



April 26, 2016

VIA U.S. MAIL AND EMAIL

Lt. Gen. John W. Rosa
President, The Citadel, Bond Hall
171 Moultrie Street
Charleston, SC 29409
john.rosa@citadel.edu

Re: Religious accommodation for Muslim cadet

Dear Lt. Gen. Rosa:

Recent media reports have revealed that the Citadel is considering a request from an incoming cadet to wear hijab in accordance with her sincerely held religious beliefs. We strongly urge you to grant the proposed religious accommodation. Not only would the accommodation be consistent with similar practices authorized by the U.S. military and armed forces worldwide, but it is also likely required under South Carolina law.

We understand that the Citadel operates under a military system and that cadets are expected to follow a military lifestyle. However, as the U.S. military's own practices illustrate, military principles do not preclude affording cadets the ability to practice their faith.

The U.S. military has benefitted greatly from growing diversity—in terms of race, ethnicity, gender, gender identity, and sexual orientation—among its ranks. Increasingly, this diversity also has included soldiers of minority faiths, leading the military to grant a number of religious exemptions from its uniform and grooming standards to accommodate, among others, Muslim, Jewish, and Sikh soldiers. *See, e.g., Singh v. McHugh*, 109 F.Supp.3d 72, 94 (D.D.C. 2015) (“[T]here is ample undisputed evidence that soldiers in all corners of the Army are permitted to maintain beards and to wear religious headgear while in uniform, as well as to deviate from the grooming standards in other ways.”). Earlier this month, for example, the Army approved several religious accommodations allowing Sikh soldiers to serve while wearing turbans, beards, and unshorn hair.¹ And last year, in a lawsuit brought by the ACLU and United Sikhs, the Army issued a similar accommodation for a Sikh ROTC cadet at Hofstra University. *See Singh*, 109 F.3d. at 103 (ruling in favor of prospective cadet).

¹ Kevin Lilley, *Army allows 3 more Sikh soldiers to keep beards, turbans*, Army Times (Apr. 11 2016), <http://www.armytimes.com/story/military/careers/army/enlisted/2016/04/11/army-allows-3-more-sikh-soldiers-keep-beards-turbans/82886780/>.

There is no evidence that the grooming and uniform accommodations granted to soldiers or cadets has impeded the military's ability to achieve its overall mission or harmed the military's interests in unit cohesion and morale, good order and discipline, individual and unit readiness, or health and safety. *See id.* at 95 (holding that the "justifications for the Army's decision [denying an accommodation] do not withstand strict scrutiny"). Quite the contrary—several Sikhs granted accommodations by the Army have "earned commendations and outstanding reviews" and were "praise[d] . . . for their discipline and leadership." *Id.* at 98-100 (internal quotation marks and citations omitted). And the Army's own case study of one of those accommodations found that it "did not have a significant impact on unit morale, cohesion, good order, and discipline" or on the health and safety of the soldier himself or his fellow soldiers. *Id.* at 100-101 (internal quotation marks omitted).

For some Muslim women, wearing hijab is a core tenet of their religious practice. Being forced to remove it is humiliating, and for many Muslim women, no different than being compelled to strip in front of others. Thus, denying an accommodation here would effectively preclude many Muslim women from enrolling in the Citadel. As the U.S. military appears to have recognized, enforcement of grooming and uniform rules in this manner, without allowing room for religious diversity, is untenable in our pluralistic nation, and it is out of step with the practices of armed forces worldwide—many of which authorize religious accommodations for women who wear hijab.²

Moreover, denying religious accommodations to Muslim women who wear hijab limits unnecessarily the pool of eligible women who may enroll as cadets. This is especially troubling because the Citadel is an important training ground for our future soldiers, with 30 percent of graduating cadets commissioning into military service.³ As the U.S. military moves toward the full integration of women into all positions and job classifications, as directed by the Secretary of

² *See, e.g.*, The British Army, *Diversity*, <http://www.army.mod.uk/join/Equality-and-diversity.aspx> (noting that "[a] hijab may be worn all with orders of dress, subject to safety and operational considerations"); Defense Jobs, *Religion & Belief in the Australian Defense Force* at 5, http://content.defencejobs.gov.au/pdf/triservice/Guide_to_Religion_and_Belief_in_the_ADF.pdf ("Commanders and supervisors may approve different types of head dress (such as turbans, hijabs or yarmulkes) or simply be more flexible with uniform requirements (such as allowing Muslim women to wear long sleeves and tracksuit pants during physical training)."); *see also, e.g.*, Conor Gaffey, *Meet the female Somalia Military Captain Fighting Al-Shabab*, Newsweek.com (Feb. 28, 2016), <http://www.newsweek.com/iman-elman-al-shabaab-somalia-430838> ; Reza Sayah, *Pakistan's female fighter pilots break down barriers*, CNN.com (Sept. 14, 2009), <http://www.cnn.com/2009/WORLD/asiapcf/09/14/pakistan.female.fighter.pilot/index.html?iref=24hours> (noting that "[s]ome of Pakistan's female pilots wear hijabs"); Jane Armstrong, *An officer, a gentlewoman and a Muslim*, Toronto Globe & Mail (Mar. 13, 2009), <http://www.theglobeandmail.com/news/national/an-officer-a-gentlewoman-and-a-muslim/article-955841/> (featuring interview with Canadian Armed Forces lieutenant who, in 1996, became first Canadian Muslim woman to wear hijab in the CAF).

³ The Citadel, *At a Glance*, <https://www.citadel.edu/root/at-a-glance>.

Defense in December 2015, public military academies like the Citadel will be key pipelines for women who seek to serve our country. But it appears that the Citadel, along with other military academies,⁴ remains an inhospitable environment for women: Although the Citadel began admitting women in 1995 after a lawsuit filed by the ACLU,⁵ more than two decades later, women comprise only 9.9% of enrolled undergraduates.⁶

Finally, denying cadets the right to wear hijab in accordance with their sincerely held religious beliefs is also likely to violate South Carolina law. The South Carolina Religious Freedom Act provides that the State may not “substantially burden a person’s exercise of religion, even if the burden results from a rule of general applicability,” unless the State can show that the burden is the least restrictive means of furthering a compelling interest. S.C. Code § 1-32-40. As in *Singh*, which applied an identical standard under the federal Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.*, it would be very difficult for the Citadel to meet this high legal bar. *See Singh*, 109 F.3d at 101-02 (holding that denying a religious accommodation to prospective Sikh ROTC cadet did not “advance[] the Army’s asserted compelling interests as applied to him” and was not the least restrictive means available).⁷

Like the Sikh who wears a turban or Jewish man who wears a yarmulke, Muslim women who wear hijab should not have to choose between their faith and serving their country, or in this case, receiving an education from an institution that bills itself as “the No. 1 public college in the South” and that serves as an important conduit to military service.⁸ To that end, we hope you will grant the Muslim cadet’s request to wear hijab.

In the meantime, given the ACLU’s experience with religious accommodations in the military and educational contexts, and our work to ensure that women are not underrepresented at public military colleges, please do not hesitate to contact us if you would like to discuss these

⁴ Earlier this year, the ACLU, the ACLU of Connecticut, and the Service Women’s Action Network sued the U.S. Department of Defense under the Freedom of Information Act seeking records that show how the U.S. Air Force Academy, the U.S. Naval Academy, and the U.S. Military Academy at West Point have maintained policies and practices that have resulted in student populations in which women are significantly under-represented. *See Serv. Women’s Action Network v. U.S. Dep’t of Defense*, No.3:15-cv-137 (D. Conn. Feb. 3, 2015).

⁵ *See Faulkner v. Jones*, 51 F.3d 440 (4th Cir. 1995).

⁶ *See* U.S. News & World Report, Education, The Citadel, 2016 Quick Stats, <http://colleges.usnews.rankingsandreviews.com/best-colleges/citadel-3423>.

⁷ Although some have wrongly tried to use religious-freedom laws as a sword to discriminate against and hurt others, such statutory protections are properly used in situations like this, as a shield to protect religious exercise where it would not cause harm.

⁸ The Citadel, Newsroom, *The Citadel named No. 1 Public College in the South for 5th consecutive year* (Sept. 9, 2015), <http://www.citadel.edu/root/world-report-college-in-the-south-2015#sthash.M4tdSDCl.dpuf>.

issues further. ACLU of South Carolina Executive Director Shaundra Scott can be reached at [REDACTED], or via email at sscott@aclusc.org; Legal Director Susan Dunn can be reached at [REDACTED] or via email at sdunn@aclusc.org.

Sincerely,



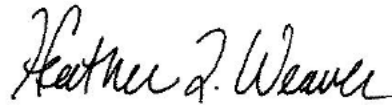
Shaundra Scott,
Executive Director, ACLU of South Carolina



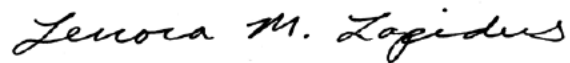
Susan Dunn,
Legal Director, ACLU of South Carolina



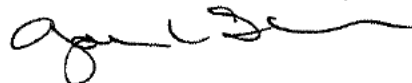
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