

YOUNTS LAW
THE MILITARY COUNSEL
21 May 2025

MEMORANDUM FOR ALL REVIEWING AUTHORITIES

FROM: Cadet Jane Doe, USMC Company I-3, Class of 2025, Through Counsel
(R. Davis Younts, Esquire¹)

SUBJECT: Appeal of Academic Review Board's Recommendation to Disenroll
Cadet Jane Doe and Return Her to Enlisted Duty for Failure to Pass the
Indoor Obstacle Course Test (IOCT)

1. Purpose

This memorandum appeals the Academic Review Board's recommendation to disenroll Cadet Jane Doe from the United States Military Academy (USMA) and return her to enlisted duty for failing to pass the Indoor Obstacle Course Test (IOCT). Cadet Doe was raped by a non-commissioned officer during her enlisted service, an assault that occurred because of her military service and has left her with lasting psychological trauma and medical complications, including a high-grade cervical lesion requiring invasive procedures. The Board's decision fails to consider these trauma-related challenges, her measurable progress on the IOCT, and her exemplary academic, military, and leadership record, rendering it arbitrary and capricious under the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A), and relevant case law. Despite these profound challenges, Cadet Doe's resilience and demonstrated excellence prove she will be an outstanding Army officer. We request her retention and graduation on time with the Class of 2025, rejection of the recommendation to return her to the enlisted environment where she was assaulted, and a waiver of recoupment if disenrollment occurs.

¹ Attorney Davis Younts is an experienced military law attorney who has spent over two decades in the practice of military law. Mr. Younts is a former Active-Duty JAG who has served as an SJA at multiple installations and as the Chief of the Military Division at the Air Force Judge Advocate General's School. He retired as a Lt Col in the Air Force Reserve. Mr. Younts represents this client in a private capacity as a civilian attorney.

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2. Background and Context

Cadet Jane Doe is an exemplary cadet whose record reflects resilience, leadership, and an unwavering commitment to the Army's values. As detailed in her Letter to Academic Review Board and supporting documents (Cadet Bio, IOCT Scores), Cadet Doe endured a sexual assault

while serving as an enlisted soldier (Combat Medic, E-4). The assault, perpetrated by a non-commissioned officer during remedial physical training in a basement gym, created a deep psychological association between gym environments, upper-body exercises, and trauma. The IOCT, which heavily tests upper-body strength, engages this trauma in ways that have hindered her ability to pass, despite her sustained effort and measurable improvement.

The Academic Review Board's recommendation to return Cadet Doe to enlisted duty disregards the profound impact of her prior trauma in that very environment. As an enlisted soldier, she was targeted and assaulted by an NCO who exploited his authority during physical training, leaving her with a lasting sense of vulnerability in similar settings. Returning her to enlisted service would not only dismiss her remarkable achievements at USMA but also expose her to environments that could retrigger her trauma, posing significant risks to her mental health and well-being. This outcome is not only inequitable but also contrary to the Army's commitment to fostering a safe and supportive environment for survivors of sexual assault.

Further compounding her challenges, Cadet Doe was diagnosed with a high-grade cervical lesion resulting from HPV contracted during the assault. She underwent a procedure in the fall of 2024 to remove the lesion, which was unsuccessful, requiring additional traumatic biopsies during the 2025 spring break. Despite these medical and psychological setbacks, Cadet Doe maintained her academic, military, and physical performance while actively working to overcome her trauma through personal effort and Academy resources, including consultations with a performance psychologist.

3. Cadet Doe's Exemplary Record

Cadet Doe's performance at USMA demonstrates her fitness to serve as an Army officer and her potential to contribute meaningfully to the force. Her record includes:

a. Academic Excellence

- Major and GPA: Chemical Engineering major with a cumulative GPA of 3.064 and a major GPA of 2.925, completing 161.5 credit hours in a rigorous engineering program (Cadet Bio).
- Resilience in Coursework: Overcame early academic challenges, including retaking Military Movement and Organic Chemistry, and achieved a strong upward trajectory, with a final term QPA of 3.399.
- Notable Achievements:
 - Earned high grades in advanced technical courses, including A- in Chemical Engineering Thermodynamics, B+ in Process Design (Capstone), and A+ in Advanced Independent Study in Physics.
 - Presented research to the Army Futures Command Commander, earning praise for her work.
 - Completed elective courses beyond degree requirements,

demonstrating intellectual curiosity and commitment.

b. Physical Readiness and Progress

- ACFT Performance: Passed the Army Combat Fitness Test (ACFT) on April 8, 2025, with a score of 476, including high scores (88-98) in strength and anaerobic events such as Hand-Release Push-Ups (HRP) and Sprint-Drag-Carry (SDC).
- IOCT Progress: Demonstrated significant improvement in IOCT performance, reducing her time from 8:10 (failing four obstacles) in February 2024 to 6:40 (failing two obstacles) in April 2025 (IOCT Scores). She can now complete previously insurmountable obstacles, including the wall, monkey bars, even under fatigue and stress.
- Physical Education: Passed Survival Swimming (A-), Combat Applications (B+), Army Fitness Development (B+), and recovered from an initial failure in Military Movement to pass on her second attempt.
- 2-Mile Run Improvement: Reduced her 2-mile run time from 26:50 in 2021 to 22:12 in 2025, reflecting consistent physical development.

c. Leadership and Military Service

- Prior Service: Served as a Combat Medic (68W, E-4), participating in NATO training exercises in Eastern Europe, earning two Army Achievement Medals, and receiving a coin from the Supreme Allied Commander Europe for saving a soldier's life during a training accident.
- Leadership at USMA:
 - First-ever Cadet in Charge of the Prior Service Forum, creating a support structure for prior service cadets and leading peer mentorship initiatives.
 - Served as Company S1 (AY24), managing administrative responsibilities and cadet accountability.
 - Outspoken advocate for cadet well-being, particularly for prior service and female cadets, demonstrating empathy and experience-driven credibility.

d. Character and Resilience

- Reported her sexual assault and engaged in formal mental health support while maintaining her performance across all domains.
- Navigated accelerated medical treatment for a high-grade cervical lesion, including a failed procedure and additional biopsies, without compromising her academic or military commitments.
- Demonstrates humility, accountability, and exceptional moral courage, choosing daily to confront her trauma rather than avoid it.

4. Applicable Legal Standards

The Academic Review Board's recommendation to disenroll Cadet Doe and return her to enlisted duty, as well as any potential recoupment of educational costs, must be evaluated under applicable Army regulations, federal law, and judicial standards for administrative due process, which prohibit arbitrary and capricious decisions.

- Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A): The APA directs courts to "hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." An agency action is arbitrary and capricious if it lacks a rational connection between the facts and the decision, fails to consider relevant factors, or constitutes a clear error of judgment. *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983); *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971). The Academic Review Board's failure to adequately consider Cadet Doe's trauma, her measurable IOCT progress, and her exemplary record renders its decision arbitrary and capricious, as it lacks a rational basis and disregards critical evidence of her fitness to serve.

- Army Regulation 150-1, United States Military Academy Organization, Administration, and Operation: This regulation governs USMA operations, including cadet separation procedures. Chapter 6 grants the Superintendent discretion to separate cadets for failure to meet standards but allows consideration of mitigating factors, such as exceptional performance or extenuating circumstances. The Board's recommendation ignores Cadet Doe's trauma-related challenges and her demonstrated excellence, failing to exercise this discretion in a reasoned manner, contrary to the APA's requirement for "reasoned decisionmaking." *Dep't of Homeland Security v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1905 (2020).

- 10 U.S.C. § 2005, Service Academy Recoupment: This statute permits recoupment of educational costs or enlisted service for cadets who fail to complete their course of study, unless the Secretary of the Army (or delegated authority, such as the Superintendent) waives this requirement. Waivers are authorized when recoupment or enlisted service would be inequitable, particularly when failure stems from circumstances beyond the cadet's control, such as medical or psychological challenges. Critically, the Army does not deny medical treatment or mental health support to soldiers who sustain service-connected injuries, such as combat wounds or trauma; instead, it provides comprehensive care to ensure their recovery and continued service. Similarly, Cadet Doe's psychological trauma and medical complications from a service-related assault constitute injuries incurred in the line of duty. Penalizing her through recoupment for these injuries would be as inequitable as denying treatment to an injured soldier, contradicting the Army's commitment to supporting its personnel.

- Army Policy on Sexual Assault and Survivor Support: DoD Instruction 6495.02 and Army Regulation 600-20 emphasize support for sexual assault survivors, including accommodations to mitigate the impact of trauma on their service. The Board's recommendation to return Cadet

Doe to enlisted duty, where she was assaulted, violates these policies and constitutes an arbitrary disregard of her well-documented trauma.

5. Legal and Policy Considerations

The Academic Review Board's recommendation to disenroll Cadet Doe and return her to enlisted duty is arbitrary and capricious under the APA, as it fails to rationally connect the facts of her case – her trauma, medical complications, and exemplary record – to its decision. The Board disregarded critical factors, including her significant IOCT progress (reducing her time from 8:10 to 6:40 and mastering key obstacles), her ACFT success (476 score), and her academic and leadership achievements, which demonstrate her fitness to serve. This omission constitutes a clear error of judgment, as articulated in *Motor Vehicle Manufacturers Association*, where the Supreme Court held that an agency's failure to consider relevant factors renders its decision arbitrary and capricious. 463 U.S. at 43. Similarly, in *Citizens to Preserve Overton Park*, the Court emphasized that agency actions must be based on a thorough consideration of relevant evidence, which the Board failed to do by ignoring Cadet Doe's trauma-related barriers and progress. 401 U.S. at 416.

The IOCT, while a valuable assessment, is not the sole measure of a cadet's readiness to lead. Cadet Doe's ACFT performance, PE coursework, and physical improvements demonstrate her capability. Her inability to pass the IOCT stems from psychological trauma triggered by the test's environment, not a lack of effort or potential. Requiring repeated attempts at an event that engages her trauma does not meaningfully assess her suitability for commissioning and is an arbitrary standard in her case.

The recommendation to return Cadet Doe to enlisted duty is particularly egregious, as it disregards the fact that her assault occurred in that environment. This decision lacks a rational basis, as it risks re-traumatization and violates Army policies on survivor support, rendering it capricious and contrary to DoD Instruction 6495.02 and Army Regulation 600-20. Should disenrollment occur, requiring recoupment of educational costs would further compound this injustice. Under 10 U.S.C. § 2005, the Secretary of the Army may waive recoupment when it would be against equity and good conscience, such as when a cadet's failure is due to circumstances beyond their control, like medical or psychological barriers stemming from service-related trauma. The equitable recoupment doctrine, as established in *Bull v. United States*, 295 U.S. 247, 261 (1935), allows courts to limit recovery when it would be unjust, emphasizing fairness in light of the entire transaction. Just as the Army provides medical care and support to soldiers with service-connected injuries, waiving recoupment for Cadet Doe recognizes her trauma as a service-related injury, ensuring she is not punished for challenges incurred in the line of duty. Her trauma, medical complications, and exemplary record

provide compelling grounds for a waiver, as recoupment would penalize her for injuries sustained in service to the Army.

6. Request for Relief

On behalf of Cadet Jane Doe, we respectfully request the following:

- Retention at USMA and On-Time Graduation: Allow Cadet Doe to remain enrolled and graduate on time with the Class of 2025 in May 2025, recognizing her academic, military, and leadership achievements and her ongoing progress in overcoming trauma-related challenges.
- Waiver or Alternative Assessment: Consider a waiver of the IOCT requirement or an alternative evaluation of her physical fitness (e.g., her ACFT performance or PE coursework) to fulfill the graduation requirement, given the unique psychological barriers she faces.
- Rejection of Return to Enlisted Duty: Overturn the recommendation to return Cadet Doe to enlisted duty, acknowledging that such an outcome is unjust and cruel given her history of sexual assault in that environment and the associated risk of re-traumatization.
- Waiver of Recoupment: In the event that disenrollment is upheld, waive any requirement for recoupment of educational costs, pursuant to 10 U.S.C. § 2005, recognizing the unique circumstances of her trauma and her exemplary efforts to meet USMA standards despite significant personal challenges incurred during prior Army service.

7. Conclusion

Cadet Jane Doe was raped during her enlisted military service, an assault that has caused lasting psychological trauma and medical complications, including a high-grade cervical lesion requiring invasive procedures. Despite these profound challenges, she has excelled at USMA, demonstrating academic excellence, physical progress, and exceptional leadership. Her resilience and unwavering commitment to overcome trauma while achieving an exemplary record prove she will be an outstanding Army officer. The Academic Review Board's recommendation to disenroll her and return her to the enlisted environment where she was assaulted is arbitrary and capricious, lacking a rational basis and ignoring her trauma, progress, and qualifications, as prohibited by the APA, 5 U.S.C. § 706(2)(A). Imposing recoupment would further penalize her for trauma incurred in service. We urgently request that you retain Cadet Doe, allow her to graduate on time with the Class of 2025, reject the recommendation to return her to enlisted service, and waive any recoupment, enabling her to fulfill her mission to lead and serve as an exceptional officer.

R. Davis Younts, Esquire

On behalf of Cadet Jane Doe, Class of 2025, USCC Company I-3

Attachments (3):

1. Letter to Academic Review Board

2. Cadet Bio
3. IOCT Scores

DEPARTMENT OF THE ARMY
UNITED STATES MILITARY ACADEMY
West Point, New York 10996
MACC - 13
18 May 2025

MEMORANDUM THRU

Dr. Russ Lachance, Academic Affairs and Registrar Services, United States Military Academy, West Point, New York, 10996

FOR Brigadier General Shane Reeves, Dean of the Academic Board, United States Military Academy, West Point, New York, 10996

SUBJECT: Input to the Academic Board: CDT Jane Doe

1. Purpose: The purpose of this memorandum is to respectfully request that I be retained at the United States Military Academy with the opportunity to graduate with my class, despite not yet passing the Indoor Obstacle Course Test (IOCT). I am submitting this statement to provide context and personal circumstances surrounding my failure to meet this requirement.

I want to begin by taking full responsibility for the fact that I have not yet met this graduation requirement. Despite my sustained effort and measurable progress, I have not achieved the necessary standard, and I do not offer excuses—only context that I believe is important in understanding the nature of my struggle.

2. Background: While I was serving as an enlisted soldier, I was targeted by an NCO who deliberately undermined my physical performance, using it as justification to require me to complete remedial PT with him—alone, in a basement gym at night. These sessions focused heavily on upper body strength and pull-ups. During those sessions, in that setting, he raped me. The assault occurred during what was supposed to be structured physical training. As a result, gym environments and upper-body training became deeply tied to my trauma. Events like the IOCT not only challenge me physically but also force me into a mental state where I relive that loss of safety and control. I have struggled with the belief that my body cannot protect me, and that I am not safe inside it. While I have worked hard to reclaim that sense of security and strength, this type of test engages my trauma in ways I cannot always override through willpower alone.

My recovery process faced a significant setback last year when I learned that the HPV I contracted during that assault had developed into a high-grade cervical lesion. Over the course of five years, I underwent repeated exams and biopsies. Ultimately, I had to undergo a

procedure in the fall of this academic year to remove the lesion. I returned to school and resumed training, only to find out the procedure was unsuccessful. During spring break I had to return for further biopsies—each one deeply traumatic due to my history of sexual abuse.

3. Way Forward: I received a clean bill of health following spring break and have committed myself fully to improving both physically and mentally. I resumed IOCT training with focus and determination and have made tangible progress. I can now complete the wall and the monkey bars—obstacles that once felt impossible—and I can climb the rope even under fatigue and stress.

I have utilized Academy resources where appropriate, including meeting with the performance psychologist. Much of my growth, however, has come from consistent personal effort, reflection, and the conscious choice each day to confront my trauma rather than avoid it.

I believe firmly that my inability to pass the IOCT thus far does not diminish my ability to contribute meaningfully to the Army or to fulfill my personal goal of leading with strength and empathy. I came to West Point to serve—to improve the lives of soldiers—and I continue to carry that mission with clarity and urgency. I'm not defined by what happened to me, but by how I've chosen to move forward.

I hope the Academic Board will see in me a cadet who has demonstrated resilience, accountability, and the will to lead. I am committed to meeting the standards expected of a West Point graduate—but I ask for recognition that the obstacle I face in this final requirement is not one of effort or potential, but one rooted in trauma. I have made real, measurable progress and continue to improve. However, requiring repeated attempts at this specific event does not meaningfully reflect my fitness to serve. I respectfully request the opportunity to graduate with my class and carry forward my commitment to lead and serve in the Army.

JANE DOE
CDT CLASS 2025
USCC COMPANY I-3

Academic Accomplishments

- Chemical Engineering Major
- Cumulative GPA: 3.064 | Major GPA: 2.925
- Successfully completed 161.5 credit hours across an academically rigorous engineering program
- Overcame early academic challenges, including retaking Military Movement and Organic Chemistry, and demonstrated long-term academic resilience
- Strong performance in advanced technical and capstone courses:
 - CH402 (Process Design – Capstone): B+
 - CH365 (Chemical Engineering Thermodynamics): A-

- ME480 (Heat Transfer): B+
- PH489 (Advanced Independent Study in Physics): A+
- Presented research to the Army Futures Command Commander, who praised her work
- CH459 (Chemical Engineering Laboratory): B
- CH350 (Bioprocess Engineering): B+
- Completed elective courses beyond degree requirements in final semester
- Academic trajectory includes strong recovery after setbacks, consistent upward trend in technical coursework, and final term QPA of 3.399

Physical Readiness and Progress

- Passed ACFT on 4/8/2025 with a score of 476
- Notable improvement in 2-mile run from 26:50 (2021) to 22:12 (2025)
- High scores (88-98) in key strength and anaerobic events including HRP and SDC
- IOCT Attempts: 5 recorded
- Improved from 8:10 (4 obstacles failed) to 6:40 (2 obstacles failed)
- Persistent effort and measurable physical progress despite trauma-related limitations
- PE Coursework:
 - Passed Survival Swimming (A-), Combat Applications (B+), and Army Fitness Development (B+)
 - Recovered from initial Military Movement failure; passed on second attempt

Leadership and Military Service

- First-ever Cadet in Charge (CIC) of the Prior Service Forum at West Point
- Created a support structure for prior service cadets and led peer mentorship initiatives
- Company S1 (AY24) - Managed administrative responsibilities and cadet accountability
- Prior Enlisted Service as a Combat Medic (68W), Rank: Specialist (E-4)
- Participated in multiple NATO training exercises in Eastern Europe
- Earned two Army Achievement Medals
- Coined by the Supreme Allied Commander Europe for saving a soldier's life after a Bangalore mine training accident
- Mentorship and Advocacy: Outspoken advocate for cadet well-being; regularly supported prior service and female cadets with empathy, guidance, and experience-driven credibility

Character and Resilience

- Reported sexual assault and engaged in formal mental health support while maintaining academic and military performance
- Forced to undergo accelerated treatment for a high-grade cervical lesion after being told she was not commissionable unless medically cleared; the first procedure was unsuccessful, requiring additional

biopsies during the academic year

- Maintained academic, military, and physical training progress while navigating significant medical and psychological challenges
- Demonstrates humility, accountability, and exceptional moral courage
- Known for being outspoken, principled, and deeply committed to duty, advocacy, and service

IOCT Scores

TEST	DATE	TIME	PTS	TOTAL	GRADE	REMARKS
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SECOND CLASS IOCT	02/21/2024	8.10	350.00	350.00	F	Ladder, Shelf, Wall, Rope
FIRST CLASS IOCT	11/20/2024	7.19	350.00	350.00	F	Shelf, Ladder, Rope
FIRST CLASS IOCT	01/29/2025	7.51	350.00	350.00	F	Shelf, Wall, Ladder, Rope
FIRST CLASS IOCT	02/19/2025	7.36	350.00	350.00	F	Ladder, Rope, Shelf
FIRST CLASS IOCT	04/02/2025	6.40	378.00	378.00	F	Shelf, Rope