

## A PRAYER FOR RELIEF

A CASE STUDY OF USAFA'S DUE PROCESS FAILURES AND PUNITIVE OVERKILL  
A PATH TO REFORMATION

1. SYNOPSIS. On December 12, 2025, the United States Government Accountability Office (GAO) published a Congressionally required 110-page report (GAO Report) comparing the conduct and honor systems at the five service academies. That report examines the extent to which each academy's "honor and conduct systems . . . [1] provide common procedural due process protections [at the five service academies and] [2] collect honor and conduct data," and describes "[3] the perceptions and attitudes of students toward their respective academy's honor and conduct systems."<sup>i</sup> The report acknowledges courts have ruled the academies must provide cadets due process.<sup>ii</sup> The report "focused on a review of 12 commonly used [due process] rights, but [the report notes] that the administrative proceedings of the honor and conduct systems do not necessarily require the accused be afforded all 12 rights."<sup>iii</sup> The report fails to address the adequacy, fairness, and legality of the specific due process procedures the U.S. Air Force Academy (USAFA) says its conduct and honor systems do provide.

## 2. GAO FINDINGS RE USAFA:

a. Over 44% of the 2026 USAFA cadets who responded to GAO questions (from among 3075 questioned) reported that conduct offense "findings are not fairly applied to all."<sup>iv</sup> Among those cadets, 64% identified "different understanding of rules and regulations among decision-makers" as a "cause of unfair conduct offense findings."<sup>v</sup>

b. At USAFA "hearings are not typically required to adjudicate offenses"<sup>vi</sup>

c. "At the Air Force Academy, conduct case data were not centrally collected and available for analysis."<sup>vii</sup> USAFA does not collect data on reports of conduct offenses,<sup>viii</sup> appeals,<sup>ix</sup> the use of administrative sanctions or disenrollments resulting from a conduct offense.<sup>x</sup> USAFA was the only one of the five academies that could not provide the GAO data about its conduct violation cases, including hearings and findings.<sup>xi</sup>

d. Air Force Academy officials told us that their use of a spreadsheet to track honor-related cases limits their ability to maintain visibility over required tasks related to processing an honor case and showing what stage it is in."<sup>xii</sup>

e. The availability of due process protections available to cadets needs to be better articulated to cadets;<sup>xiii</sup> a better set of data collection for all stages of the honor and conduct systems needs to be maintained;<sup>xiv</sup> and the timely access to honor and conduct data needs to be implemented.<sup>xv</sup>

3. BLUF – THE PATH TO REFORMATION. A year of draconian punishments being imposed on nine USAFA seniors who were on the USAFA men's varsity soccer team illustrates how the substance and the procedures USAFA uses to impose major conduct punishments are illusory, inadequate, unclear, inconsistent, unreasonable, unfair, counterproductive, deficient and denials of due process. The findings and omissions in this GAO report and the facts involving these nine USAFA seniors being punished as a group show the urgent need for (a) the punishments (10-month probationary period) of these seniors to stop immediately; (b) the Board of Visitors (BoV) to establish a SECAF-supported Disciplinary Process

Review Focus Group to examine and recommend improvements to the conduct/honor/disenrollment systems at USAFA; and (c) USAFA to implement those recommendations.

4. USAFA DUE PROCESS FAILURES RE NINE SOCCER CADETS. The propriety, fairness, clarity, consistency, constructiveness, adequacy, legality and efficacy of USAFA's current conduct system are discussed below, in part by describing the circumstances of the substance and procedures used by USAFA to impose punishments on nine USAFA seniors as members of the USAFA men's varsity soccer team. Receipt of a USAFA Bachelor of Science degree after having met USAFA's academic requirements, graduation from USAFA, commissioning as an officer (with rank and pay above that of a cadet) and reputation are significant property interests protected by due process. Restrictions, walking tours and required labor are liberty interests protected by due process. Due process requires that the government do what is "fundamentally fair" under the circumstances.<sup>xvi</sup>

a. BACKGROUND. For years USAFA first year men's varsity soccer team members participated in a traditional initiation of new freshman team members by upper class team members (1) at the end of the first practice of the soccer team and (2) during the first "away game" trip by the team. The nine USAFA seniors discussed below were initiated in this manner when they became new members of the team, and during their second and third years on the team they participated in initiating new first year team members. This all occurred with the full knowledge, consent and approval of the adult soccer coaches and of the upper-class soccer team members. Thus, these nine soccer cadets were led to believe by their superiors that this traditional initiation of freshmen soccer team members was approved and expected.

b. PUNISHMENTS. Nine USAFA seniors were prohibited from graduating from USAFA and being commissioned on May 29, 2025, with their USAFA class, and have been told they may never graduate or be commissioned and in any case will not be graduated or commissioned before May 2026. They have been placed on probation with restrictions and loss of ranks, jobs and privileges for 11 ½ months; received 110 demerits; and been required to walk 100 hours of "tours" and, while on probation, to read three assigned books; write weekly journals reflecting their thoughts; write and adhere to Smart Goals; write and publish to other cadets a Cadet X letter summarizing what they did wrong and how they were being punished; undergo counseling twice a month; and work 2 ½ hours Monday-Thursday for weeks performing menial tasks for intramural sports. They also are encouraged to engage in and report in writing unspecified additional work during their year of probation, to try to prove their commitment to grow, learn and correct their personal flaws that allegedly placed them on probation. They have been restricted to the USAFA grounds, and prohibited from driving and using recreational facilities, including the bowling alley and golf course. One of the cadets has been required to postpone his legal marriage scheduled for June, 2025, until after his probation ends, hopefully in May, 2026. In addition, these cadets have been denigrated and shunned and have endured verbal and physical harassment and assaults by other cadets, because of grotesque, false rumors circulating among other cadets that the nine soccer seniors are sexual predators. That has been caused in part by the USAFA Superintendent and the Athletic Director having stated in a meeting with all USAFA intercollegiate athletes that the 2025 and 2026 members of the Men's Soccer team participated in hazing and sexual abusive behavior. Cadet teachers have made similar statements to their students. To add to these nine seniors' angst, **during their months of probation their requests for feedback on their progress toward commissioning have gone unanswered, leaving them uncertain as to whether they are performing as expected or need to take corrective action.** They fear that after enduring all of the above, they nevertheless will not be permitted to graduate or be commissioned. Given all of this, it should be no surprise that some of the cadets were placed on suicide watch.

b. DUE PROCESS VIOLATIONS. These punishments were imposed in violation of each of the due process failures stated below.

i. Lack of prior notice of conduct prohibited and punishments allowed. Each of the nine cadets received a Letter of Reprimand (LOR) dated 24 Apr 2025 stating the following: “. . . [B]etween on or about 1 August 2024 and on or about 30 September 2024, you, as a Cadet First Class, during team meeting, observed and condoned disgraceful behavior among the USAFA Men’s Soccer Team, to wit: . . . upperclassmen turned out the lights . . . this disgraceful behavior was a recurring annual tradition on the USAFA Men’s Soccer Team. You took no action to prevent or stop this disgraceful behavior from occurring or reoccurring in the future.”<sup>xvii</sup> (Emphasis added.) Thus, with three exceptions,<sup>xviii</sup> these nine cadets are receiving all of these punishments solely for allegedly “observing,” “condoning” and taking “no action” to stop disgraceful behavior but not for engaging or participating in the disgraceful behavior. Due process requires that punishments be imposed on these cadets only for what they have been charged, which for six cadets is solely for observing, condoning and not acting to stop disgraceful behavior. Further, due process requires that they be judged based on exactly what conduct they knowingly observed, condoned and failed to act to stop, and not for actions about which they were unaware and did not reasonably anticipate.

Due process also requires that fair advance notice of prohibited conduct be published by USAFA so cadets clearly know and can understand what conduct is expected, and prohibits punishing cadets for conduct they were led to believe by their USAFA superiors was authorized, expected and not improper. It is unreasonable and unfair to harshly punish these cadets when (1) what they knew, anticipated and had experienced about the process was deemed “not disgraceful” by superiors and (2) they had been taught the process was permissible and expected by their coaches and by upper class cadets who had conducted the initiation on and with them in previous years. Moreover, it is unreasonable and unfair to punish cadets for observing and condoning specific acts in which they did not participate and about which they were unaware. (By analogy, cadets who administer USAFA’s traditional “Fourth Class System” should not be punished for observing, condoning and failing to act to stop unestablished “acts of hazing” that may approach but not cross a proverbial “red line,” merely because they observed, condoned and participated in the Fourth Class System.) Further, it is unfair to punish cadets for “condoning” the initiation process when it is unclear how USAFA authorities expect cadets to avoid condonation. It is especially unfair to punish the cadets for not reporting a conduct violation when USAFA only expressly requires reporting to higher authority violations of the Honor Code, and no known USAFA rule requires reporting to higher authority a conduct violation. In addition, these cadets had no way of knowing the punishments that would be imposed on them for observing, condoning and not stopping this initiation they had been led to believe was authorized and expected. Common sense dictates that if these cadets had known this initiation process was prohibited and severe punishments would be imposed if they had observed, condoned and not stopped the initiation, they would not have done what was prohibited.

ii. Lack of fair opportunity to respond to charges and evidence (by the cadet and through defense counsel) as required by the Constitution. The nine soccer cadets received the notice of the charges against them in the LORs dated 24 Apr 2025 noted above. In addition, on that date they received from the USAFA Commandant of Cadets a written list of evidence upon which the charges were based and statements that they “have a right to examine the evidence which I relied upon in deciding to issue this administrative action” and “[t]he evidence will be provided to your defense counsel.”<sup>xix</sup> For example, a cadet received a list of 13 items of evidence, including seven recorded interviews, upon which that cadet’s Letter of Reprimand and his resulting punishments were based.<sup>xx</sup> That cadet’s LOR states in part the following:

“Within **3 duty days** from the day you received this letter, you will provide your response . . . Any comments or documents you wish to be considered concerning this LOR must be submitted at that time, and will become part of the record . . . After receiving your response, I intend to notify you of my final disposition of this action within 3 duty days.”<sup>xxi</sup> (Emphasis in the original.)

Upon receipt of their LORs the cadets did not have a defense counsel and USAFA did not have enough attorneys available to advise each of the cadets, requiring some cadets to obtain a military attorney stationed at another Air Force base and who may have been unfamiliar with USAFA’s conduct system. **The cadets certainly did not have time within the “3 duty days” allowed to obtain a defense counsel, review all the several items of evidence against them, have all that evidence reviewed by a defense counsel, receive advice from a defense counsel after they reviewed that evidence and prepare and submit a defense using that information.** As a result, the cadets absolutely did not have a fair opportunity to provide a defense, a rebuttal, extenuating and mitigating evidence, and background and contextual facts in a written response to the allegations against them. Nor were they ever given a hearing regarding any allegation against them. Nor, given the total number of 3<sup>rd</sup>, 2<sup>nd</sup> and 1<sup>st</sup> year soccer cadets being disciplined, is it likely that the Commandant of Cadets could have reviewed and did review the responses these cadets did submit before the Commandant of Cadets would notify them of his “final disposition of this action within 3 duty days” of receiving the responses. As a result, the cadets did not have a fair and meaningful opportunity to respond to the charges against them in their LORs, and all the LORs were sustained and resulting punishments imposed.

Further, the cadets were not notified they would not graduate and be commissioned until they received on 23 May 2025 - **three days** before graduation and commissioning - a Form 10 announcing they were placed on probation for 6 months and may receive multiple other punishments.<sup>xxii</sup> There was no opportunity to effectively respond to that before the date for graduation and commissioning had passed. Similar illusory processes were employed depriving these cadets of the opportunity to meaningfully respond to additional actions/punishments imposed on them later based on the same charged conduct. The Superintendent had not received responses from some cadets to the letters notifying them of recommended disenrollment before he told the cadets they could avoid disenrollment if they agreed to accept five more months of probation and other punishments.

A fair hearing would have enabled these nine soccer cadets to show, among other things, the following:

A. Some of the cadets being punished stated to USAFA that they did not observe or condone the specific behavior which they were charged with observing, condoning and not acting to stop. For example, one cadet wrote to USAFA “I . . . did not witness this behavior or know of its occurrence” and, separately, “I did not explicitly witness the actions that I am being accused of observing and condoning.”

B. Several of the cadets in fact did take “action” to prevent or stop disgraceful behavior from occurring or reoccurring in the future. As written by one cadet:

“[O]ur [senior] class did identify that several of these traditions encroached into the continuum of harm. Because of this identification, we eliminated several traditions of previous classes. Prior to a team trip, underclassmen questioned if we would be

doing the first trip initiation and I, along with several seniors, stated that we will not be doing that this year. This specific example, along with upstander behavior from myself and other seniors, helped to eliminate many of the poor behaviors similar to what was outlined in this LOR.

While the senior class did make significant efforts to transition the culture of the team away from the years of the past, we did not do enough. . . It is easy to identify this in hindsight.”

Further, at least three of the cadets expressly told the 2<sup>nd</sup> and 3<sup>rd</sup> year cadets that the soccer team would not do an initiation of freshmen players during the first “travel” game in Phoenix. Despite those instructions, underclass cadets disobeyed and did the initiation anyway.

C. The soccer coaches knew about and openly discussed the initiation process with the players and approved and condoned it.

D. Before the incidents for which the cadets are being punished, one of the cadet’s father, who is a retired Air Force Colonel JAG and an instructor at the Air Force JAG School, complained personally to the soccer coaches that the culture and practices on the USAFA soccer team needed to change. Nothing changed.

E. USAFA should have provided cadets with training or instruction on their being responsible for preventing or stopping athletic team initiation practices/traditions or other non-criminal behaviors. As written by one cadet:

“I do, however, believe that with some specific training provided to IC athletes at USAFA, I may have been able to recognize this sooner and effected change.”

The cadets truly did not know, and should not be expected to know, how to prevent, stop or not condone non-criminal acts about which they were not aware or which they reasonably believed their superiors approved. Cadets are taught that they are responsible for reporting violations of the Honor Code but not of conduct requirements. Instead of clearly teaching cadets in advance what behaviors were prohibited, USAFA revealed these behaviors were prohibited *ex post facto* by punishing cadets severely after the occurrence of the prohibited behaviors.

F. USAFA acknowledged in writing that “other members of the team reported” that a named senior “opted out” of participating in the initiation process, thereby expressing that cadet’s disapproval and evidencing he did not participate in disgraceful behavior. Nevertheless, USAFA charged that senior with having “observed” and “condoned” the behavior he publicly “opted out” of, and that the senior “took **no** action to stop this disgraceful behavior from occurring or reoccurring in the future.” (Emphasis added.) Those charges are false. The senior did not observe and condone, and did take action to stop, the behavior by publicly opting out of participating in it. He is not guilty of condoning what he publicly expressed disapproval of. There was nothing more this cadet reasonably could have done to stop this traditional practice. Nevertheless, USAFA gave that cadet the same punishments imposed on the other soccer seniors.

iii. Excessive delays. The amount of time between the occurrence of what the nine soccer

cadets were alleged to have done on or about August 1, 2024, and the date they were informed on May 23, 2025, that they would not be allowed to graduate or be commissioned with their USAFA class, exceeded nine months. As a result, they learned they would not graduate and be commissioned only after they and their friends and family had made plans to attend their graduation and commissioning and, in one cadet's case, after he had planned to be married followed by a honeymoon for which he already had paid. Punishments were imposed on these nine cadets in four drip-drip-drip-drip phases: (1) 24 Apr 25 – Letter of Reprimand from USAFA; (2) 23 May 25 – Placement on 6 months probation, 110 demerits, 100 tours, loss of privileges; first notice of not graduating and not being commissioned on 29 May 25; (3) 20 Jun 25 – Letter of Notification of Disenrollment from USAFA and discharge from Air Force being considered; and (4) 3 Jul 25 – Suspension of Disenrollment allowed if accept 10 month probation.

iv. Excessive, disproportionate, inconsistent punishments, exceeding what is allowed under the UCMJ. The comprehensive aggregate of all these punishments for nearly a year clearly are excessive, unreasonable, counterproductive, and disproportionate to the nature and severity of what the cadets actually did based on their circumstances, including what they knew and did not know and were led to believe, and therefore violates substantive due process. The cumulative punishments imposed on these nine cadets probably exceed any punishments imposed on any cadet in the history of the five service academies, and far exceed what is reasonable and fair for merely observing, condoning and not acting to stop the initiation of soccer team freshmen they had experienced and had been taught by their coaches and upperclassmen was approved and expected. Moreover, the punishment of delaying graduation and commissioning imposed on the seniors who allegedly only observed and condoned but did not participate in the initiation process far exceeds the punishments imposed on the 3<sup>rd</sup> and 2<sup>nd</sup> year cadets whose graduation and commissioning will not be delayed but who participated in the acts that were “disgraceful.”<sup>xxiii</sup> **Further, the UCMJ, whose protections apply to cadets,<sup>xxiv</sup> provides that punishment exceeding one month's pay and two months deprivation of liberty must be taken at a Special or General Court-Martial, with very limited exceptions.** USAFA's unique disciplinary system exacts punishments in excess of these limitations, as in the case of these nine seniors.

v. Misleading cadets about the number of punishments. Four successive sets of punishments were revealed to the cadets over a three-month period. These cadets were induced to accept the Letter of Reprimand, probation, tours, restrictions and other penalties imposed on them on 24 Apr 2025 and 23 May 2025 without the knowledge or understanding that additional punishments, including recommended disenrollment and months of additional probation and restrictions, would be imposed on them months later.

vi. Coercion. On 20 Jun 2025 cadets were given a written Letter of Notification that they were being recommended for disenrollment from USAFA. Subsequently, on 3 Jul 2025 those cadets were informed by the Superintendent they would not be disenrolled if they accepted five more months of probation and punishments. The cadets had no effective option but to accept the additional probation and punishments. The impact of this “Hobson's choice” was expressed in writing by a cadet to USAFA as follows:

“In my eyes the environment and way we have been treated has been extremely, extremely coercive. I was given an offer and a probationary placement where the flipside to this would most certainly be disenrollment regardless of strides made during my time at the Academy. This has not felt like a fair or just arrangement in my eyes. The situation has felt like more of a pick your poison.”

A second cadet expressed his view of the unfairness of the cadets' treatment as follows:

"I am accepting this [ten-month] probation under duress, and only because I believe it is the sole remaining path to preserve my future in the United States Air Force. The environment surrounding this decision has been, in my view, deeply coercive. I have been placed in a situation where refusal would almost certainly result in disenrollment, regardless of my performance, character, or contributions throughout my time at the Academy. I do not accept this arrangement as fair or just-only as the lesser of two unacceptable options.

At no point has this felt like a true choice. The message has been clear: comply or be removed. I believe that is fundamentally inconsistent with the ideals of leadership, trust, and development that the Academy is supposed to embody."

vii. Group sentences instead of individualized punishments tailored to specific actions. Each cadet's punishments should be based on the specific conduct of the cadet, not on the cadet's association with or membership in a group whose members engaged in other conduct. It is clear that the nine soccer seniors were judged and punished as a group, and not as individuals based on individual conduct/involvement, lack thereof, and mitigating factors.

viii. Counterproductive Impact of Excessive Punishments: The lasting negative impacts of USAFA's punitive overkill when punishing these cadets may be captured by the following statements submitted to USAFA:

By attorney for a cadet to USAFA:

"Keeping the seniors at USAFA past May will have no positive impact on the seniors or other cadets and will not meet the USAFA mission. Instead, it will create cynicism not just for the seniors involved, but also with all the cadets who are aware of what is happening.

The lesson cadets are learning from this situation, is that USAFA only desires to discipline cadets without holding leaders accountable. The true leaders of the soccer team (coaches) knew what was going on but ignored it. Additionally, when attempts were made to highlight leadership issues on the soccer team, other leaders at USAFA ignored those warnings."

By a different attorney for a different cadet to USAFA:

"The proposed decision to disenroll and discharge Cadet XXX is arbitrary, and risks improperly grouping Cadet XXX's misconduct with that of more severe misconduct without adequate consideration of the facts and circumstances in Cadet XXX's case."

By a cadet to USAFA:

"During this entire process I have only been spoken at, never heard, and simply put: comply or leave. I am only being given a slim chance, under mass scrutiny, with the

thought of everything that has happened behind me. Personally raising concern about communication issues and procedural errors that have taken place throughout all of this has made this entire process difficult to fully trust fairness and due process.

I respectfully submit this statement not out of rebellion, but pure clarity and honesty. Ensuring that my concerns and character are accurately represented and respectfully heard. I am committed to taking the right step forward and complying with the system. I just want my perspective to be formally recorded and that I feel as if this process has not been fair.”

By a second cadet to USAFA:

“I have not been offered a path to redemption-I have been given a thin chance to survive under scrutiny, with the looming threat of disenrollment still hanging over me. That said, I will comply with the terms of the probation to the best of my ability, not because I believe in the process, but because I believe in my duty to serve and the commitment I made to the Air Force. I will uphold my responsibilities and strive to prove, through my conduct and performance, that I am worthy of continuing my service.

This statement is not meant to be defiant, but honest. I am complying with the system, but I want it clearly recorded that I do so under protest and without any illusion that this process has been fair.”

By a third cadet:

“When comparing me to most other people on probation, they [USAFA permanent party] are shocked at my performance, most likely because I never should have been on probation to begin with.

If the intention of our probation was to make us better leaders, then in a strange way they have accomplished it. We have become much better leaders by observing exactly how not to act as a leader. We will always treat the people below us as humans. We will always consider the evidence fully, and provide due process to people before making decisions that impact their life significantly. We will always treat those below us with respect. We will always admit our mistakes and correct them.”

By a fourth cadet to USAFA:

“I do not consider this arrangement to be fair or just . . . I believe this approach fundamentally contradicts the principles upheld by the Academy. While I will "accept" and adhere to the terms of the probation, my compliance stems not from a belief in their fairness, but from my unwavering commitment to serve my country and honor the pledge I made to the Air Force.”

5. RESULTS. **The inconsistencies, unfair lack of due process, *ex post facto* changes and other irregularities violating due process cause (1) careers and lives to be destroyed; (2) morale and respect to plummet; and (3) the Air and Space Forces, and our country, to lose good people unnecessarily and at great cost.**

6. RECOMMENDATIONS. I strongly urge the USAFA BoV to take the following action:

a. Petition the Secretary of the Air Force to immediately end the probationary period of these nine USAFA seniors and give them credit for “time served,” similar to “granting amnesty.” Furthermore, they should graduate and commission into the Air Force with a date commensurate with the termination of their probationary period, and receive their preferred follow-on assignments as they begin their belated careers in the U.S. Air and Space Forces.

b. Stand up a Board of Visitors Disciplinary Focus Group of select members and expert legal advisors to consult on these complex legal issues per 10 U.S. Code §9455 to deep dive into USAFA disciplinary procedures to better execute their advisory and recommendation responsibilities to the Chairmen of the House and Senate Armed Service Committees, SecAF, and SecWAR; and

c. Coordinate and crosstalk with our counterparts on the U.S. Military Academy and U.S. Naval Academy BoVs, as well as the Coast Guard and Merchant Marine Academies, to compare disciplinary processes and procedures to determine if a comprehensive disciplinary approach across all Service Academies is warranted.

7. CONCLUSION. The current USAFA disciplinary approach over-emphasizes punishment and shortchanges or excludes due process, fairness, reasonableness and constructive training. The saga of the nine senior soccer cadets as well as other questionable recent disciplinary decisions, make it apparent that USAFA is failing to model and to teach cadets by example proper ways to administer discipline as officers, and is unfairly and unnecessarily causing cadets irreparable personal harm. The extreme unfairness of USAFA’s unique and perverse administrative punishments leads to embittered, cynical young men and women who have little faith or confidence in the military’s disciplinary systems and who are ill-prepared to administer discipline properly as officers. Because of the deficiencies described above, punishment of the nine cadets should cease immediately and the USAFA BoV must exercise its legal authority and advisory responsibilities to reform USAFA’s disciplinary processes and procedures.



Doug “Stoli” Nikolai, Col (ret), USAF  
USAFA BoV Vice Chairman

## ENDNOTE REFERENCES

- <sup>i</sup> Letter dated December 16, 2025, from U.S. Government Accountability Office to Congressional Committees, at 1.
- <sup>ii</sup> GAO Report, at 9-10, citing, e.g., *Wasson v. Trowbridge*, 382 F.2d 807 (2d Cir. 1967)(due process requires that individuals facing expulsion from a military or quasi-military institution be given a fair hearing where they are informed of the charges and allowed to present a defense; cadet’s allegations regarding impartiality of the panel, denial of witnesses, and lack of full disclosure of evidence merited further examination); *Hagopian v. Knowlton*, 470 F.2d 201 (2<sup>nd</sup> Cir. 1972)(“when an accumulation of awarded demerits renders the cadet subject to separation, he must be granted a fair hearing before being separated, including the right to personally appear and to present witnesses and other evidence in his behalf”); *Phillips v. Marsh*, 687 F.2d 620 (2d Cir. 1982). See *Andrews v. Knowlton*, 509 F.2d 898 (2d Cir. 1975) (due process requirements “not a rigid formula,” depends on balancing multiple factors, including military operational needs).
- <sup>iii</sup> Email dated Jan. 8, 2026, from Kristy E. Williams, Director, Defense Capabilities and Management, US General Accountability Office, to Michael T. Rose, Executive Vice President and General Counsel, Stand Together Against Racism and Radicalism in the Services, Inc.
- <sup>iv</sup> See GAO Report, 50 (Table 11), 64,65; Supplemental Materials for GAO-26-107049 (GAO-26-108179) (Dec. 16, 2025).
- <sup>v</sup> GAO Report, Table 12, at 50; Supplemental Materials for GAO-26-107049 (GAO-26-108179) (Dec. 16, 2025).
- <sup>vi</sup> GAO Report, at 25, 32.
- <sup>vii</sup> GAO Report, at 62.
- <sup>viii</sup> GAO Report, at 38.
- <sup>ix</sup> GAO Report, at 37.
- <sup>x</sup> GAO Report, at 39.
- <sup>xi</sup> GAO Report, at 74 (Table 24) – 79 (Table 30).
- <sup>xii</sup> GAO Report, at 41.
- <sup>xiii</sup> GAO Report, at 54-55.
- <sup>xiv</sup> GAO Report, at 55.
- <sup>xv</sup> GAO Report, at 56.
- <sup>xvi</sup> See, e.g., *Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973) (“fundamental fairness – the touchstone of due process”); *Walters v. National Ass’n of Radiation Survivors*, 473 U.S. 305, 312, 321 (1985) (due process violated when process “fundamentally unfair;” “fundamental fairness” required).
- <sup>xvii</sup> E.g., Letter of Reprimand for Cadet [name withheld], from Brig Gen Gavin P. Marks, Commandant of Cadets (24 April 2025), at 1.
- <sup>xviii</sup> Two cadets’ punishments were based in part on minor participation in the August, 2024, meeting. A third cadet’s punishments were based in part on his failure to stop actions at a second meeting, in October, 2024.
- <sup>xix</sup> E.g., Memorandum, Administrative Action – Right to Examine Evidence, from Brig Gen Gavin P. Marks, Commandant of Cadets (24 April 2025).
- <sup>xx</sup> *Id.* at 2.
- <sup>xxi</sup> E.g., Letter of Reprimand for Cadet [name withheld], from Brig Gen Gavin P. Marks, Commandant of Cadets (24 April 2025), at 2.
- <sup>xxii</sup> Memorandum dated 23 May 25 from Brig Gen Gavin P. Marks (“I am placing you on 6 months of Conduct/Aptitude probation”); Form 10, dated May 23, 2025 (“I’m placing you on conduct probation today. I am considering sanctioning you with 110 demerits, 100 tours, and loss of pass privileges for 6 months. Your response is required no later than 3 days following receipt of this Form 10.”).
- <sup>xxiii</sup> The punishments imposed on the cadets accused merely of observing, condoning, and acting to stop disgraceful acts were disproportionately more severe than the punishments of cadets who participated and engaged in those disgraceful actions. That is true because the cadets who merely observed, condoned and did not act were all seniors whose graduation and commissioning are being delayed for a year, while those who actively participated and engaged in the disgraceful behavior are 2<sup>nd</sup> and 3<sup>rd</sup> year cadets whose graduation will not be delayed. Giving mere observers/condoners much more severe punishment than the actual perpetrators of the disgraceful acts is unfair and illogical.
- <sup>xxiv</sup> *United States v. Ellman*, 9 U.S.C.M.A. 549,26 C.M.R. 329 (1958)(cadets entitled to protections of UCMJ and to be treated as officers in applying the UCMJ).