an Army professional



Executive Time
(15 minute break)



Best coaches...proven ability to produce winning teams and leaders of character

Patriot League Coach of the Year, AY 10-11:

- Stefanie Golan (W. Soccer) - Ron Kontura (Diving)
- Jim Poling (M. Tennis) - Brian Watts (Golf)



Compete at the highest levels...teams and individuals

- Five League Champions: W. Soccer, Sprint Football, M. Tennis, W. Tennis, and Golf
- Qualified for NCAA Championships in AY 10-11: M. Tennis, W. Tennis, Rifle and Golf
- Army defeated SMU in the Bell Helicopter Armed Forces Bowl
- Twelve Conference Players of the Year this past season

Superior Academic Achievement...our cadet-athletes

- Erin Anthony W. Basketball
- Nate Hedgecock M. Basketball
- Carson Homme Football
- Ben Koenigsfeld Baseball
- Jordan Trimble Football

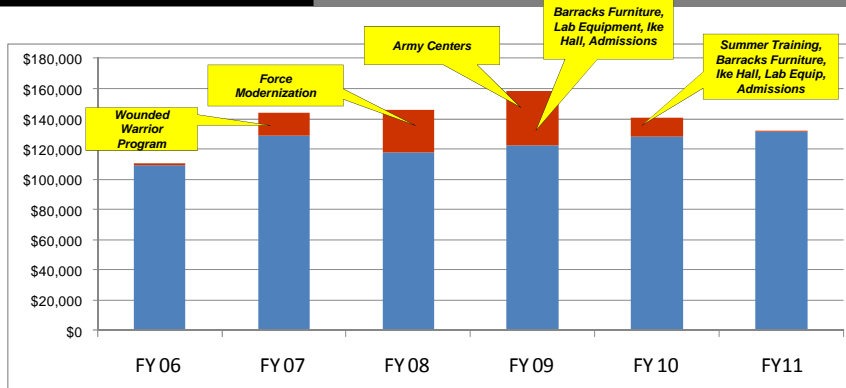


- Sept. 3 at Northern Illinois
- Sept. 10 SAN DIEGO STATE**
- Sept. 17 NORTHWESTERN**
- Sept. 24 at Ball State
- Oct. 1 TULANE**
- Oct. 8 at Miami (Ohio)
- Oct. 22 at Vanderbilt
- Oct. 29 FORDHAM**
- Nov. 5 at Air Force
- Nov. 12 vs. Rutgers at Yankee Stadium
- Nov. 19 at Temple
- Dec. 10 vs. Navy at FedEx Field in Landover, MD





USMA Funding Overview



CATEGORY	FY 06	FY 07	FY 08	FY 09	FY10	FY11
INITIAL FUNDING	109,298.7	128,905.0	117,918.6	122,350.7	128,345.0	131,208.0
ADDTL FUNDING	1,000.0	14,900.0	28,205.0	35,781.7	12,418.4	365.0
TOTAL FUNDING	110,298.7	143,805.0	146,123.6	158,132.4	140,763.4	131,573.0
AUTH CORPS	4,200	4,200	4,400	4,400	4,400	4,400

Funding in (\$000s)

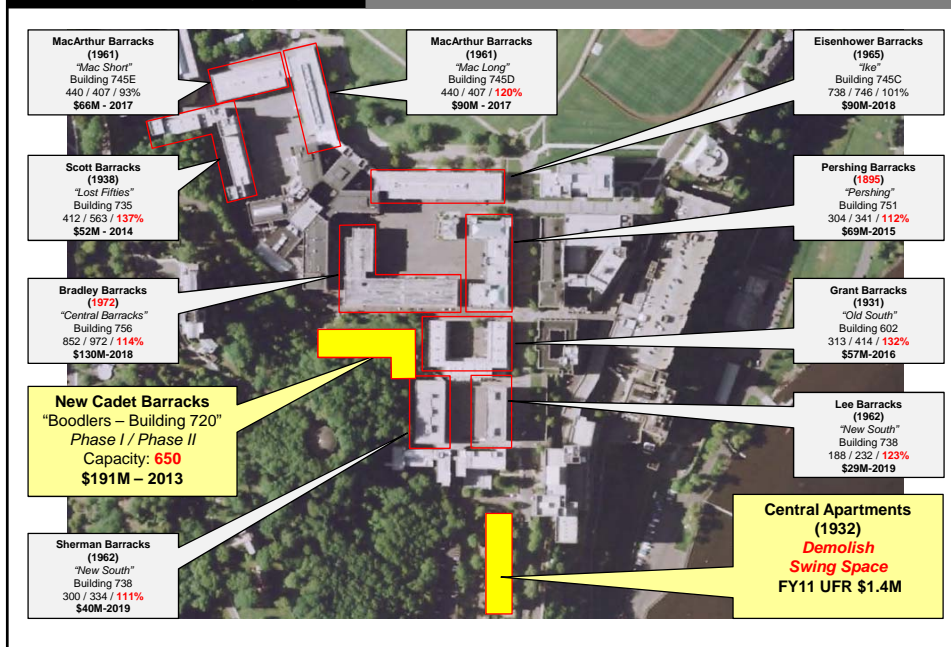


FY11 USMA Funding Shortfalls

- Army's mid-year review process limits commands to their top 3 unfinanced requirements
- Mid-year shortfalls submitted to Army were \$10,093K
 - Cadet Mess Equipment Replacement = \$1,350K
 - New Science Center Furniture and Equipment = \$5,400
 - Cadet Quality of Life = \$3,343K
- Expect feedback on funding of shortfalls before the end of June 2011.
- Working list of year-end shortfalls to submit to Army; totals \$12,200K to date.



- Army has directed the following reductions to our military and civilian authorizations:
 - Loss of 71 civilian authorizations and dollars in FY12
 - Loss of 2 military authorizations in FY13
 - Loss of 6 military authorizations in FY14
- Army mandating reductions to operational costs in FY12 and beyond, particularly in contracts and travel costs.
- Additional reductions to manpower and dollars are expected over the next five years.







BOARD BUSINESS



Upcoming Events

- Cadet Summer Training 23 May-6 Aug
- Reception Day for the Class of 2015 27 Jun
- USMAPS Reception Day at West Point 18 Jul
- Reorganization Week 7 - 13 Aug
- AOG Leaders Conference 10 - 13 Aug
- Buffalo Soldier Ceremony 28 Aug



Summer Meeting (West Point, NY)

Friday 29 July

(Note: Arrival morning Thursday, 28 July
afternoon - field training and housing visit)

Annual Meeting (West Point, NY)

Option 1: Thursday, 27 October

inquiry on Wednesday October 26

Option 2: Thursday, 10 November

inquiry on Wednesday, November 9



Remarks

Chairman

USMA Board of Visitors



*USMA Board of Visitors
2011 Summer Meeting
29 July 2011*

Location: Jefferson Hall Library, Haig Room
Uniform: Military – ASU or Class A/Civilian – Business Attire

1130-1200 BoV members and USMA Staff & Faculty arrive, light luncheon served

1200-1500 **2011 Summer Meeting in Session**

- **Administrative Announcements and Welcome**
- **Remarks, Superintendent, United States Military Academy**
- **Remarks, Secretary of the Army's Representative**
- **Board Business**
 - Approval of the 22 June Spring Meeting minutes
- **Special Interest Topics**
 - West Point Leader Development System
 - Connecting with Graduates
 - Net Zero
- **Remaining Board Business/Adjourn**

MINUTES
BOARD OF VISITORS SUMMER MEETING
JULY 29, 2011
WEST POINT, NY

1. **DESIGNATED FEDERAL OFFICER'S REMARKS.** Lieutenant Colonel (LTC) Jones, Designated Federal Officer for the United States Military Academy (USMA) Board of Visitors (BoV or Board) stated for the record that the BoV operates under the authority of US Code Title 10, Section 4355. The Board is an Advisory Board subject to the Federal Advisory Committee Act.

2. **CHAIRMAN'S REMARKS.** Chairman Malek called the meeting to order at 12:20 p.m., recognized outgoing BoV members Mr. John Rainey, Dr. Charles Younger and Ms. Karen Hughes for their service and swore in new members Mr. Patrick Murphy, Ms. Sue Fulton and Mr. Errol Schwartz.

3. **ADMINISTRATIVE ANNOUNCEMENTS.** Meeting packages included an agenda, briefing slides, BoV attendance records and a tri-fold on the West Point Leader Development System (WPLDS).

On July 28th Board members had the opportunity to complete their inquiry and observation of the USMA Prep School, Cadet Basic Training, cadet barracks and military housing. On July 29th Board members conducted small roundtable discussions with cadets, staff and faculty.

4. **ROLL CALL.** For the record, a quorum of the board was not present. A list of attendees is appended to these minutes.

5. **SUPERINTENDENT'S REMARKS.** The number one priority of USMA is the United States Corps of Cadets (USCC). In 2013 construction will begin on a new barracks for the USCC, the first new barracks since 1972. Over a multiyear period the remainder of cadet barracks will be repaired, renovated and brought up to standard.

The Class of 2015 took in 1,247 new cadets from all 50 states and 14 countries. Over the summer new cadets trained in basic rifle marksmanship, land navigation and participated in ruck marching. Rising sophomores (yearlings) completed Cadet Field Training (CFT) conducting live fire exercises, land navigation exercises, and water confidence courses. The remainder of the USCC had opportunity for leave, participated in Cadet Troop Leader Training and cultural immersion opportunities all over the world learning about the critical role that culture plays and other perspectives that will assist them when they take command as Lieutenants. In addition cadets served on internships in Washington, DC, at the Pentagon, on Capitol Hill and in the private sector.

Cadet companies increased from 32 to 36, providing tactical officers with a reduced and more effective span of control, allowing for more leader development opportunities for the Corps of

Cadets. Cadets will begin reorganization week on August 8th in preparation for the start of classes on August 15th.

In recent years Army retention of commissioned graduates not only at West Point but at most major ROTC sources had dropped from about 60% to about 40% for Captains, Majors and Lieutenant Colonels. As a result of the Officer Career Satisfaction Program (CSP), West Point graduates, and graduates of ROTC colleges and universities are moving in the direction of a much higher retention rate. In exchange for extending the initial active duty service obligation (ADSO) by three years, the CSP Program allows Officers commissioned via ROTC or West Point to obtain their branch of choice, first post of choice, or the guarantee of a fully-funded graduate education.

6. MR. SALT'S REMARKS. Principal Deputy Assistant Secretary of the Army, the Honorable Salt reiterated in the past year the Army been identifying efficiencies, reallocating resources and making reductions.

The Army is going through a significant leadership transition as well. In confirmation testimony, General Odierno, new Army Chief of Staff expressed a commitment to leader development and attention to Soldier's families. Secretary Panetta focused on three broad areas; efficiencies, transforming the institutional Army, the Generating Force, and energy as an emerging part of the Army Campaign Plan. Mr. Salt congratulated USMA for being a part of leading the vanguard on energy efficiency.

7. BOARD BUSINESS.

a. APPROVAL OF THE 2011 SPRING MEETING MINUTES. A quorum being in absentia the 22 June Spring Meeting minutes will be distributed for electronic vote.

8. USMA UPDATES.

a. WEST POINT LEADER DEVELOPMENT SYSTEM (WPLDS). COL Stafford, USMA Chief of Staff noted there are two domains for leader development at West Point. The competence domain encompasses intellectual, military and physical development and the character domain encompasses human spirit, moral, ethical and social development. WPLDS is co-chaired by the Commandant, Dean and Director of Intercollegiate Athletics and is focused on a set of holistic outcomes of what the Academy expects graduates to be, know and do.

WPLDS is structured to drive strategic resourcing, policy or strategic discussion and integrate all the domains across all aspects of Academy life. It is the responsibility of every member of the West Point team and co-chairs use results to drive change. Every interaction is a developmental opportunity. WPLDS sets standards of professional behavior and development and each individual is accountable to others while inspiring cadets to do the same. Individuals sponsor, mentor, lead and guide each teammate to achieve their full potential.

b. CONNECTING WITH GRADUATES. COL Browne, Director of Academy Advancement advised the Directorate of Academy Advancement (DAA) is the staff agency responsible for providing a liaison between the Academy and the Association of Graduates (AOG) providing resource management options for gift funds that come to the Academy and management of gift

funded construction, private giving programs and alumni affairs. The goal of DAA is to inspire increasing involvement among alumni through engagement opportunities like Founder's Day events, football games and local West Point Societies to increase constituent participation in the areas of time, talent and financial support.

COL (Ret.) McClure, President and CEO of the AOG noted that the AOG reaches over 48,000 living West Point graduates, all of whom are members, as well as parents of future graduates, youth influencers, and civic leaders. The vision of the AOG is to be West Point's most valued supporter while enhancing the grip of the Long Gray Line forever.

The AOG connects with graduates beginning with Registration Day at West Point, and continuing on with Class reunions, West Point Magazine, Assembly Magazine, and Taps Magazine. Increasingly AOG is connecting with graduates through the internet and social media like Twitter and Face Book pages. AOG has created Android, I Pad, and I Phone apps providing RSS feeds for Cadet News, Grad News and West Point News and sending e-newsletters weekly and monthly.

Increased information to constituents will earn increased passion, time, talent and treasure for West Point. A successful outreach campaign projects a positive image and will make USMA a better place to the benefit all graduates. USMA donations are ahead of other service academies with 28 to 30 percent of USMA graduates donating to the Academy vs. 10 to 12 at other institutions. Donations to the AOG generate between 25 and 30 million dollars per year.

AOG is one of the few alumni organizations in America that is not dues based. AOG is funded by a modest endowment and receives no support from West Point.

c. NET ZERO. COL Tarsa, Garrison Commander briefed that in April West Point was designated a Net Zero Energy Installation slated to effectively produce as much energy as it consumes by the year 2020.

To do that, West Point will look at energy reduction, finding different sources of fuel energy and greater stewardship of resources, utilizing utility management control systems and digitally direct control systems that allow tracking, monitoring and adjustment of energy consumption.

Noresco, a private company that delivers energy savings through cost-effective energy efficiency and infrastructure services has awarded West Point with \$26 million in energy savings performance contracts for infrastructure development and in return will receive some of the accrued energy savings over a 17 year period.

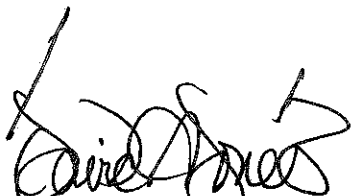
Challenges to achieving Net Zero 2020 are aging infrastructure, geography and competing demands for resources but the Academy will leverage intellectual capital at West Point as well as collaborate with USCC, other installations and private industry on energy initiatives to achieve the Net Zero 2020 goal.

9. ACTION ITEMS. Information was requested on the contractual arrangement of the housing management company and, housing allowance policy and the process by which customer satisfaction is measured regarding housing and housing management. Also requested was information on any impacts to faculty and staff due to personnel cuts and what reassessment or reorganization of processes have been identified or instituted to minimize that impact. Mr.

satisfaction is measured regarding housing and housing management. Also requested was information on measures that West Point has taken or intends to take to reengineer administrative processes to mitigate the effects of personnel cuts. Mr. Brock expressed the desire to receive meeting read-ahead materials prior to the BoV meeting for advanced consideration and requested briefings related to topics previously identified in the inquiry plan. Also requested was information on minority recruiting efforts and funding, the cost of educating a cadet, the status of exploration into a tenure-based model for civilian instructors, the percentage of graduates whose GPA falls above and below a 3.0, status of the World Class Athlete Program for West Point graduates, and the availability of resources like the pool for faculty and staff.

10. ADJOURNMENT. There being no further comments, Chairman Malek adjourned them meeting. This concluded the 2011 Summer Meeting of the USMA Board of Visitors.

Certified by:



DAVID A. JONES
LTC, US Army
Designated Federal Officer,
USMA Board of Visitors



Mr. Fred Malek
Chairman
USMA Board of Visitors

APPENDIX TO THE MINUTES:

ROLL CALL

Presidential Appointees:

Mr. Frederic Malek, Chairman of the BoV
Mr. Randolph Brock, Vice Chairman of the BoV
Ms. Elizabeth McNally
Mr. Patrick J. Murphy
Ms. Brenda Sue Fulton
MG Errol R. Schwartz

The following members were absent:

Congressional Members:

Senator Jack Reed
Senator Kay Bailey Hutchison
Senator Mary Landrieu
Senator Richard Burr
Congressman Jerry Lewis
Congressman Maurice Hinchey
Congressman John Shimkus

Based on the BOV attendance, a quorum was not present.

Other attendees:

The Honorable Rock Salt, Principal Deputy Assistant Secretary of the Army for Civil Works
LTC Mark Beckler, SAFM-BUL

Congressional Military Legislative Liaisons:

Mr. Spencer Freebairn, MLA to Rep. Lewis
Mr. Kevin Kane, MLA to Sen. Hutchison
Mr. Chris White, District Staff, Rep. Hinchey

USMA command and staff members in attendance:

LTG David Huntoon, 58th Superintendent of the United States Military Academy
BG Theodore Martin, Commandant of Cadets
COL Charles Stafford, USMA Chief of Staff
COL Mike Tarsa, Garrison Commander
Mr. Bob McClure, President of the Association of Graduates
COL Todd Browne, Director of Academy Advancement
LTC David Jones, Secretary to the General Staff
LTC Sherri Reed, Director Public Affairs Office
Ms. Joy Pasquazi, BoV Conference Specialist

Members of the Public

BG (Ret.) Samuel K. Lessey

Ms. Vera Albrecht, President of Parents Club of West Point

Mr. Tom Giordano, Board Member of Parents Club of West Point

Mr. Mark Ferdinand, Mid Hudson News

Mr. Adam Bosch, Times Herald Record



United States Military Academy Preparatory School

The United States Military Academy Preparatory School (USMAPS) prepares candidates selected by the United States Military Academy Admission's office for the academic, physical, and military challenges of the United States Military Academy at West Point. Selected students (cadet candidates) are high school graduates or enlisted personnel from the Active, Reserve or National Guard force.

USMAPS is primarily an academic institution that accepts students and soldiers from diverse backgrounds and challenges them to meet and exceed West Point's rigorous admission standards. As a military school with a career focus, USMAPS also develops the foundation of professional and physical attributes needed for growth as an officer in the U.S. Army.

Located on the US Military Academy, West Point Prep prepares cadet candidates with a foundation that will last them beyond admission to the Academy and well into the future as leaders of character for the nation.

Mission

To provide focused academic, military, and physical instruction in a moral-ethical military school environment in order to prepare and motivate candidates for success at the United States Military Academy (USMA).

History

In June of 1946, General Maxwell D. Taylor, then Superintendent of the U.S. Military Academy, established the Army Prep School at Stewart Army Air Field, Newburgh, New York, just north of West Point.

In 1957, the school moved to Fort Belvoir, Virginia, and in 1975, the school moved to Fort Monmouth, New Jersey. In July 2011, the West Point Preparatory School to its current campus as West Point, NY.

It was long recognized that former enlisted Soldiers, upon admission to the Military Academy, provide valuable experience to the Corps of Cadets and later to the officer corps. "Experience show," said General William C. Westmoreland, Superintendent of West Point in 1963, "that the enlisted ranks of the U.S. Army and other armed services are good sources for outstanding Cadet Candidates."

In 1965, West Point Prep further expanded to open its doors for aspirants from the civilian community. Candidates who had proven themselves as leaders and athletes were offered another avenue to enter West Point. Today, West Point continues to enhance the diversity of both the student body at West Point and the officer corps of the Army.

In July 2011, USMAPS relocated to its current campus at West Point, NY.

New Facility

USMAPS occupied phase I of its new facility on 15 June 2011 and welcomed in the USMAPS class of 2012 on 18 July.

- Phase I included the Barracks, Dining Facility, one athletic field and track, and the inclement weather practice facility. The Barracks has 3 floors with 123 rooms that can house 246 Cadet Candidates. The Dining Facility has seating for 250 personnel and also serves as the West Point Garrison Dining Facility.
- Phase II is scheduled to be completed in January of 2012 and will include the Academic Building with 21 classrooms with wireless technology, faculty offices, a computer lab with 40 workstations, and a 308 seat Auditorium. The Athletic Facility will include a basketball court, wrestling room, weight room, aerobic fitness room, multipurpose room, training room, team meeting rooms, locker rooms, and coaches offices. There will be two additional athletic fields.

Cadet Candidates will be using temporary classrooms in Cullum, Lincoln, and Jefferson Hall once the academic year begins in August and several USMA athletic fields and courts until Phase II is completed and the facility can be completely occupied.

USMAPS Class of 2012

The 244 members of the USMAPS class of 2012 include

- 36 females
- 42 prior service soldiers including 11 combat veterans
- 124 minorities
- 90 recruited athletes

Distinguished USMAPS Graduates

Since 1980, 4,181 USMAPS graduates have continued on to graduate from West Point. 129 USMAPS graduates have become General Officers. USMAPS graduates currently serving on active duty include:

- LTG Frank G. Helmick (USMAPS '72, USMA '76) – Commanding General, XVIII Airborne Corps/Deputy Commander for Operations, United States Forces- Iraq
- LTG Michael D. Barbero (USMAPS '72, USMA '76) – Director, joint Improvised Explosive Device Defeat Organization
- MG Rhett Hernandez (USMAPS '72, USMA '76) – Commanding General, United States Army Cyberspace Command
- MG Karl R. Horst (USMAPS '74, USMA '78) – Chief of Staff, United States Central Command
- MG James E. Rogers (USMAPS '72, USMA '76) – Commanding General, United States Army Aviation and Missile Command





United States Military Academy Board of Visitors Meeting

29 July 2011



CALL TO ORDER



- Administrative Announcements and Welcome
- Superintendent, United States Military Academy Remarks
- Secretary of the Army Representative Remarks
- Board Business
- Special Interest Topics
 - West Point Leader Development System
 - Connecting with Graduates
 - Net Zero
- Remaining Board Business, Adjourn



REMARKS

Superintendent
United States Military Academy



REMARKS

Secretary of the Army's Representative



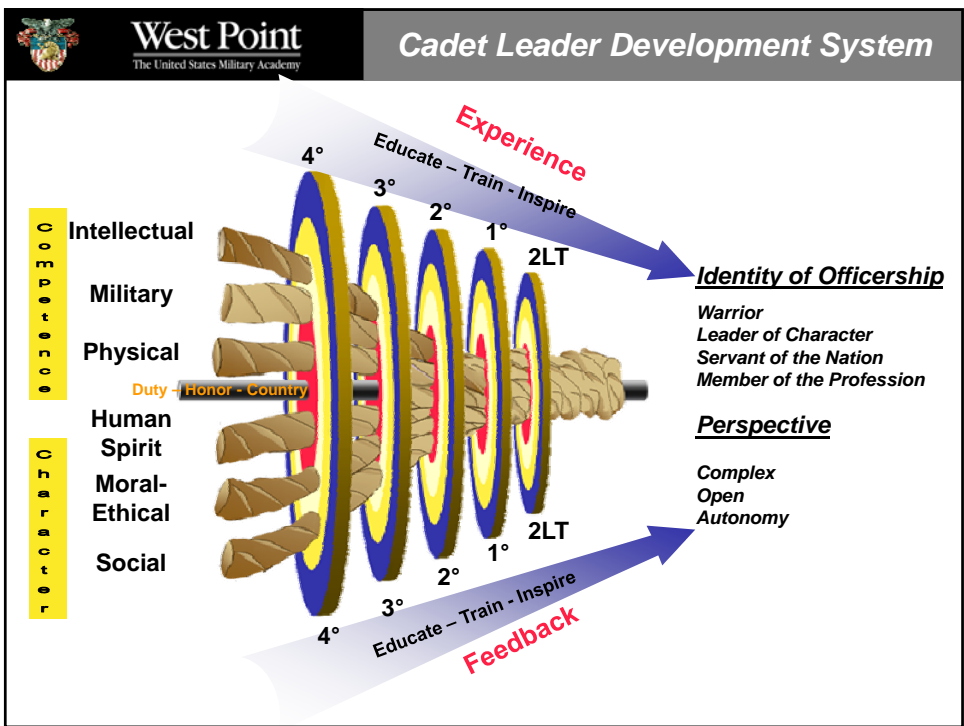
Board Business



West Point Leader Development System (WPLDS)

***COL Stafford
USMA Chief of Staff***







- **During his Transition Team Out-brief on 3 December 2010, the Superintendent made the following observations on the Cadet Leader Development System:**
 - Our faculty and staff, collectively, own and continuously improve CLDS ... CLDS provides clear guidance to the Staff, Faculty, and Corps of Cadets on their responsibilities in the execution of our Leader Development System
 - CLDS is a superb mechanism for explaining what we do at the Academy, but it doesn't drive strategic resourcing, policy, or strategic-level discussion.
 - We need to do a better job of integrating all the Domains across all aspects of Academy Life.
 - We need more complete orientations to CLDS for cadets, Staff and Faculty upon arrival, and emphasized fully in West Point, department and community orientations.



- **Leadership**
 - Co-Chairs: Commandant, Dean, Director of Intercollegiate Athletics
- **Name**
 - Was: Cadet Leader Development System (CLDS)
 - Is: West Point Leader Development System
- **Focus**
 - Was: 6 Domains / distinct components
 - Is: A set of holistic Outcomes, i.e., statements of what we expect our graduates to be, know, and do
- **Responsibility**
 - Was: Fractured and/or bounded by "ownership" of domains
 - Is: Owned by every member of the West Point Team
 - Is: Co-chairs use results to drive changes in what we do



West Point Graduates will:

- Lead and inspire their units to accomplish the mission.
- Embrace their role as a U.S. Army officer.
- Make sound and timely decisions under stress.
- Apply knowledge, skills, and principals in understanding ambiguous situations and solving complex problems.
- Demonstrate proficiency in military and physical skills required to succeed in combat.
- Demonstrate physical and mental toughness with the strength of spirit to win.
- Communicate effectively with all audiences.
- Demonstrate a broad perspective that is open to new ideas and experiences.
- Demonstrate respect for others and work effectively with different cultures and people.
- Live honorably, with uncompromising integrity.



- The West Point Team consists of all people living and working at West Point, and all our graduates and friends of the Academy worldwide.
- Every interaction is a developmental opportunity. We set standards of professional behavior and development and then hold ourselves and each other to them while inspiring cadets to do the same. We sponsor, mentor, lead and guide each teammate to achieve their full potential.





Connecting with Our Graduates

***COL Browne
Directorate of Alumni Affairs (DAA)***



- Liaison to the West Point Association of Graduates (WPAOG)
- Financial Management of Private Funds Gifted to the Academy
- Managing the Private Giving Program
- Coordinating Gift-Funded Construction
- Alumni Activities and Special Events





SPRING

- Reunions
- Grad Week Reunions (75, 70, 65, 60, 55, 50 Yr)
- WPAOG Lifetime Donor Dinner
- WPAOG BoD & Council of Advisors Meeting
- WPAOG Distinguished Grad Award Ceremony
- Alumni Golf Outing

SUMMER

- Graduate March Back
- WPAOG Leaders Conference
- WPAOG Board of Directors Meeting

FALL

- Reunions
- Homecoming (20, 15, 10, 5 Year Classes)
- Thayer Award Ceremony
- Nininger Award Ceremony
- Football Weekend Alumni & Donor Events
- WPAOG BoD & Council of Advisors Meeting

WINTER

- WPAOG Thayer Award & Distinguished Graduate Award Selection Committee
- WPAOG Board of Directors Meeting
- Founders Day



MISCELLANEOUS EVENTS

- WPAOG 50-Year Class Affiliation Program
- WPAOG Cadet Programs
- Major Donor Visits
- Gift Facility Groundbreakings and Dedications



**Connecting with
Our Graduates**

**Mr. Bob McClure, President
West Point Association of Graduates**



Who does WPAOG connect with?

- Over 48,800 living graduates (midpoint Class of '86)
- Parents, youth influencers, civic leaders
- U.S. Military Academy

All "Hearts in Gray" that support West Point

How does WPAOG connect?

Via Programs for:

- Classes (+85)
- West Point Societies (+125)
- Individuals (career services, memorials, etc.)
- U.S. Military Academy (Prep scholarships, PSAs, etc.)

Via Media through:

- Website (38k/mo.)
- Social media – all kinds
- Publications (*West Point, Taps*, etc.)
- West Point Radio

Engaging everyone “where they live”

Why does WPAOG connect?

Improved “Gray Heart” engagement means:

- Successful Comprehensive Campaign
- Positive image for USMA and future cadets
- Proud, successful graduates

To increase Time, Talent and Treasure devoted to West Point



Net Zero

***COL Tarsa
Garrison Commander***



Leading the Way in Energy Efficiency

- Energy, Water & Waste Program sponsored by the Office of ASA for Installations, Energy and Environment (OASA IE&E)
- West Point will produce as much energy as it consumes by the year 2020
- Participated in ASA training session to discuss preliminary strategic goals and initiate the collaborative exchange, quarterly updates to follow
- Cadets and Faculty will collaborate in the transition towards greater energy efficiency
- Aged infrastructure, geography and resource availability are considerable challenge
- Creation of strategic partnerships



A Net ZERO INSTALLATION applies an integrated approach to management of energy, water, and waste to capture and commercialize the resource value and/or enhance the ecological productivity of land, water, and air.



- **A Net Zero ENERGY Installation** produces as much energy on site as it uses, over the course of a year.
- **A Net Zero WATER Installation** limits the consumption of freshwater resources and returns water back to the same watershed so not to deplete the groundwater and surface water resources of that region in quantity or quality.
- **A Net Zero WASTE Installation** reduces, reuses, and recovers waste streams, converting them to resource values with zero landfill.





The Way Ahead

- The West Point Team is assembled: Garrison HQTRS & Directorates, Academic Departments, Contracting, Legal, Public Affairs and USCC
- Building / Facility Energy Reduction master plan
- Installation-wide Renewable Energy Generation project development (solar, wind, biomass)
- “Educating the Masses”
- Energy Maintenance

- Proposals with National Renewable Energy Laboratory, Construction Engineering Research Laboratory, Sandia Laboratories and Huntsville Engineering Support Center
- Private investments through Energy Savings Performance Contracts (ESPC), Utility Energy Service Contracts and Power Purchase Agreement
- 26 million ESPC award will provide significant energy reduction through UMCS, DDC upgrades and steam trap replacement
- Energy Conservation Investment Program: West Point submitted 3 projects - (1) Steam decentralization, (2) Lighting Controls, and (3) UMCS upgrade
- Partnerships





Remaining Board Business



Next Meeting:

Annual Fall Meeting at West Point

**26-27 October 2011
(Wed-Thu)**



- August 8 – Cadet Basic training March Back
- August 8-12 – Reorganization week
- August 13 – Acceptance Day
- August 15 – First Day of class
- August 19 – Superintendent’s Professional Development
- August 19-21 – Ring Weekend
- September 3 – Northern Illinois (Away Game)
- September 10 – San Diego State (First Home Game)



Adjourn



***USMA Board of Visitors
2011 Annual Meeting
27 October 2011***

Location: Jefferson Hall Library, Haig Room

Uniform: Military – ASU or Class A/Civilian – Business Attire

1200-1230 BoV members and USMA Staff & Faculty arrive, light luncheon served

1230-1500 **2011 Annual Meeting in Session**

- **Administrative Announcements and Welcome**
- **Remarks, Secretary of the Army's Representative**
- **Welcome and Introductory Remarks**
- **Academic Program** *(Dean)*
- **Honor and Respect** *(Commandant)*
- **Remarks, Chief of Staff**
- **Additional Board Business**
 - **Annual Report Writing Process**
- **Adjournment**

MINUTES
BOARD OF VISITORS SUMMER MEETING
OCTOBER 27, 2011
WEST POINT, NY

1. **DESIGNATED FEDERAL OFFICER'S REMARKS.** Lieutenant Colonel (LTC) David Jones, Designated Federal Officer for the United States Military Academy (USMA) Board of Visitors (BoV or Board) stated for the record that the BoV operates under the authority of US Code Title 10, Section 4355. The Board is an Advisory Board subject to the Federal Advisory Committee Act.

2. **CHAIRMAN'S REMARKS.** Chairman Fred Malek called the meeting to order at 12:30 p.m.

3. **ADMINISTRATIVE ANNOUNCEMENTS.** Meeting packages included an agenda, briefing slides, BoV attendance records and a list of areas of inquiry covered by the Board in 2011.

On October 26th Board members conducted inquiry and observation by touring the new science center construction, receiving program overviews on the Professional Military Ethic and the Sexual Harassment/Assault Response and Prevention program's training module, lunch with cadets and attendance at academic classes. On October 27th Board members conducted small roundtable discussions with cadets, staff and faculty.

4. **ROLL CALL.** For the record, a quorum of the board was present. A list of attendees is appended to these minutes.

5. **MR. SALT'S REMARKS.** Principal Deputy Assistant Secretary of the Army, the Honorable Rock Salt expressed that Secretary Panetta identified this as a critical year for the Army having long focused efforts on the stressors of the ARFORGEN and operational requirements, now confronting budget constraints, but we must remain steadfast in focusing maintaining land force, security, and our commitment to those who served.

He said Secretary Gates had remarked active duty end strength will certainly be reduced, but there is time to get it right and accomplish it in a balanced way with a focus on efforts to improve the institutional force. Secretary Gates stated we owe it to Congress and to the Nation to develop a strategy and a plan, force structure and capability for our Army that is consistent with the national strategy and preserves all that our Army contributes to that.

6. **BOARD BUSINESS.**

a. **APPROVAL OF THE 2011 SUMMER MEETING MINUTES.** A quorum being in attendance, Senator Burr moved to approve the minutes. Mr. Brock seconded the motion. The 2011 Summer Meeting Minutes were unanimously approved.

7. USMA UPDATES.

a. ACADEMIC PROGRAM UPDATE. BG Tim Trainor, Dean of the Academic Board, in a strategic planning session with key leaders, department heads and senior civilians from each department, shaped the vision for the next five years for the Academic Program. The mission is to educate and inspire adaptive leaders of character to build the Army and the Nation's future, preparing and building their foundation to be future strategic leaders for the Army.

In the Academic Program cadets must complete both the core requirements and at least one major in order to successfully graduate with a Bachelor of Science degree. Every cadet graduates with a Bachelor of Science degree. The core program represents 60% to 75% of a cadet's total academic requirements and includes four Military Science and multiple Physical Education classes. Majors are offered in a number of basic disciplines including Engineering, Humanities, Social Sciences, Economics, Political Science, Philosophy, Foreign Language and Literature.

BG Trainor is determining the option of broadening the curriculum at the Prep School for more flexibility in tailoring programs to focus upon individual areas of need for cadet candidates to ensure they are best prepared for the challenges of the core curriculum at West Point.

Academic Program strategic goals are designed to bring in cadets and cadet candidates who can become leaders of character. The program provides curriculum and enrichment opportunities purposefully designed and integrated to create strategic thinkers. Education at West Point is not just about delivering curriculum in the classroom, but bringing the curriculum to life. Cadets and faculty work within the framework of their courses to develop real-world solutions with practical applications within the Army, the Nation, the government and the world.

In terms of faculty and staff, USMA strives to attract the best and brightest, keep them motivated and provide opportunity for further development, both for military and the civilian faculty. Faculty and Staff are committed to excellence in teaching and research, service to cadets, the Academy, Army, and Nation.

Academy governance is shared and transparent to promote sound decision making, set up with various boards and committees to adjudicate both cadet and faculty issues. Administrative processes are designed to be clear, effective, and efficient in order to ensure the ability to respond to the changing needs of cadets and the Army. Curriculum is driven by a series of Academic Program Goals which are currently undergoing an external review to assess and gather feedback on whether these goals are right for the coming years. Part of this is intended to mitigate any significant budget reductions so that any changes made in the Academic Program are based upon the goals the Academy needs to achieve in order to best prepare graduates rather than having resources driving curriculum change. Educational infrastructure is a key component in providing a tier one education and developing and maintaining a command climate in which each member feels they are a valued and trusted member of the team.

Promoting excellence in pursuit of intellectual domain goals is a top priority, sharing intellectual capital in which both faculty and cadets are providing outreach to the Army, DoD and the Nation

to help solve and deal with real world issues. Intellectual capital is leveraged to promote development of new knowledge and address challenging issues.

In order to prepare graduates for operating in a foreign countries and cultures the Academy maintains a healthy International Program providing an introduction to and fostering an appreciation of new cultures, better language proficiency, regional expertise and cross-cultural competence skills. This is accomplished in part through a more immersive foreign language curriculum, the Semester Abroad Program, DoD Language Transformation Initiative and international summer enrichment opportunities and internships. Summer enrichment opportunities are resource intensive in terms of both the faculty time for development and expense. USMA is also seeking both the opportunity and resources to open up additional Foreign Language Semester Abroad Programs particularly in Arabic speaking countries.

Increasingly Army officers have to work with NGOs on the battlefield around the world to be successful in the mission. Cadets are introduced to NGOs working with organizations like Engineers Without Borders. Domestic opportunities afforded cadets over the summer include service as congressional interns, at the NSA, in the FBI, in governmental organizations and also in private industry. This is a big part of the enrichment experience which brings the curriculum to life for cadets.

The five domains encompassed within the faculty's strategic goals are teaching, scholarship, cadet development, faculty development and service. USMA is foremost a teaching institution. Scholarship is personal development as an educator and field specific professional contributions. USMA has specific programs in faculty development to prepare incoming instructors and faculty members for teaching. Faculty members serve as officer representatives for the sports teams, OICs of the clubs, as sponsors bringing them into their homes, Professional Military Ethics Program instructors and direct involvement in the governance of the Academy. Virtually the entire senior civilian and military faculty is engaged with professional disciplines outside the Academy.

Intellectual capital has increased each year with contributions by both faculty and cadets. The primary focus is research in order to enhance cadet education and develop faculty members to be better teachers, better learners and better educators. In addition, research and intellectual capital provide value to the Army and the Nation through such things as engineering and energy projects. At West Point intellectual capital supports the Nation by providing recommendations and support to other military academies most recently in Saudi, Republic of Georgia and Qatar.

USMA is in the process of renovating the old library and the remainder of Bartlett Hall in a number of phases and will see the completion a world class science center by 2015. Additional funding is being sought for immediate repairs to aging heating, ventilation and air-conditioning systems in Taylor Hall.

An updated strategic plan for the Academic Program is expected to be drafted by the end of the year based on assessments, identified strategic goals, objectives and initiatives. Challenges include holding on to resources for civilian and military faculty positions and infrastructure improvements.

USMA uses the Byrne's model of academic freedom without tenure. The Byrne's model ensures academic freedom for all faculty and recognizes important contributions by junior faculty whereby the Academy can host divergent or controversial views and publish contentious articles while still retaining the ability to respond to DoD directed personnel cuts.

b. HONOR AND RESPECT PRORAM UPDATES. BG Ted Martin, Commandant of Cadets informed the board that cadets are introduced to the Honor Code within minutes of their arrival at West Point. The Cadet Honor Code is defined as "A cadet will not lie, cheat, steal, or tolerate those who do." New Cadets and freshmen receive classes on what is expected of them and how the system works. The upper three classes discuss ethical dilemmas as they relate to life as a cadet, and then life as an officer.

These classes are designed to challenge cadets to examine their own value systems and to promote internalization of the West Point value system. West Point expects that all cadets will strive to live above the minimum standard of behavior, foster a commitment to honorable living and to ethical principles. Simply put, cadets will have the ability to choose the harder right instead of the easier wrong. West Point's core mission is developing leaders of character for the Army.

There are six stages to the Honor Investigative Process. At the inception of a case for violation there is an approach for clarification or notification. At this point the case can be dismissed or continue to investigation. Investigation is cadet run and led. At any point during the process if a violation is not found, the case can be dropped and the cadet will return to good standing among the Corps.

Upon completion of investigation, the case will undergo a legal review and a review by the Commandant for possible referral to the Honor Board for a hearing. There are two types of hearings that can occur. If the cadet contests the allegation, then there is an Honor Investigative Hearing, where members of the Corps of Cadets examine the evidence and vote on whether the cadet is guilty or not guilty. If a cadet is found to have violated the Honor Code, or if the cadet self-admits to the violation beforehand, then a Cadet Advisory Board is also conducted. The purpose of this board is to determine their recommendations to the Superintendent for what sanctions should be imposed on the found cadet. The standard sanction is separation; however, the Superintendent has authority to grant discretion.

After the hearing, the Commandant takes into consideration the recommendations at all levels, and makes a recommendation himself to the Superintendent. The complete process takes about 40 days from start to finish when, in the case of third or fourth class cadets, the Superintendent makes his decision. Final decision authority for first and second class cadets lies with the Secretary of the Army.

The standard sanction for a cadet who is found for honor is separation, but the Superintendent also has the authority to grant discretion, which means the cadet will stay at the Academy on a suspended separation status until graduation. All cadets who get discretion are enrolled in the Honor Mentorship Program. Cadets who are separated for honor from the under two classes have no obligation of service or recouplement to the Nation. Junior and senior cadets who are separated

for honor must give some form of payback to the Army, whether in the form of Army Enlistment or financial recoupment.

The Superintendent will consider the individual merits of each case including cadet maturity and time under code, ability to develop into a leader of character, resolve to live honorably and any extenuating personal circumstances.

Cadets who violate the cadet Honor Code and are granted discretion by the Superintendent to remain at the Academy must participate in a 6-month Honor Mentorship Program. During the six months, cadets maintain a journal and complete a series of requirements with their mentor to assist them through the four phases of admission, reflection, rehabilitation, and restoration. Upon completion of the program cadets will have confidence in their ability to “choose the harder right” without the assistance or supervision of a mentor.

The Cadet Respect Committee was created in 1997. Starting Cadet Basic Training 2011, the Cadet Respect Creed was institutionalized and became required knowledge for plebes beginning with the Class of 2015. Cadet staff incorporates current policy in vignettes used in respect education to all cadet classes. There is an emphasis on prevention of sexual assault/harassment to introduce cadets, staff and faculty to the Army Sexual Harassment/Sexual Assault Prevention Response Program with interactive cadet training facilitated by cadets and USCC response team members. The program stresses bystander intervention – Intervene, Act, Motivate (I. A.M. Strong) to prevent sexual harassment and sexual assault.

Respect is a critical value for all leaders and the foundation for fostering a command climate of unconditional positive respect, providing all members of the team with respect because of their inherent dignity and worth. This goal is providing cadets with a basic understanding of the Equal Opportunity Program and its five protected categories, race, religion, gender, color, and national origin. The Respect Program teaches cadets who are entering a diverse Army that they will be ambassadors to other countries and their people shortly after graduation. Instilling the value of Respect is vital to being able to operate in these environments.

The Respect Committee system is almost identical to the Honor Committee with touch points from company through battalion, regiment and all the way up through the First Captain, and Respect Captain. It serves the same function in education and administration of the Respect Program.

The Respect Mentor Program is a six-month developmental program focusing on admission, reflection, rehabilitation, and restoration, as well as a commitment to changed thought and behavior after which cadet gain awareness of behavior and impact and operate in manner congruent with Army values and Officership. The September 20th lifting of Don't Ask Don't Tell is a great example of a successful respect program. The Respect Program set the conditions so that when Don't Ask Don't Tell was lifted, it was not a major event.

c. CHIEF OF STAFF REMARKS. COL Stafford noted that two areas for which the board could be of assistance to USMA were in the areas of infrastructure and resources. From an infrastructure perspective USMA has a daunting task in terms of maintaining aging facilities.

Resources are particularly critical in the area of personnel in maintaining staff and faculty whose involvement not only in the classroom but in mentorship, leadership and enrichment opportunities are vital to leader development and education at West Point.

At the last meeting the Superintendent proposed the possibility of reducing the number of BoV meetings from four to three per year. COL Stafford asked the board to consider two meetings a year at West Point and one in Washington, DC and provide feedback in the Annual Report.

8. ADDITIONAL BOARD BUSINESS. The Board of Visitors Annual Report is due to the President by December 26th. USMA will provide a draft to the board by December 1, 2011.

10. ADJOURNMENT. There being no further comments, Chairman Malek adjourned the meeting. This concluded the 2011 Annual Meeting of the USMA Board of Visitors.

*Certified in conjunction with the 2011 Annual Report

Mr. Fred Malek
Chairman
USMA Board of Visitors

DAVID A. JONES
LTC, US Army
Designated Federal Officer,
USMA Board of Visitors

APPENDIX TO THE MINUTES:

ROLL CALL

Congressional Members:

Senator Richard Burr

Presidential Appointees:

Mr. Frederic Malek, Chairman of the BoV
Mr. Randolph Brock, Vice Chairman of the BoV
Ms. Elizabeth McNally
Mr. Patrick J. Murphy
Ms. Brenda Sue Fulton
MG Errol R. Schwartz

The following members were absent:

Congressional Members:

Senator Jack Reed
Senator Kay Bailey Hutchison
Senator Mary Landrieu
Congressman Jerry Lewis
Congressman Maurice Hinchey
Congressman John Shimkus

Based on the BOV attendance, a quorum was not present.

Other attendees:

The Honorable Rock Salt, Principal Deputy Assistant Secretary of the Army for Civil Works
MAJ Joshua Campbell, OCLL
Mr. Dan Ceisler, ROTC Intern to Mr. Murphy

Congressional Military Legislative Liaisons:

Mr. Chris White, District Staff, Rep. Hinchey

USMA command and staff members in attendance:

BG Tim Trainor, Dean of the Academic Board
BG Theodore Martin, Commandant
COL Charles Stafford, Chief of Staff
LTC David Jones, Secretary to the General Staff
LTC Sherri Reed, Director Public Affairs Office
Ms. Joy Pasquazi, BoV Conference Specialist

Members of the Public

BG (Ret.) Samuel K. Lessey
Mr. Dan Howett, PE, CEM (USMA '87)
LT Ezekiel Lyons (USMA, Columbia)
Mr. Adam Bosch, Times Herald Record

BoV Mission Statement

To inquire into the morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

BoV Areas of Inquiry 2011

- **Morale and Discipline**
 - Quality of Life Roundtables (July 2011)
 - Cadets, Staff and Faculty
 - Honor and Respect Programs (October 2011)
 - PME² (February 2011 and October 2011)
 - Honor and Respect Statistics (October 2011)
 - Simon Center for the Professional Military Ethic visit
- **Academic Methods**
 - Academic Curriculum (October 2011)
 - Class Visits (October 2011)
 - Academic Program Roundtables (October 2011)
 - Cadets, Staff and Faculty
- **Instruction**
 - Academic Program Updates (October 2011)
 - Military Program Updates (July 2011)
 - Physical Program updates (June 2011)
 - MX400 Capstone Course for Officership (February 2011)
 - Cadet Leader Development Program (February and July 2011)
 - Honor and Respect Programs (October 2011)
- **Physical Equipment**
 - USMAPS Move and Site Visit (July 2011)
 - Housing Visit, Stony, Lee and Gray Ghost (July 2011)
 - Camp Natural Bridge Site Visit (July 2011)
 - Firing Ranges (July 2011)
 - FY13-FY15 Barracks Plan (February 2011)
- **Fiscal Affairs**
 - FY10 Review (February and April 2011)
 - FY11 Review (February and April 2011)
 - Audit summaries review (July 2011)
 - Cost of Educating a Cadet (TBD)
- **Other Matters**
 - SHARP program training (October 2011)
 - Success of Graduates (July 2011)
 - Class of 2015 Admissions update (February 2011)
 - Diversity Update (February 2011)

USMA FY11 AUDIT LOG	
Title of Audit	Activity
Overtime	CPAC/DRM
Cadet Rugby Club	DCA
Cadet Fee Analysis	TREASURER
Chaplain Fund	CHAP
Garrison vs. Mission Funding	DRM/RMO
Joint Review Program	DRM/RMO
Army Athletic Association Gift Shop	ODIA
BBC Construction/Renovation Incentive Fees	RCI
Reasonableness of Contract Costs	DOC
Cadet Ration Funds	ODIA/TREASURER
Generator Purchases Contract	DES
Child Development Center	FMWR
GPC Checking Account	DAD
Chaplain Inventory	CHAP
Carlson Wagonlit Contract	DOL
Paperclips Supply Store	DOL
DPW GPC Program	DPW
MWR Donations Review	FMWR
PCS Costs	DRM
Unit Travel Card Program	DRM
WP Middle School Student Activities Fund	WPMS
Balfour Beatty Incentive Award Follow-Up	RCI
Combatting Terrorism Center Trip Cost	CTC/DRM
VOCM TMP Analysis	DOL
Pest Control Contract	DPW
Cadet Mess Award Fee 4th Qtr FY 10	DOC
AFGE Union Time Review	AFGE
Advanced Individual Academic Development Program	DRM
Spirit Group Financial Analysis	DCA
FY 10 Agreed Upon Procedures	ODIA
Fitness Center	FMWR
Inter-Service Support Agreements	RMO/DRM
Work Order Management System	DPW
COR Program	DOC
Morgan Farms	FMWR
FY 10 Garrison Management Control Program	RMO
West Point Bowling	FMWR
Cadet Mess Award Fee 1st Qtr FY 11	DOC
WP Club Inventory Investigation	FMWR
Military Academy Corps of Cadets Gift Fund	DAA
Management Control - Mission	DRM
DCA Clubs Ration Support	DCA
Army Emergency Relief	FMWR
DCA Cadet Restaurant	DCA
Mixed Funded Program	DRM/ODIA
Cadet Mess Missed Meals	DOL/USCC
Cadet Mess Help's Hall Deposits	DOL/DRM
Cadet Mess Inventory Investigation	DOL/DES
DPW Trespassing	DPW
Barbershop Accountability	DOL
Anti-Terrorism Construction Costs	DPW
Balfour Beatty 2nd Quarter Incentive Fees	BB/RCI
ODIA Ticket Accountability	ODIA
West Point Fitness Center	FMWR
Tennis Court Contract	DPW
Chapel Repair Contract	DPW
DTS User Fees	DOL
Student Activities Fund - Middle School	WP Middle School
Arts and Craft Shop	FMWR
Real Property Audit Readiness	DPW
Eisenhower Hall Theatre	DCA
Cadet Services Inventory Procedures	DOL/RMO
West Point Club	FMWR
Dam Repair and Maintenance Costs	DPW



United States Military Academy Board of Visitors Meeting

27 October 2011



CALL TO ORDER



Administrative Announcements



REMARKS Honorable Rock Salt PDASA (CW)



Agenda

- Administrative Announcements and Welcome
- Introductory Remarks
- Academic Program
- Honor and Respect Programs
- Additional Board Business
 - Annual Report
- Remaining Board Business, Adjourn



Proposed Meeting Dates Organizational Meeting in Washington, DC

Wednesday February 8th

Wednesday February 15th

Wednesday February 29th



INTRODUCTORY REMARKS
BG Ted Martin
Commandant of Cadets





West Point
The United States Military Academy

LEADERS OF CHARACTER



West Point
The United States Military Academy

MISSION

To ***educate, train, and inspire***
the Corps of Cadets so that each graduate
is a commissioned ***leader of character***
committed to the values of
Duty, Honor, Country
and prepared for a career of professional
excellence and service to the Nation as
an officer in the United States Army.



ACADEMIC PROGRAM

**Board of Visitors
27-28 October 2011**



***West Point educates and inspires
adaptive leaders of character
to build the Army
and the Nation's future.***



Bachelor of Science Degree

**Majors in
Engineering
Math and Science
Humanities and Social Sciences**

Each with 9 to 13 Electives

4 Military Science

7 Physical Education

3 English

4 Math

4 History

2 Chemistry

2 Leadership

1 Physical Geography

1 Philosophy/Ethics

2 Information Technology

2-3 Foreign Language*

2 Physics

3 Social Sciences

3 Engineering Science/Design

1 Law

**The
Core**



Fourth Class	Math Modeling / Intro to Calc.	Chemistry	Psychology	History	English Composition	
	Calculus I	Chemistry	Information Technology 1	History	English Literature	
Third Class	Calculus II	Physics	Philosophy	Political Science	Foreign Language	
	Probability & Stats	Physics	Physical Geography	Economics	Foreign Language	
Second Class	Engineering Sequence 1	Information Technology 2	Elective For Lang	International Relations	Leadership	Elective for Honors
	Engineering Sequence 2	Elective	Elective	Elective	Advanced Composition	Elective for Honors
First Class	Engineering Sequence 3	Elective	Elective	Law	History of Military Art	
	Elective	Elective	Integrative Experience	Elective	History of Military Art	

- 40 courses (3.0 or higher credits) minimum to graduate
- ABET programs require 43 courses (includes Honors program)
- Humanities & Social Sciences majors can do 42-course Honors program



STRATEGIC GOALS

- ✓ **Cadets and Cadet Candidates** who can become leaders of character
- ✓ **Curriculum and Enrichment Opportunities** purposefully designed and integrated to create strategic thinkers
- ✓ **Faculty and Staff** committed to excellence in teaching, research, and service to cadets, the Academy, Army, and Nation
- ✓ **Governance** shared and transparent, to promote sound decision making
- ✓ **Administration** – clear, effective, and efficient internal processes and procedures
- ✓ **Educational Infrastructure** to promote excellence in pursuit of intellectual domain goals
- ✓ **Climate** in which all are valued and trusted members of team
- ✓ **Intellectual Capital** to promote development of new knowledge and address challenging issues



CURRICULUM INITIATIVES

- *Preparatory School Curriculum (Cadet Candidates)*



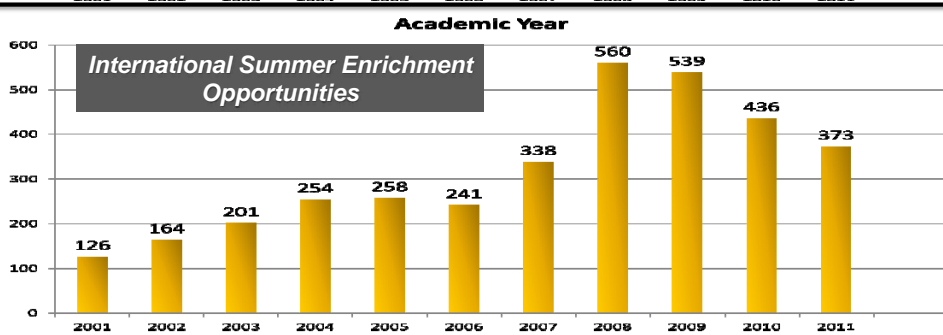
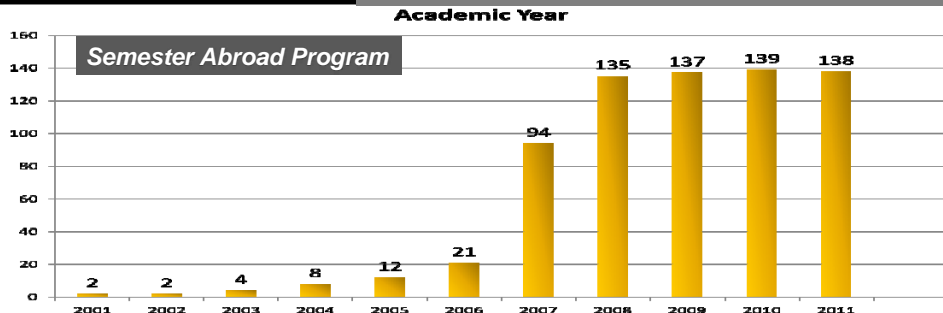
- *External Review of Academic Program Goals*



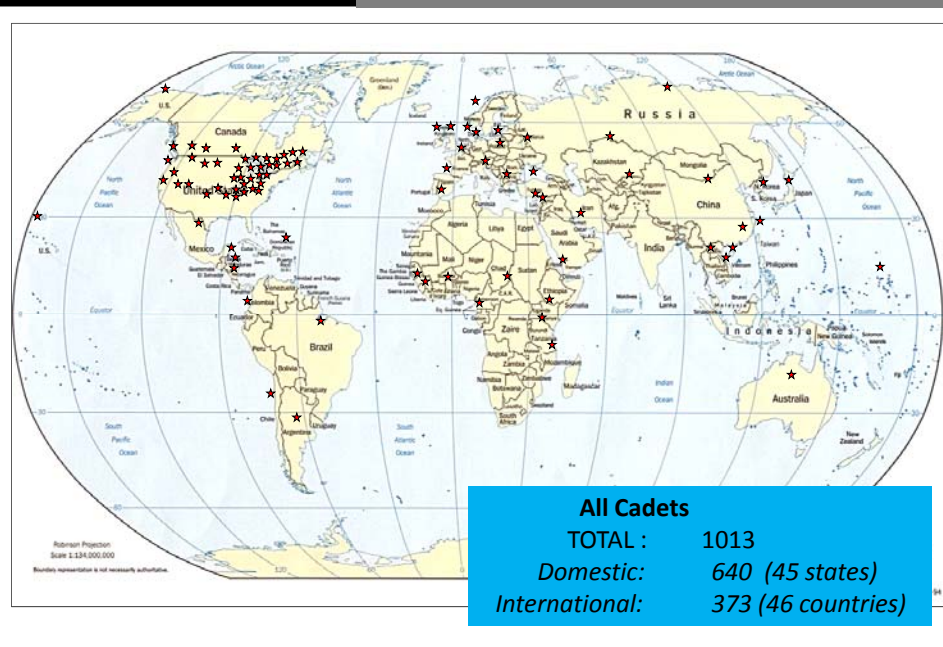
- *USMA Curriculum Improvement*



INTERNATIONAL EDUCATIONAL OPPORTUNITIES



SUMMER INTERNSHIPS





We support a variety of academic-based cultural summer enrichment activities



AIAD in Taiwan



System Engineering in Central America

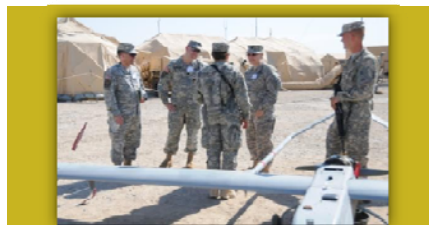
- These typically:
- Are 2 to 4 weeks in duration
 - Are focused on academic projects
 - Include working with foreign citizens
 - Provide a service and/or research results



We also develop intellectual capabilities through domestic summer enrichment activities



Chemistry & Life Science at USARIEM



Physics & Systems at White Sands, NM



English & Philosophy at Fermi National Lab



Computer Science at ARCYBER-CNO



West Point
The United States Military Academy

FACULTY DEVELOPMENT

Teaching

Scholarship



Service



Faculty Development



Cadet Development



Rotating Military 55%

Civilian Faculty 27%

Senior Military 18%



West Point
The United States Military Academy

SUPERIOR FACULTY



COL Ritz Ryan
Margaret Brent
Women Lawyers of
Achievement Award



Eugene Lesinski
Dr. Wilbur B. Payne
Memorial Award



COL Grant Crawford
ASEE Distinguished
Teaching Award



MAJ Robert McVay
Mansfield Teaching
Award



COL Stephen Ressler
ASCE Outstanding
Projects and Leaders
Award



TENURE VS. WEST POINT MODEL

Tenure Model

- *Untenured faculty lack academic freedom*
- *2-tier faculty system*
- *Job security*
- *Lack of accountability*
- *Faculty mistrust of administration*
- *Losing popularity in higher education*

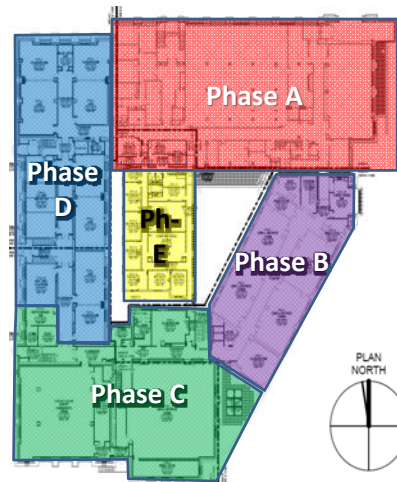
West Point Model

- *Byrne's model: "Academic freedom without tenure"*
- *Ensures academic freedom for all faculty*
- *Recognizes important contributions by junior faculty*
- *WP can host divergent or controversial views and publish contentious articles*
- *Can respond to DoD directed personnel cuts*



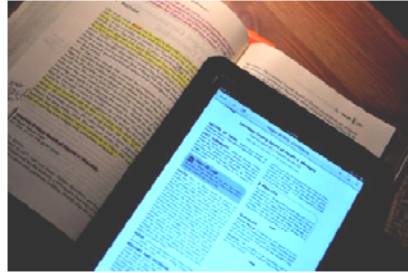
EDUCATIONAL INFRASTRUCTURE

- **Phase A– Bartlett Hall North**
 - Work began Aug 09
 - Substantial completion 17 Nov 11
 - Occupy Christmas 2011 with classes in January
- **Phase B & C – East and South Wings**
 - Scheduled start Feb 12
 - Estimate completion Jun 14
- **Phase D & E – West and Moore Wings**
 - Scheduled start Jul 14
 - Scheduled completion Jul 15





EDUCATIONAL INFRASTRUCTURE



INTELLECTUAL CAPITAL: RESEARCH



Enhances cadet education

1,000 Scholarly Works
in 2010, including:

- Books
- Leading professional journal articles
- Conference articles and presentations
- Technical reports for government agencies
- 115 theses published from arriving faculty



Develops our faculty



Provides value to the Army and nation





We support our Army and the Nation...

LTC Sheetz, Kabul AFG



GEN Dempsey USMA Visit



Middle States Commission
on Higher Education



COL Kobylski

LTC Kilner, AFG



Saudi Military Academy
Assessment



ABET Board of Directors



COL Ressler

COL Shoop



- **The academic program is STRONG**
 - We are nationally recognized as a leader in liberal arts and engineering education (Forbes, US News & World Report, Princeton Review rankings all remain high)
 - Military and civilian faculty committed to educational excellence and leader development
 - Bright, motivated cadets called to serve a purpose higher than themselves
- **FY12 Focus Areas:**
 - External review of our academic program goals
 - Prep School Curriculum
 - Class Schedule revisions
 - West Point Leader Development System
 - Faculty Development
 - Strategic Plan
- **Our challenges and how you can help:**
 - Resources for Infrastructure Improvements
 - Don't let DoD lose sight of the importance of Leader Development in the pending budget cuts
 - Shrinking Semester Abroad Pool of Countries: I welcome your ideas



West Point
The United States Military Academy



West Point
The United States Military Academy

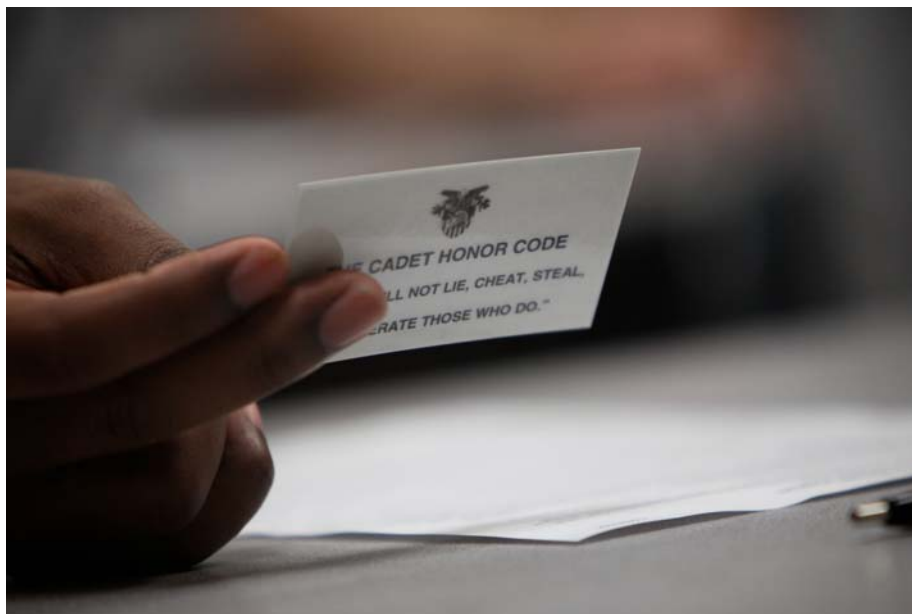
HONOR and RESPECT PROGRAMS

Simon Center For Professional Military Ethics

**Board of Visitors
27-28 October 2011**



Academic Year 2011 - 2012



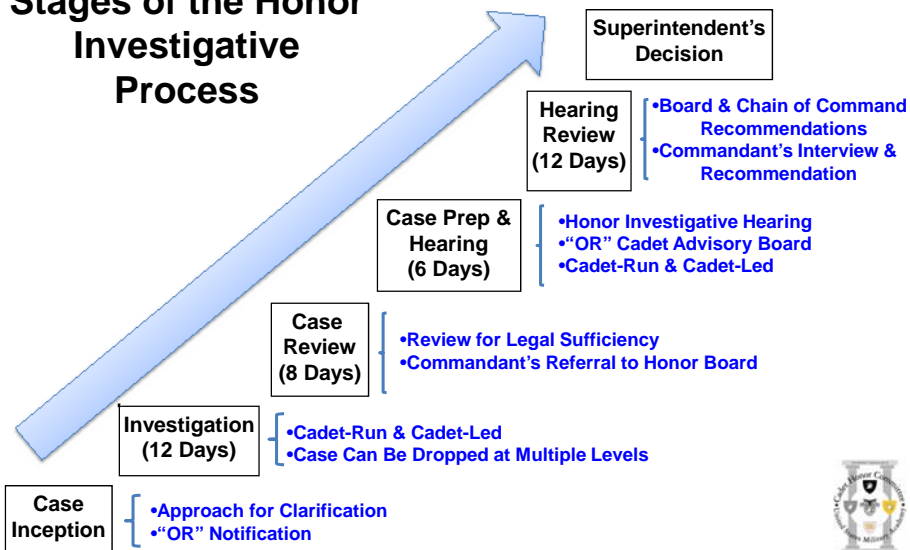


**“A cadet will not lie, cheat, steal,
or tolerate those who do.”**

- **Purpose**
 - Foster a commitment to honorable living as leaders of character for the Army and the Nation
 - Foundation for inculcating Army Values
 - “Choosing the Harder Right over the Easier Wrong” and “Taking Responsibility”
- **Developed and administered by the Cadets**
- **The minimal standard for all Cadets**
- **Cadets should strive to embrace the Spirit of the Code**



**Stages of the Honor
Investigative
Process**





- **The Standard Sanction is Separation; however, Superintendent has authority to grant Discretion**
- **If Discretion** (Must Complete 6-Month Honor Mentorship)
 - Full-Year Turnback
 - December Graduate (6-Month Turnback)
 - Graduate with Class
- **If Separation:**
 - Depart USMA (Possible Financial Recoupment)
 - Army Enlistment, no Army Mentorship Program (AMP)
 - Army Enlistment, Offer of AMP



Superintendent's Considerations for Sanctioning of Honor Violations

- **Two essential questions must be considered and analyzed during Review Process:**
 - Do we think this cadet is able to develop into the consummate Leader of Character that we need as a Commissioned Officer?
 - And if so, how much time do we think this cadet needs to get there?
- **Consider the Cadet's "Whole Person" & "Whole Situation" as part of the decision, by also considering:**
 - Cadet maturity and time under the Code
 - Resolve to live honorably
 - Potential for service as an Officer
 - Was the cadet under duress?
 - Egregiousness of the offense





- Cadets who violate the Cadet Honor Code and are granted discretion by the Superintendent to remain at the Academy must participate in a 6-month Honor Mentorship Program.
- Cadets choose an Honor Mentor who is a member of the Staff & Faculty at West Point and **not** a current Instructor, a current TAC Officer, a current Team Coach, a Chaplain, or current Sponsor.
- During the six months, Cadets maintain a journal (48 entries) and complete a series of requirements with their mentor to assist them through 4 phases: Admission, Reflection, Rehabilitation, and Restoration
- **End State:** Cadets have a resolute confidence in their ability to “choose the harder right” without the assistance or supervision of an experienced mentor



AY 2011 - 2012





1. Respect Creed becomes Basic Training Knowledge

“Cadets will treat others and themselves with dignity and worth and expect the same from those around them.”



2. Repeal of Don't Ask, Don't Tell

1. Facilitate Discussion
2. Prepare for Adverse Reactions
3. Educate Staff, Faculty, and Cadets

3. Emphasis on Prevention of Sexual Assault/Harassment

1. SHARP Training for ALL classes and Staff/Faculty
2. Cadet and Facilitator led Discussions



- 1. Understand Respect as Leadership Competence**
- 2. Leader Responsibility for Respectful Climate**
- 3. Understand Diversity/Prevent Discrimination**
- 4. Foster Lifelong Commitment to Respectful Living**
- 5. Preparation for Future Challenges**





Process: Six-month developmental program focusing on Admission, Reflection, Rehabilitation, and Restoration, as well as a commitment to changed thought and behavior.

- Cadets are enrolled because of repeated demonstrations of character flaws, especially with regard to respecting subordinates, peers, superiors, and themselves.
- Cadets are nominated for the program by their Tactical Officer, Regimental Tactical Officer, Instructor, Peer, or themselves./Brigade Tactical Officer, through the Simon Center for the Professional Military Ethic and approved by the Commandant of Cadets.
- Cadets are released from the Program by the Commandant of Cadets, who is the approving authority for successful completion of the program.

Endstate: Cadet gains awareness of behavior and impact; operates in manner congruent with the Army Values and Officership.



1. Education of the Corps

- New Cadets – 3 hrs of Respect Training during CBT
- Plebes – 4 hrs of Respect Training
- Yearlings – 4 hrs of Respect Training
- Cows – 3 hrs of Respect Training
- Firsties – Facilitate under classes training

2. Eyes and Ears of the Corps

- 12 Hours of Equal Opportunity Training for CDT Company Respect Representatives
- Command Climate Surveys conducted at multiple levels
- 12 Sensing Sessions led by the Commandant of Cadets

3. Ethnic Observances

- Planned, coordinated, executed by EOA's and Respect Staff
- 9 Conducted Throughout Year





1. REAL (Respect Ethics and Leadership)

- Detroit, Richmond, Minneapolis, Wycoft, etc.

2. National Conference for Ethics in America

- Help Coordinate and Execute Event



3. Diversity Leadership Conference

- Executive Staff Panel

4. CPRC

- Train cadets that are returning home and assisting with conferences

5. Cemetery Tour

- Develop respectful living through PMEE

6. Fifty-Year Affiliation

- Develop respectful living through PMEE





Chief of Staff Comments



Remaining Board Business



Annual Report



Upcoming Events

- 29 October: Army vs. Fordham at West Point
- 5 November: Air Force (Away Game)
- 12 November: Rutgers at Yankees Stadium
- 19 November: Temple (Away Game)
- 20 November: Branch Night
- 10 December: Army/Navy at Fed Ex Field, Landover, MD



Adjourn

USMA BOARD OF VISITORS 2011 ATTENDANCE REPORT

Appointment Type/Date	BOV Member	Org 2011	Spring 2011	Summer 2011	Annual 2011
Cong/1998-INDEF	Reed, Sen. Jack	present	present	absent	absent
Cong/2006-INDEF	Hutchison, Sen Kay Bailey	present	present	absent	absent
Cong/2001-INDEF	Landrieu, Sen. Mary	present	present	absent	absent
Cong/2009-INDEF	Burr, Sen. Richard	present	present	absent	present
Cong/2001-INDEF	Hinchey, Rep. Maurice	present	present	absent	absent
Cong/ OCT 09-INDEF	Lewis, Rep. Jerry	present	present	absent	absent
Cong/ OCT 10-INDEF	Shimkus, Rep. John	present	present	absent	absent
Cong/AT LARGE	VACANT	n/a	n/a	n/a	n/a
Cong/HASC	VACANT	n/a	n/a	n/a	n/a
Pres/2001-2010	Younger, Dr. Charles	present	present	n/a	n/a
Pres/2006-2009	Rainey, Mr. John	absent	present	n/a	n/a
Pres/2008-2010	Hughes, Ms. Karen	absent	absent	n/a	n/a
Pres/2009-2011	Malek, Fred	present	present	present	present
Pres/2009-2011	Brock, Mr. Randolph	present	present	present	present
Pres/ NOV 11	McNally, Ms. Elizabeth	present	present	present	present
Pres/ JUL 11	Murphy, Patrick	n/a	n/a	present	present
Pres/ JUL 12	Fulton, Brenda Sue	n/a	n/a	present	present
Pres/ JUL 13	Schwartz, Errol	n/a	n/a	present	present

BoV attendance 2011:
Attended all meetings:
Mr. Fred Malek
Mr. Randy Brock
Ms. Liz McNally
Mr. Patrick Murphy
Ms. Sue Fulton
Mr. Errol Schwartz
Missed 1 meeting:
Senator Richard Burr
Mr. John Rainey
Missed 2 meetings:
Senator Jack Reed
Senator Kay Bailey Hutchison
Senator Mary Landrieu
Congressman Maurice Hinchey
Congressman Jerry Lewis
Congressman John Shimkus
Ms. Karen Hughes

**MATERIALS FURNISHED TO
THE 2011 BOARD OF VISITORS**

ORGANIZATIONAL MEETING

Read Ahead Material:

Agenda
Presentation Slides
Information Papers

Presentations/Handout Materials:

Presentation Slides
2001 Federal Register Final Rule on Federal Advisory Committee Management
Proposed Meeting Dates for 2010

SPRING MEETING

Read Ahead Material:

Summarized Minutes from Organizational Meeting
Agenda
Presentation Slides

Presentations/Handout Materials:

Presentation Slides
BoV Member Attendance Record

SUMMER MEETING

Read Ahead Material:

Summarized Minutes from Spring Meeting
Agenda
Presentation Slides

Presentations/Handout Materials:

Presentation Slides
USMAPS Overview
BoV Member Attendance Record

ANNUAL MEETING

Read Ahead Material:

Summarized Minutes from Summer Meeting
Agenda
Presentation Slides

Presentations/Handouts:

Presentation Slides
BoV 2011 Areas of Inquiry

AN EXTRACT OF THE UNITED STATES CODE

Sec. 4355. Board of Visitors

(a) A Board of Visitors to the Academy is constituted annually of--

(1) the chairman of the Committee on Armed Services of the Senate, or his designee;

(2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

(3) the chairman of the Committee on Armed Services of the House of Representatives, or his designee;

(4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

(5) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Army, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action, and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser shall be reimbursed under Government travel regulations for his travel expenses.

CHARTER
UNITED STATES MILITARY ACADEMY BOARD OF VISITORS

1. Committee's Official Designation: The Committee shall be known as the United States Military Academy Board of Visitors (hereafter referred to as "the Board").
2. Authority: The Secretary of Defense, under the provisions of 10 U.S.C. § 4355, the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix), and 41 CFR § 102-3.50(a), established the Board.
3. Objectives and Scope of Activities: The Board shall provide the President of the United States (hereafter referred to as "the President") independent advice and recommendations on matters relating to the U.S. Military Academy, as set out below in paragraphs 4 and 5.
4. Description of Duties: The Board shall provide independent advice and recommendations to the President of the United States on matters relating to the U.S. Military Academy, including the following: morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

The Board shall visit the U.S. Military Academy annually, and any other official visits by the Board or its members to the Academy, other than the annual visit, shall be made in compliance with the requirements set forth in Title 10, United States Code, Section 4355(d).

5. Agency or Official to Whom the Committee Reports: The Board shall submit a written report to the President of the United States within 60 days after its annual visit to the U.S. Military Academy, to include the Board's views and recommendations pertaining to the Academy, including its advice and recommendations on matters set forth in (4) above. Any report of a visit, other than an annual visit, must be made pursuant to Title 10, United States Code, Section 4355(f).

The Secretary of the Army may act upon the Board's advice and recommendations.

6. Support: The Department of Defense, through the Secretary of the Army, and the superintendent of the U.S. Military Academy, shall provide support necessary for the performance of the Board's functions and shall ensure compliance with the requirements of the Federal Advisory Committee Act of 1972 and the Government in the Sunshine Act of 1976 (5 U.S. C. § 552b).
7. Estimated Annual Operating Costs and Staff Years: It is estimated that the annual operating costs, to include travel and contract support is approximately \$118,000.00. The estimated annual personnel cost to the Department of Defense is 1.1 full-time equivalents (FTE).

8. Designated Federal Officer: The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with governing DoD policies and procedures.

In addition, the Designated Federal Officer is required to be in attendance at all committee and subcommittee meetings; however, in the absence of the Designated Federal Officer, an Alternate Designated Federal Officer shall attend the meeting.

9. Estimated Number and Frequency of Meetings: The Board shall meet at the call of the Designated Federal Officer, in consultation with the Board's Chairperson. The estimated number of Board meetings is four per year.
10. Duration: The need for this advisory function is on a continuing basis; however, the Board's charter is subject to renewal every two years.
11. Termination: The Board shall terminate upon completion of its mission or 2 years from the date this charter is filed, whichever is sooner, unless extended by the Secretary of Defense.
12. Membership and Designation: The Board shall be comprised of not more than 15 members. Under the provisions of 10 U.S.C. § 4355 (a), the Board members shall include:
 - a. The Chairperson of the Committee on Armed Services of the Senate, or designee;
 - b. Three other members of the Senate designated by the Vice President or President pro tempore of the Senate, two of whom are members of the Senate Committee on Appropriations;
 - c. The Chairperson of the Committee on Armed Services of the House of Representatives, or designee;
 - d. Four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the House Committee on Appropriations; and,
 - e. Six persons designated by the President.

Board members designated by the President, who are not full-time federal officers or employees, shall be appointed to serve as special government employees under the authority of 5 U.S.C. § 3109, and these appointments shall be renewed on an annual basis. Board members shall, with the exception of travel and per diem for official travel, serve without compensation.

Board members designated by the President shall serve for three years except that any member whose term of office has expired shall continue to serve until a successor is appointed. In addition, the President shall designate two persons each year to succeed the members whose terms expire that year.

If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member. The Board members shall select the Board Chairperson from the total membership.

With the exception of travel and per diem for official travel, Board members shall serve without compensation.

The Board, pursuant to 10 U.S.C. § 4355(g), may upon approval by the Secretary of the Army, call in advisers for consultation, and these advisers shall, with the exception of travel and per diem for official travel, serve without compensation.

13. Subcommittees: With DoD approval, the Board is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b), and other governing Federal policies and regulations.

Such subcommittees shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the chartered Board; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Board members.

Subcommittee members, if not full-time or part-time government employees, shall be appointed by the Secretary of Defense according to governing DoD policies and procedures. Such individuals shall be appointed to serve as experts and consultants under the authority 5 U.S.C. § 3109, and shall serve as special government employees, whose appointments must be renewed on an annual basis.

14. Recordkeeping: The records of the Board and its subcommittees shall be handled according to section 2, General Record Schedule 26 and governing Department of Defense policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552).

15. Filing Date: October 16, 2010