

## CHAPTER 5, USCC Regulation 351-2

### Chapter 5 CONDUCT STATUS AND INVESTIGATION

**501. General.** A cadet's standing in conduct is either proficient or deficient. A cadet may not graduate unless proficient in conduct as determined by the Commandant. A cadet deficient in conduct may be placed in a remediation approved by the Brigade Tactical Officer or Commandant. A deficient cadet may, following a conduct investigation, be subject to separation or other sanctions imposed by the Superintendent under Regulations for the U.S. Military Academy. The determination of whether a cadet is proficient or deficient in conduct is a command responsibility. Unless otherwise informed by their chain of command, cadets are considered proficient in conduct.

#### **502. Conduct Review.**

a. General. A conduct review is a formal process for reviewing a cadet's performance record. This review is mandatory when certain conditions occur in a cadet's conduct record, and before any change is made to a cadet's conduct standing. The Conduct Review becomes part of the cadet's TAC file.

b. Documents. The Conduct Review packet contains the following documents:

(1) Memorandums from the cadet company COC. (If out of company, the appropriate cadet commander). The memorandums will state a recommendation for conduct status in terms of changing or maintaining the cadet's current standing, and if the cadet should be retained or referred to a CI for action at the Com or Superintendent level.

(2) Documentation of a cadet's conduct that supports the COC recommendations. (e.g. Observation Reports, CPRs, CRBs, SLDP, Letters of Reprimand)

(3) Backside CRB. Recommendations of the company and Regimental TACs will state recommended conduct status as either **Proficient** or **Deficient**. If the recommended conduct status is Deficient in Conduct, the recommendation will also state either **Retain** or **Refer to CI**. A CI is necessary for action at the Com or Superintendent level.

(4) Demerit Review. A copy of the cadet's demerit-review from the Automated Discipline System will be included.

(5) A copy of each Article 10 and/or Regimental Board packet that is the basis for the Review.

c. When required. A cadet's chain of command will conduct a conduct review when conditions occur as specified in para 504 or as determined by the chain of command.

d. The Brigade Tactical Officer will make the final determination of a cadet's conduct standing and disposition on all Conduct Reviews when recommending retention. For recommendations of Deficient-in-Conduct/Refer to CI, the Brigade Tactical Officer may declare a cadet deficient in conduct and refer the cadet to a Conduct Investigation.

#### **503. Determining a Cadet Proficient in Conduct.**

a. General. A cadet is proficient in conduct as long as that cadet continues to meet the standards of conduct expected of members of the Corps of Cadets. Cadets begin their cadet careers proficient in conduct. A cadet may be punished under Article 10, Cadet Disciplinary Code, or Regs USMA and remain proficient in conduct. A cadet may regain a status of proficient in conduct after successful remediation of a deficient status. A cadet must be proficient in conduct, as determined by the chain of command, to graduate. The Commandant, or his designee, may determine a cadet's proficiency.

b. Status of Readmitted Cadets. Cadets readmitted to the Military Academy subsequent to separation, resignation, suspension, or completion of an approved sabbatical will be classified as proficient in conduct. Previous disciplinary actions and performance records remain on cadets' records throughout their cadet careers, to include readmitted cadets. The previous disciplinary actions and performance records may be a basis for

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subsequently identifying the cadet as deficient in conduct.

### **504. Determining a Cadet Deficient in Conduct.**

a. General. The Regimental Tactical Officer recommends, the Brigade Tactical Officer approves, and the Commandant reviews the decision that a cadet is deficient in conduct. The Brigade Tactical Officer or any superior commander may also place a cadet in a deficient in conduct status. A cadet is deficient in conduct when notified of this status in writing by their commander. The Brigade Tactical Officer makes the decision, based on recommendations from the chain of command, on what option to take for a cadet deficient in conduct.

b. Basis for Determining a Cadet is Deficient in Conduct. When a commander determines a cadet is deficient in conduct, it is an administrative determination incident to command. It is a decision that the cadet's conduct is a substantial departure from the standards of conduct expected of members of the Corps of Cadets. Cadets may be placed in a deficient in conduct status when one or more of the following occurs.

(1) A violation of the terms of Conduct Probation.

(2) Those demerits awarded in a six-month demerit with tour period in which a cadet exceeded his or her demerit with tours allowance.

(3) Two alcohol policy violations.

(4) Three Field Grad Article 10 actions of 35 demerits.

c. Brigade Tactical Officer Options for Handling Cadet Deficient in Conduct. The Brigade Tactical Officer may personally take action, or direct a subordinate commander, to notify a cadet that he or she is deficient in conduct, counsel them, and provided a tailored program to remediate their deficient in conduct status. Or, if efforts at remediation are not considered appropriate, the Brigade Tactical Officer may forward a recommendation to the Commandant to convene a Conduct Investigation (CI) to review the deficient conduct and recommend a disposition to the chain of command. If the Brigade Tactical Officer chooses to give the cadet an opportunity for remediation, without the finding of a Conduct Investigation, the Company Tactical Officer and Regimental Tactical Officer will supervise the remediation program. Only a CI, convened by the Commandant, can investigate a cadet who is deficient in conduct, and is required for separation actions IAW USCC Regulation 351-1.

d. Remediation of Cadets Deficient in Conduct. Cadets deficient in conduct will be notified in writing, counseled, and provided a tailored program to remediate their deficient status by their Tactical Officer. The remediation program focuses on the deficiency, but may also include loss or reduction of privileges to facilitate the remediation. Loss or reduction of privileges is approved by the commander who approved the deficient status. Normally, the remediation period will cover one semester, but it can be longer or shorter. The commander who approved the deficient status, or a senior commander, are the commanders who may remove the status and determine a cadet is again proficient in conduct. Tactical officers will conduct a written, monthly review of all remediation programs for deficient-in-conduct cases within their company. This review will be filed in the cadet's local counseling file, and be available for higher level review.

**505. Commandant's Authority to Impose Conduct Probation in Lieu of a Conduct Investigation.** Conduct probation may be directed by the Commandant in lieu of referring a cadet to a Conduct Investigation based upon the recommendations of the chain of command. If a cadet violates the terms of the Conduct Probation directed by the Commandant, a CI will be convened to investigate the violation and provide a recommended disposition to the chain of command.

### **506. Notification of Deficient in Conduct Status and Convening a Conduct Investigation (CI).**

a. The Brigade Tactical Officer will notify cadets in writing of the determination that the cadet is deficient in conduct. The decision will be made based on a review of the cadet's TAC file, Cadet Record Brief (CRB), and recommendations of the chain of command. The Brigade Tactical Officer's decision is not subject to appeal, but it must be investigated by a CI if the cadet is to be recommended for separation from the Academy or subjected to

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other less serious sanctions by the Superintendent under Regs USMA. If a CI is convened, all matters reviewed by the Brigade Tactical Officer become part of the CI file.

b. Flagging. Cadets deficient in conduct will be flagged and lose privileges as determined by the chain of command.

c. Actions by the Brigade Tactical Officer and Commandant Concerning Convening a CI. After determining a cadet is deficient in conduct, the Brigade Tactical Officer or Commandant may convene a CI. Convening a CI is required if recommending separation action by the Superintendent.

**507. Purpose and Procedures in a Conduct Investigation.** The purpose of a Conduct Investigation is to investigate the cadet's deficiency in conduct. The findings of the Investigating Officer will confirm the deficient in conduct status (or declare the cadet proficient) and recommend a disposition of the cadet under investigation should be. The rationale for the finding will be included. The officer appointed by the Commandant to hold a Conduct Investigation will follow the procedures contained in USCC Pamphlet 351-1.

**508. Notification of the Cadet of a Conduct Investigation.** The Regulations and Discipline Officer, on behalf of the officer appointed to conduct the CI, will notify the cadet by memorandum through the tactical chain of command of the CI following the procedures in USCC Regulation 351-1. The notification will include a copy of all documents to be presented at the Conduct Investigation, the rights of the cadet, and the date for the investigation. The tactical officer will require the cadet to review the notification memorandum and its enclosures and acknowledge receipt through an endorsement. Additionally, the TAC will explain the conduct investigation and subsequent review process and will advise the cadet to notify his or her parents of the pending Conduct Investigation. The TAC will forward the cadet's acknowledgment to the Regulations and Discipline Office, USCC. The cadet will be afforded at least five working days after formal notification to prepare for the Conduct Investigation.

**509. Commandant Action Following a Conduct Investigation.** The Commandant's options are as follows:

a. Cadets Found Proficient (Not Deficient) in Conduct at a CI. The Commandant will review the findings of the Investigating Officer, the entire record of the CI, and notify the cadet in writing of their status.

b. Cadets Found Deficient in Conduct at a CI. The Commandant may place a cadet on conduct probation or he may forward a report of the CI with a recommendation to the Superintendent for action. Following a CI, the Superintendent may direct retention (with or without probation), direct transfer to a lower class, direct suspension from USMA, direct suspended separation or recommend separation of the cadet to HQDA. If the Superintendent determines to recommend separation, he or she may immediately, or at any time prior to the HQDA action on the case, suspend the cadet from the Academy.

**510. Conduct Probation Imposed by the Commandant or Superintendent.** After a CI, the Commandant may impose Conduct probation as an alternative to forwarding the case to the Superintendent for action. The Commandant will notify a cadet he places on conduct probation of its terms and length. Probation may be for any period of time. A remediation program is required for cadets on conduct probation, because a cadet must regain a proficient in conduct status to graduate. If a cadet on conduct probation, follow a CI, violates terms of the probation imposed by the Commandant, the Commandant may immediately recommend action by the Superintendent; a second CI is not required, as the cadet has already been investigated for being deficient in conduct. The Superintendent may also direct conduct probation in lieu of approving a recommendation for suspension or separation following his review of a CI forwarded by the Commandant. The Commandant will normally place a cadet on conduct probation only once during the cadet's career. The Superintendent or Secretary of the Army may direct subsequent conduct probation. In rare cases, where unusual mitigating circumstances so dictate, subsequent conduct probation may be recommended by the Commandant and authorized by the Superintendent.

**511. Terms of Conduct Probation.** Terms of probation for cadets will include successful completion of a remediation program and stipulations against future acts of misbehavior (i.e. subsequent receipt of punishment as a result of company/field grade Article 10, punishment under Regs USMA for misconduct, or a continued pattern of

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minor misbehavior or lack of discipline). The length of Conduct Probation is at the discretion of the imposing commander. The goal of Conduct Probation is to remediate the cadet into a proficient conduct status, a status required to graduate. Successful completion of Conduct Probation will result in the cadet being proficient in conduct. The approving authority will notify cadets in writing that they are on probation, the specific terms, remediation objectives, and sanctions. Tactical officers will conduct a monthly written review of the cadet's progress in the remediation program for the duration of the conduct probation. This review will be filed in the cadet's local counseling file, and be available for higher level review.

**512. Loss of Privileges.** Cadet privileges will be determined by the chain of command. The loss of privileges may be imposed in conjunction with the Tactical Officer's flagging of the cadet pending action or for a subsequent period of Conduct Probation

### **513. Other Actions by the Superintendent for Cadets found Deficient in Conduct at a CI.**

a. Suspension from USMA. Suspension is an alternative to separation for deficiency in conduct. Its purpose is to permit a deficient cadet with an otherwise extraordinarily good record to examine his or her commitment to the Military Academy and to the Army, and to allow that cadet to mature sufficiently to meet the standards of conduct should the commitment be reaffirmed. The Superintendent may direct suspension in lieu of forwarding a case to HQDA with a recommendation for separation, or the Secretary of the Army may direct suspension in lieu of separation. The period of suspension is usually 1 year or less.

(1) When suspension is directed, the cadet will out-process and depart immediately without regard to term-end examinations or military training programs unless otherwise directed. A cadet who is suspended from the Military Academy is not authorized privileges or pass. Upon completion of out processing, the cadet is not authorized access to those areas of West Point designated as cadet only or those areas closed to the general public until she or he has served the period of suspension and has returned for duty.

(2) A suspended cadet normally will be transferred to the next lower class year or December graduation category as appropriate upon their return. A suspended cadet is not separated and is not required to seek another nomination or otherwise formally apply for re-admission. Upon a suspended cadet's return to USMA, he or she will be considered proficient in conduct. See paragraph a conduct standing from the regulations and discipline office. See paragraph 2301d.

b. Suspended Separation. Suspended separation is an alternative to suspension or separation in that it permits the cadet to continue at the Military Academy. The period of suspended separation is normally until the cadet's graduation, but may be shorter. The terms of suspended separation require a cadet to demonstrate exemplary performance during the period of the suspended separation. A cadet who demonstrates such exemplary performance for the period of the suspended separation will, by definition, be proficient in conduct at the end of the period of suspended separation. Exemplary performance is defined as behavior in keeping with the highest standards of order and discipline, and it includes successfully completing appropriate remediation programs supervised by the chain of command. Specific requirements will normally be delineated by the Superintendent when the sanction of suspended separation is imposed. Monthly evaluations of the cadet's progress may be used to determine whether exemplary performance has been demonstrated or not. The terms of suspension have been violated if the cadet fails to meet the requirements outlined by the Superintendent. Should a cadet not perform in an exemplary manner, the Superintendent may forward the recommendation for separation to Headquarters, Department of the Army. The Superintendent can place a cadet on suspended separation. Turn back to the next lower class may be appropriate when the period of suspended separation would take a first class cadet beyond his or her normal graduation date. Loss of privileges for a cadet on suspended separation will be as determined by the Commandant or his designee.

c. Turn Back. If a cadet is deficient in conduct, the Superintendent may direct that the cadet be turned back to the next lower class. The cadet remains deficient in conduct, but is provided by being turned back, additional time to meet the standards of conduct by completing a remediation program supervised by the chain of command. This action may or may not be taken in conjunction with suspension from the Military Academy.

d. Separation. The Superintendent may recommend to HQDA that a cadet deficient in conduct be separated from the Academy when it is in the best interests of the Academy and Army to do so. Only the Secretary of the

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Army may direct separation. When the Superintendent recommends a cadet be separated, he or she may also direct that the cadet be immediately suspended from the Military Academy pending the final decision of the Secretary of the Army. The cadet will immediately out-process without regard to term-end examinations or military programs unless otherwise directed. A cadet who is suspended from the Military Academy is not authorized privileges or pass. Upon completion of out-processing, the cadet is not authorized access to those areas of West Point designated as Cadet Only or those areas closed to the general public.

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**TABLE 5-1**

**Demerit Allowance Table**

| <b><u>Fourth Class Year</u></b>                     |                |                |                |                |                |
|---|----------------|----------------|----------------|----------------|----------------|
| <b>Aug-Jan</b>                                      | <b>Sep-Feb</b> | <b>Oct-Mar</b> | <b>Nov-Apr</b> | <b>Dec-May</b> | <b>Jan-Jun</b> |
| 144   | 144            | 144            | 144            | 144            | 144            |
| <b><u>Transition from Fourth to Third Class</u></b> |                |                |                |                |                |
| <b>Feb-Jul</b>                                      | <b>Mar-Aug</b> | <b>Apr-Sep</b> | <b>May-Oct</b> | <b>Jun-Nov</b> | <b>Jul-Dec</b> |
| 138   | 132            | 126            | 120            | 114            | 108            |
| <b><u>Third Class Year</u></b>                      |                |                |                |                |                |
| <b>Aug-Jan</b>                                      | <b>Sep-Feb</b> | <b>Oct-Mar</b> | <b>Nov-Apr</b> | <b>Dec-May</b> | <b>Jan-Jun</b> |
| 108   | 108            | 108            | 108            | 108            | 108            |
| <b><u>Transition from Third to Second Class</u></b> |                |                |                |                |                |
| <b>Feb-Jul</b>                                      | <b>Mar-Aug</b> | <b>Apr-Sep</b> | <b>May-Oct</b> | <b>Jun-Nov</b> | <b>Jul-Dec</b> |
| 105   | 102            | 99             | 96             | 93             | 90             |
| <b><u>Second Class Year</u></b>                     |                |                |                |                |                |
| <b>Aug-Jan</b>                                      | <b>Sep-Feb</b> | <b>Oct-Mar</b> | <b>Nov-Apr</b> | <b>Dec-May</b> | <b>Jan-Jun</b> |
| 90  | 90             | 90             | 90             | 90             | 90             |
| <b><u>Transition from Second to First Class</u></b> |                |                |                |                |                |
| <b>Feb-Jul</b>                                      | <b>Mar-Aug</b> | <b>Apr-Sep</b> | <b>May-Oct</b> | <b>Jun-Nov</b> | <b>Jul-Dec</b> |
| 87  | 84             | 81             | 78             | 75             | 72             |
| <b><u>First Class Year</u></b>                      |                |                |                |                |                |
| <b>Aug-Jan</b>                                      | <b>Sep-Feb</b> | <b>Oct-Mar</b> | <b>Nov-Apr</b> | <b>Dec-May</b> | <b>Jan-Jun</b> |
| 72  | 72             | 72             | 72             | 72             | 72             |

Note: (a) Fourthclass cadets enter the demerit system on the day after they arrive in their letter companies during Reorganization Week.

(b) Demerits received by New Cadets during Cadet Basic Training do not count against these allowances.

(c) Periods of summer leave are included in the demerit periods and allowances for all classes.

(d) The Jan-Jun allowance for Firstclass cadets is computed as if Jun were a full duty month.

(e) Each period runs from the first calendar day of the first month shown through the last calendar day of the last month shown.