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The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
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Washington, D.C. 20590

DOT-MARAD sexual assault response strategy ‘dangerously off course’

Secretary Foxx,

According to an August 11 report in The Washington Post, the U.S. Merchant Marine Academy in Kings Point, NY, has “the highest rate of sexual assault and harassment of any U.S. military school.”

While Post reporter Lisa Rein noted a record of only one case of sexual assault at the academy in the 2014-2015 academic year, she cited federal government “student surveys” a year earlier that found “63 percent of women and 11 percent of men” at Kings Point “experienced unwanted advances or other sexual harassment,” and 17 percent of women and 2 percent of men endured some kind of sexual assault, defined as unwanted contact, from groping to rape.

This summer, reports in New York Newsday and other media outlets said sexual misconduct and unrelated administrative deficiencies had combined to put the academy’s academic accreditation at risk.

This broad media coverage — which did not examine the immediate and potential industry-wide consequences of this developing issue — focused solely on the initial effort by the U.S. Department of Transportation and its Maritime Administration to address it. The fact is that the situation at Kings Point threatens not only this vital institution, but also the privately owned and operated U.S. merchant fleet, the jobs this fleet provides in diverse commercial markets coast-to-coast and worldwide, the ability to crew the U.S.-flag ships the U.S. Department of Defense relies on primarily for strategic sealift service in national security emergencies, and the morale of the U.S. seagoing labor force.

The undersigned labor organizations — representing several thousand seagoing professionals, including many Kings Point graduates — recognize the urgent need to shield U.S. Merchant Marine Academy midshipmen from sexual assault, abuse and harassment in all its forms. However, we object strongly but sensibly to the official strategy in place at this point — and to the rationale behind it.

At the direction of Transportation Secretary Anthony Foxx, MARAD on June 16 suspended the traditional “Sea Year,” when USMMA midshipmen are in training aboard working U.S. merchant vessels. A June 17 report in Fairplay Weekly pointed out up front that “no specific incident” had “prompted the extraordinary action” by MARAD and DOT.

Sea Year suspension, which we see as dangerously off course, was lifted July 8 for Military Sealift Command and MARAD vessels and for two training ships — but not for commercial tonnage.

In public statements circulating since June, DOT and MARAD suggest strongly that the real problem is not at Kings Point, but at sea. The official story line is that Kings Point midshipmen are more vulnerable to sexual assault and harassment while working aboard ship alongside career commercial mariners than they are on campus. The recurring theme is that sexual misconduct is endemic to the U.S. shipping industry and its labor force. DOT and MARAD see no threat to midshipmen assigned to government vessels.

“Some of the behavior at sea carries over to the New York campus,” Maritime Administrator Paul “Chip” Jaenichen told the Post in support of his agency’s alarmist approach. Midshipmen, he added, return from Sea Year with “a new bias that shifted their thought process to sexist behavior.”

Such assertions — and the unwarranted distinction drawn for government ships — defy the grim but powerful point made by The Washington Post — that the rate of sexual assault and harassment at the U.S. Merchant Marine Academy exceeds that of all other federal service academies.

Why, then, is the nearly exclusive focus of DOT and MARAD on the U.S. commercial fleet and private sector American merchant mariners, instead of on the academy itself?

It appears that DOT and MARAD want to use the highly questionable premise of a hostile work environment at sea in the commercial fleet to divert attention from flawed, nearly failed management at USMMA — the accrediting Middle States Commission on Higher Education had warned USMMA Superintendent James Hellis of “insufficient evidence that the institution is in compliance” with several MSCHE standards, including “leadership and governance” and “student support services.” MSCHE said the academy “remains accredited while on warning.”

DOT and MARAD may also find it easier and more politically and publicly expedient to assert fault where none exists.

No matter what the DOT-MARAD objective here, we are offended by the illogical, indefensible notion that inappropriate, even unlawful sexual behavior is rampant in the commercial U.S. merchant fleet. We see this as a class action affront to all American merchant mariners, regardless of where they work.

Do DOT and MARAD have specific data and empirical evidence to support their belief that merchant mariners on commercial ships pose direct physical or psychological threats to Kings Point midshipmen while mariners on government vessels do not? If so, they ought to make such data and evidence available to U.S. merchant vessel operating and management companies and to seagoing unions in the interests of credibility and consensus.

Isolated cases of sexual assault, abuse and harassment at sea have been reported over the years, but there is no indication of an existing or developing trend toward improper or unlawful personal behavior aboard ship under the American flag. There is no compelling, conclusive proof that sexual predators lurk in large number in the commercial U.S. merchant fleet.

One principal fact of life at sea in the U.S. merchant fleet in all trades is that, unlike people with jobs ashore, American merchant mariners live where they work for months at a time. They tend quickly to see each other as family, and their day-to-day personal behavior typically reflects family values at their strongest.

This truth holds whether these mariners work in commercial markets or in government service, but it is most evident in the commercial sector, where complements are small and quarters are close — and where each officer and crewmember is alert to the harmful fallout of improper behavior and determined to prevent it.

As we all know, ours is a very small world in which there are no secrets. If sexual misconduct were on the rise in the U.S. merchant fleet, there would be much more scuttlebutt about it filtering through union halls and company offices, and the topic would surface prominently in internet chat rooms and in social media, where allegations can be made anonymously and without documentation, and where anecdotes can be presented freely — and without attribution — as hard news.

Our unions have tracked only a handful of cases of sexual harassment, most of which occurred more than a generation ago. Each time, the proven perpetrator was expelled from our ranks or disciplined severely.

Moreover, we as unions endorse company-driven proposals to ease reporting of sexual assault, abuse and harassment by victims, and to support these victims.

But our objections to Sea Year suspension are not limited to the unfair, broad-brush official justification for this unprecedented, unnecessary action. Suspension undermines the academy's mission — to help sustain a licensed civilian seagoing labor force to provide increasingly important U.S. economic and defense services.

Left standing for too long, this Sea Year “stand-down” could delay Kings Point commencement, add pointlessly to the time required for midshipmen to qualify for original license exams administered by the U.S. Coast Guard, and hasten lost accreditation.

Prolonged suspension applied to commercial ships could also encourage skilled, dedicated and loyal young men and women to seek careers ashore, where they would be forever out of reach to MARAD, MSC and U.S. Transportation Command in national security emergencies. It could also compromise industry-labor recruiting, not only from USMMA, but also from the six state-operated maritime academies.

In addition, extended Sea Year suspension and the broadly stroked condemnation of U.S. merchant mariners by DOT and MARAD could complicate current Congressional efforts to secure sufficient funding of the Maritime Security Program in fiscal 2017 and thwart effective defense of the Jones Act — the cumulative damage such setbacks would cause to our nation’s strategic sealift capabilities in defense emergencies and to its economic and homeland security could be irreparable.

By September 1, DOT and MARAD were warning publicly that the Sea Year suspension could stretch indefinitely. MARAD personnel in recent weeks confirmed in direct conversation that the suspension is projected to remain in place at least through December.

In our view, a far more certain, far more practical and productive approach would be placement of Kings Point midshipmen on commercial vessels within the next 60 days. Word is out industry-wide. The rare individual otherwise inclined to what DOT defines as “bullying, coercion, sexual harassment and assault” knows what is at stake personally and what is in jeopardy professionally and is therefore much more likely to curb impulse and apply self-discipline — the publicity alone may be enough to prevent a real crisis.

“Over the next few months, we will have independent outside experts experienced in assessing institutional and organizational culture examine all such aspects within the USMMA, both on campus and at sea, in an attempt to identify root causes and their impacts to the academy culture and offer possible short term and long term corrective actions to address these issues,” DOT said in a statement August 22. “This assessment will delay the resumption of Sea Year on commercial vessels for a number of months.”

In this specific context, the 60-day Sea Year suspension cap we propose must be coupled with a firm commitment by MARAD and DOT to include experienced private sector U.S. merchant mariners — at least one captain and one chief engineer, each with a minimum of 10 years of commercial sea service in the last 12 years — on the team of “independent outside experts.” These mariners would bring expertise to the table, a real-world understanding of conditions USMMA midshipmen experience at sea and the importance of direct training aboard U.S.-flag commercial vessels.

Our critical but constructive comments and policy recommendations notwithstanding, our unions have cooperated fully with MARAD as the point agency on this issue since it developed in June 2016, and we want only to contribute honestly to the conversation.

Moreover, we as unions have no tolerance for sexual misconduct in any form — rape or other forcible criminal contact, intimidation, promised or implied job security in exchange for sexual favors, unwanted advances, lewd jokes, comments and innuendo are unacceptable at sea and at the U.S. Merchant Marine Academy. There can be no exceptions. There can be no excuses.

One case of sexual assault, abuse or harassment is one case too many. Proven offenders are due neither sympathy nor support from their unions as they contend with the consequences of their actions — lost jobs, lost licenses and Merchant Mariner Credentials, civil lawsuits, failed marriages and broken families and potential criminal charges and penalties.

Beyond the individual personal impact of unlawful or improper sexual behavior, even the perception of widespread abuse — such as that fed by suspension of Sea Year with respect to commercial ships — could cause U.S. merchant vessel operating companies to lose Military Sealift Command and Maritime Administration contracts and labor to lose the jobs these contracts provide. It could also inspire powerful figures arguing that the U.S. can do without its own merchant fleet to question the character — and therefore the value — of the American merchant mariner. Equally important, the perception promoted by DOT and MARAD could cause influential interests to view the U.S. Merchant Marine Academy as expendable.

Now is the time for all interests to sit back, draw deep breaths, and address this issue reasonably and realistically, to pursue the fundamental truth at the core of this discussion as expressed succinctly by a Kings Point parents' association representative in Rein's Washington Post article: "All our midshipmen need to sail on commercial ships."

Thank you for your time and attention.

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