

Important Information and Guidelines about the Public Use of Department of Defense Visual Imagery

Background

The Department of Defense (DoD) Community and Public Outreach Division is responsible for educating all non-federal entities (NFEs) and individuals about the use of official visual imagery (VI) of the DoD and Military Services. While intended to inform all NFEs about how VI may and may not be used, this guide is focused particularly towards leaders and key staff of organizations that have entered into a partnership with the DoD, in order to receive federal funding in support of Service members who seek personal and professional development opportunities.

The DoD Voluntary Education (VolEd) Program provides off-duty civilian high school, vocational-technical, undergraduate and graduate educational opportunities to U.S. Service members worldwide. These services are provided through the respective Military Services and their local education centers. In order to receive Tuition Assistance (TA) funding from the DoD, educational institutions are required to sign a DoD Memorandum of Understanding (MOU). Educational institutions that hold a MOU are considered to be in a partnership with the DoD, and thus have a higher level of responsibility to comply with prohibitions against misleading marketing and advertising.

Purpose

We understand that the use of Military-specific materials by NFEs within promotional materials is usually intended in good faith to honor and show support of our Service members. However, there are restrictions placed on the use of this imagery.

This guide is intended to be complementary to the DoD's "Important Information and Guidelines About the Use of Department of Defense Seals, Logos, Insignia, and Service Medals", dated October 16, 2015. These two documents together should provide guidance to NFEs who are considering using examples of Military-themed imagery in their promotional materials.

Contact Information

Like its predecessor, this guide is not inclusive, but addresses our most frequently asked questions regarding use of Military-themed VI. Please consider this information prior to contacting a DoD program office regarding the use of Military-themed VI.

If you have questions, feel free to contact the OSD Community and Public Outreach Division at osd.pentagon.pa.mbx.cpo-review@mail.mil or the DoD VolEd Office at (703) 614-7584 Option 1.

Key Definitions

Actively-serving Service members: Any personnel who are currently serving in the Armed Forces, and are subject to all the associated regulations and restrictions associated with that obligation.

Military-specific insignia: Any rank, patch, or medal authorized by a DoD Component to be worn on a Military uniform or included on Military vessels as an identifier.¹

DoD VI: DoD VI is any VI that is created, acquired, owned, operated, or controlled by DoD, the Military Department, or placed on DoD internet-based capabilities. Generally, this VI contains Military subjects (e.g., places or things such as equipment, insignia), including Service members in uniform, who must comply with DoD 5500.07-R, DoDI 8550.01, and DoDI 1334.01.²

Promotional materials: Messaging issued on behalf of a product, cause, or institution.

Visual Imagery: Information in the form of visual or pictorial representation of person(s), place(s), or thing(s), either with or without sound.³

General Guidance for MOU Signatories

Guidance on the use of official VI for DoD VolEd MOU signatories can be categorized into three distinct, but related areas – Endorsements, Military-Themed Materials, and Intellectual Property.

1. Endorsements

DoD regulations⁴ state that “DoD VI may not be used in a manner that could imply endorsement of an individual, for-profit business, non-profit organization, or any other non-Federal entity (including DoD contractors), product, or service...Endorsement of a non-Federal entity, event, product, service, or enterprise may be neither stated nor implied.”

Impermissible:

- Stated Endorsement: A stated endorsement occurs when an individual is identified as an actively-serving Service member, either in uniform or not, and provides a statement that promotes the products and/or services of an NFE.
- Implied Endorsement – An implied endorsement occurs when an NFE employs Military-themed materials in promotional materials, in order to falsely represent that their products and/or services have been in any way endorsed, authorized, or approved by a Military Service or the DoD.⁵
- An example of an inappropriate statement is: “We are the preferred provider of higher education for Service members in the Northeast US.”

¹ Department of Defense Instruction (DoDI) 5410.20, 29 September, 2016, paragraph G.2, page 13

² Ibid

³ DoDI 5040.02, 27 October, 2011, Part II.

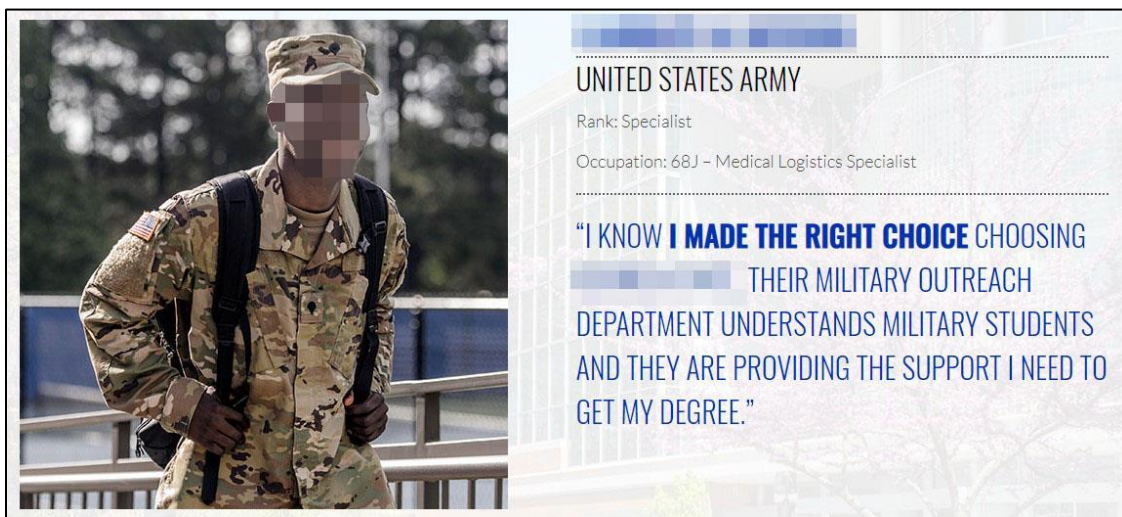
⁴ DoDI 5410.20, paragraph 3.2f, page 10

⁵ Important Information and Guidelines About the USE of Department of Defense Seals, Logos, Insignia, and Service Medals, 16 October, 2015, page 3

- An example of an inappropriate statement of opinion is: “I am John Q. Public, Colonel, United States Army (Retired), and State University is the best institution for Service members who want to get ahead in business after they leave active duty.”

ED (34 C.F.R. 668.71-668.75) defines misrepresentation as it pertains to the interactions between educational institutions and students and prospective students. The DoD VolEd MOU⁶ requires that all participating institutions must have policies in place compliant with program integrity requirements consistent with these regulations.

Example 1: Stated endorsement, implied endorsement, and statement of opinion by Active Duty U.S. Army soldier.



Areas of Non-Compliance:

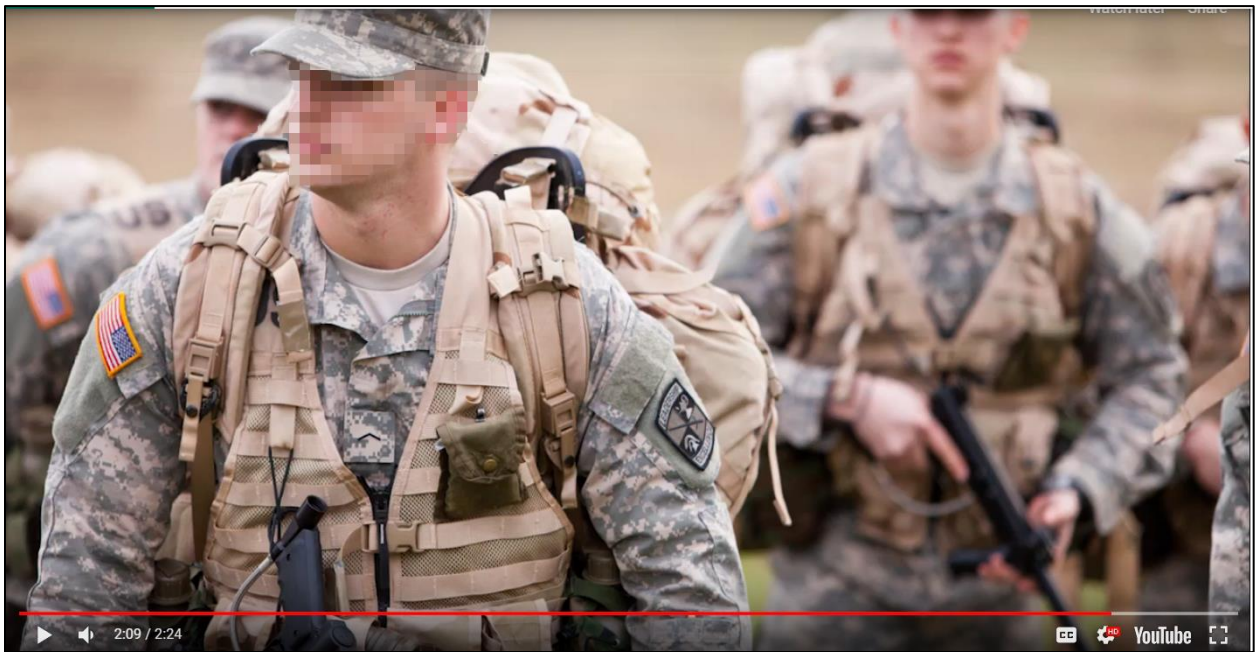
- The Military student has a description clearly indicating that the student is with the U.S. Army.
- The Military student’s rank is stated and shown on the picture.
- The Military Service is mentioned implying that this student is endorsing the education institution on behalf of U.S. Army.

To be in compliance, the institution should:

- Remove the image of the student in uniform and remove the rank and mention of the U.S. Army.

Example 2: Implied endorsement by the U.S. Army.

⁶ DoDI 1322.25, 15 March, 2011, Appendix to Enclosure 3, paragraph 3j.



Areas of Non-Compliance:

- The Military student is in uniform and you can clearly see the badges on the uniform.

To be in compliance, the institution should:

- Remove the image or provide a disclaimer.

Permissible:

Educational institutions are permitted to refer to the DoD, a Military Department, or Service members in general, as long as they are used in conjunction with statements of fact, and do not imply an endorsement by the DoD.

- An example of an appropriate statement of fact employed by an educational institution is: “We offer several degree programs for active duty Service members.”

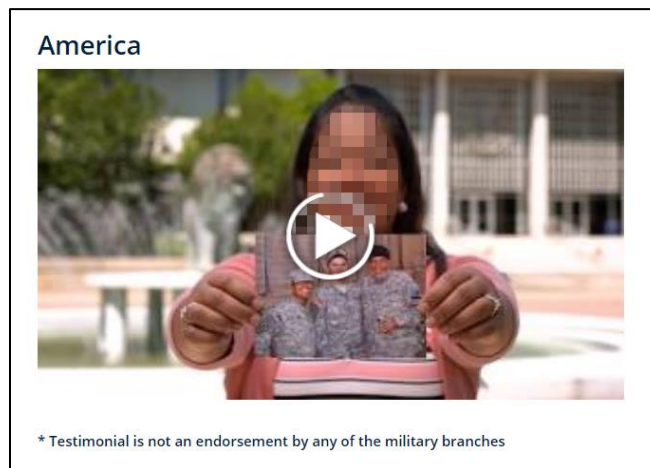
Actively-serving Service members may participate in NFE promotional materials, provided they are not in uniform, and do not identify themselves as actively serving.

Similarly, veterans may participate in NFE promotional materials and indicate their former rank, provided they restrict their comments to statements of fact, and not give opinions that may imply endorsement.

- An example of an appropriate statement of fact is “I am John Q. Public, Colonel, United States Army (Retired), and I received my MBA from State University in 2009.”

An NFE may develop and distribute promotional Military-themed materials, provided any personnel displayed are actors (as opposed to actively-serving Service members), and a disclaimer of endorsement by the DoD is employed (see below). These actors should not be costumed in actual U.S. Military uniforms, as that would also be in violation of federal statutes⁷ that state “no person except a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, may wear (1) the uniform, or a distinctive part of the uniform, of the Army, Navy, Air Force, or Marine Corps; or (2) a uniform any part of which is similar to a distinctive part of the uniform of the Army, Navy, Air Force, or Marine Corps.” Furthermore, actors should not use an actively-serving Service member’s personal accounts or testimonials in the promotional materials, as this would be considered misleading.

Example 1: There is a disclaimer below the video indicating that there is no endorsement by any of the Military Services.



Example 2: This is a permissible example because it is not stating endorsements or opinions from the Service members.

⁷ 10 USC, Section 771



Our Military Service Center recognizes the sacrifices of our service members and their families and is dedicated to helping them achieve continued success. This will be accomplished by providing accessible education, degree completion opportunities, and customized support services.

[Contact Us](#)

[Important Forms](#)

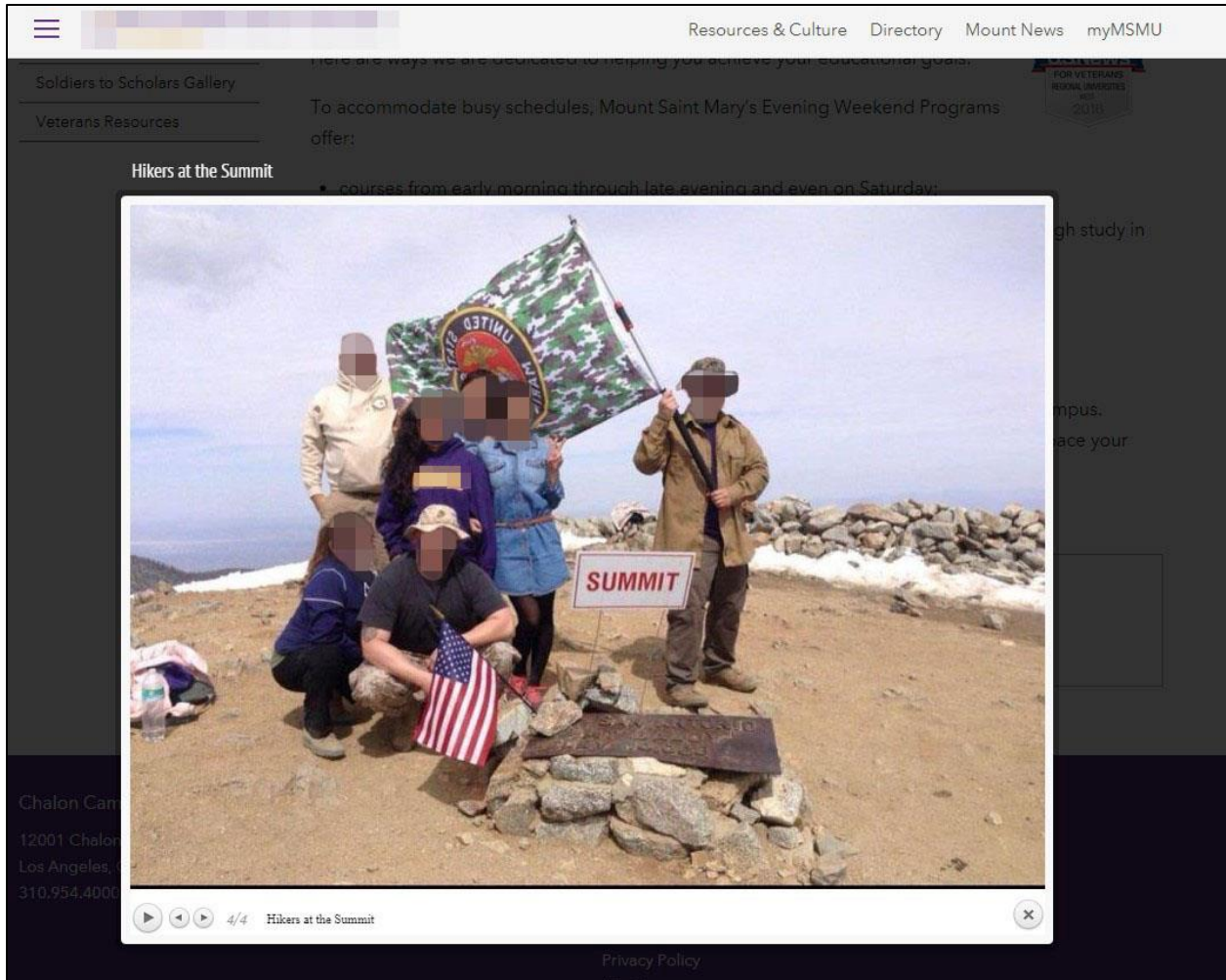
[New Student Orientation](#)

2. Military-Themed Materials

Any visual imagery that uses unofficial content that connotes a relationship with the military or appears to be specifically created to market to Service members.

Impermissible:

Example 1: This is an example of specific Service flags being used on the institution's website.



Areas of Non-Compliance:

- Service flags are shown clearly in this image.

To be in compliance the institution should:

- The flags would need to be removed in order for this image to be compliant or provide a disclaimer.

Example 2: These symbols/logos were posted at the bottom of the Military page for an institution.



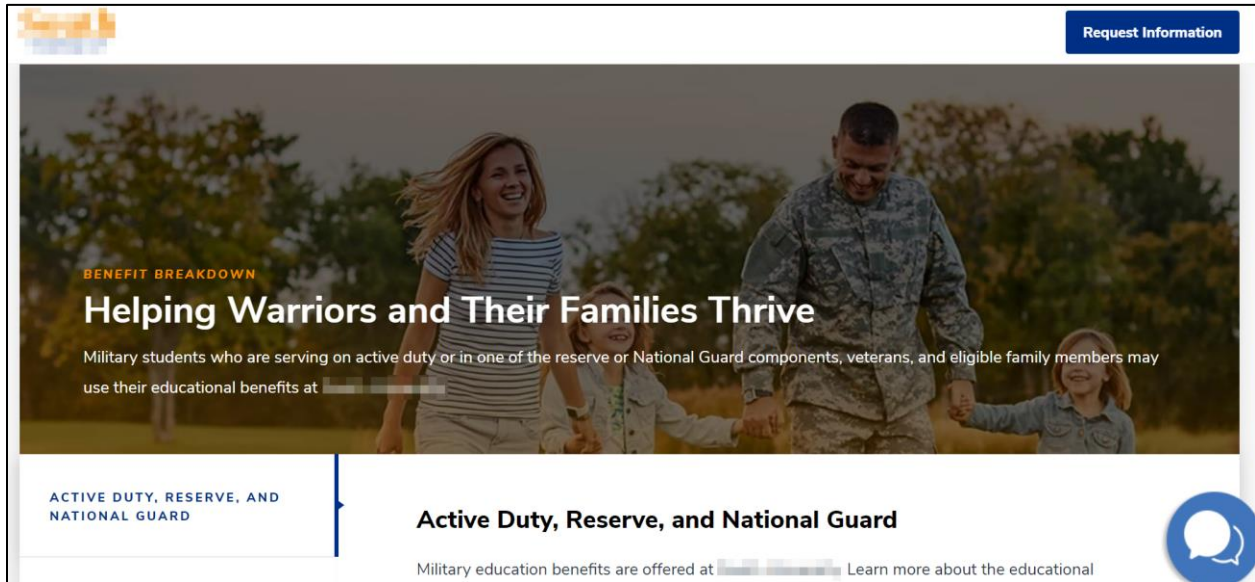
Areas of Non-Compliance:

- Military-themed imagery displayed on the institution’s website.

To be in compliance, the institution should:

- Remove these symbols/logos the website.

Example 3: This is an example of a military-themed image used on an institution’s website.



Areas of Non-Compliance:

- Military-themed imagery displayed on the institution’s website.

To be in compliance, the institution should:

- Remove this image or provide a disclaimer.

Permissible:

The posting of an image that includes DoD VI and depicts an actual event, with the appropriate accompanying verbiage that adds the proper context, may be permissible. However, special scrutiny should be given to ensure compliance with additional DoD guidance found at <http://www.dimoc.mil/resources/limitations>.

NFEs should clearly display a disclaimer (example below) whenever developing and distributing Military-themed promotional materials that could be construed as being officially and formally affiliated with the DoD, in order to avoid the implication or inference of an endorsement.

“The appearance of U.S. Department of Defense (DoD) or Military-themed visual information does not imply or constitute DoD endorsement.”⁸

3. Intellectual Property

In general terms, intellectual property is any product of the human intellect that the law protects from unauthorized use by others. The ownership of intellectual property inherently creates a limited monopoly in the protected property. Intellectual property is traditionally comprised of four categories: patent, copyright, trademark, and trade secrets.⁹

- Patent - grants the patent holder the exclusive right to exclude others from making, using, importing, and selling the patented innovation for a limited period of time.
- Copyright - the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something.
- Trademark - generally words, phrases, logos and symbols used by producers to identify their goods.
- Trade Secret – USTA defines trade secret as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

Impermissible:

An example of intellectual property being used that is impermissible is using an artist’s song in the background of a Military Service video and posting the video on YouTube. This is an example of copyright because the institution would need to seek copyright rights from the artist to post that video with that particular song. YouTube, in this case will contact the institution about the copyright rights and could potentially remove volume or remove the video all together from the website.

⁸ DoDI 5410.20, paragraph 3.2 (e) 2

⁹ (Legal Information Institute - Intellectual Property, n.d.)



Copyright on YouTube

Copyright is an important topic for the YouTube community. Below, you can find out how to manage your rights on YouTube and learn more about respecting the rights of others.

Permissible:

The intellectual property administrated on the institution's website is only permissible if the source is cited and there is a disclaimer showing that the institution has the right to use a product by another user.