

DRAFT – NOT FINAL

**EVERY MARINER BUILDS A RESPECTFUL CULTURE
(EMBARC)**

**> SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH) PREVENTION <
MANDATORY ELIGIBILITY STANDARDS**

FOR VESSEL OPERATOR PARTICIPATION IN THE USMMA SEAYEAR PROGRAM

[AND CADET EMBARKATIONS FROM MAINE MARITIME ACADEMY,
MASSACHUSETTS MARITIME ACADEMY, SUNY MARITIME COLLEGE, GREAT
LAKES MARITIME ACADEMY, CALIFORNIA STATE UNIVERSITY MARITIME
ACADEMY, and TEXAS A&M MARITIME]

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VISION STATEMENT: Every mariner deserves to work in a safe and inclusive environment where everyone is welcome and supported, and their dignity is fully respected.

Purpose

The United States Merchant Marine Academy (USMMA), Maine Maritime Academy, Massachusetts Maritime Academy, SUNY Maritime College, Great Lakes Maritime Academy, California State University Maritime, and Texas A&M Maritime (collectively, the “Academies”) seeks to educate and graduate leaders of exemplary character who are inspired to serve the national security, marine transportation, and economic needs of the United States. Realizing those goals depends on fostering a community of mutual respect, support, and accountability that is free from harassment, intimidation, and violence. Accordingly, the U.S. Department of Transportation, the Maritime Administration (MARAD), and the Academies direct all U.S.-flag vessels to adopt and enter into an agreement regarding the following Every Mariner Builds a Respectful Culture (EMBARC) Sexual Assault and Sexual Harassment (SASH) Prevention Mandatory Standards (EMBARC Standards), which are a set of policies, programs, and practices to help prevent and support appropriate responses to incidents of sexual violence and sexual harassment and other forms of misconduct outlined herein before embarking any cadet from any of the Academies.

EMBARC applied to all state schools at the time of this December 7, 2021 draft

These EMBARC Standards replace and also expand upon the earlier commitments made by vessel operators to comply with sea-year eligibility requirements previously established by MARAD’s Shipboard Climate Compliance Team (SCCT) incident to their employment of USMMA students as cadets aboard their vessels.

The standards set forth below apply to vessels to which the International Convention for Safety of Life at Sea 1974 applies. MARAD and the Academies will amend the EMBARC Standards

as soon as practicable to include Standards that apply the principles and equivalent procedures of EMBARC to vessels for which the International Convention for the Safety of Life at Sea 1974 does not apply.

As the Academies educate and train the next generation of leaders, they are committed to ensuring that all members of the U.S merchant marine learn and work in environments built upon respect, mutual support, accountability, and fairness in which there is zero tolerance for sexual harassment and sexual violence.

DOT, MARAD, and the Academies are committed to ongoing evaluation and improvement of these standards to incorporate emerging best practices and will engage closely and regularly with cadets from the Academies to assess implementation and discuss options to further strengthen the EMBARC program.

I. Core Tenets

The EMBARC Standards outline policies and procedures that serve to prevent, respond to, and redress incidents of SASH and foster a safe and supportive environment. The following Core Tenets frame the EMBARC Standards and timelines outlined in further detail below, which call on U.S.-flag shipping companies as well as educational institutions, labor, and mariners to:

1. Build and maintain a shipboard culture of inclusion and respect.
2. Establish *zero tolerance* policies for SASH, harassment, and hostile work environment, as well as *zero tolerance* for retaliation against anyone who reports assault or harassment.
3. Eliminate barriers survivors and witnesses/bystanders face in reporting SASH incidents.
4. Support survivors and witnesses/bystanders who report SASH incidents.
5. Promptly address any report of behavior that is inconsistent with EMBARC Standards, using every available resource.
6. Review all company and vessel policies and procedures to ensure that they fully support a work environment in which assault and harassment in any form—and retaliation against those who report assault or harassment—are not tolerated.
7. Implement SASH practices best practices and commit to adopting updates as these are promulgated by MARAD.¹
8. Incorporate SASH prevention, response, and reporting procedures into the Company and Vessel Safety Management Systems.

¹ Current best practices may be found at: [Best Practices Guide on Prevention of Sexual Harassment & Sexual Assault in the U.S. Merchant Marine](#) (SOCP BPG); Ship Operations Cooperative Program (SOCP), June 2017.

II. Compliance with EMBARC Standards for Sea Year Eligibility

1. Each Vessel Operator agrees to comply with the EMBARC Standards, which replace the SCCT Sea Year Eligibility Requirements (dated March 16, 2020), by certifying completion of all immediate actions set forth in Section IV below on the EMBARC enrollment form and submitting the form to each Academy whose cadets the Operator embarks. Vessel operators shall submit copies of their SASH policies together with the enrollment form.
2. Each Vessel Operator agrees to conduct self-audits of its compliance with the EMBARC Standards annually thereafter and to submit the results of all self-audits to those Academies whose students the Operator embarks. Vessel Operators shall submit copies of their SASH policies together with audit results.
3. Each Vessel Operator agrees to permit the Maritime Administration and the Academies—including third parties hired by the Maritime Administration or any of the Academies independently or jointly—to conduct intermittent or recurring audits of its compliance with the EMBARC Standards.

III. Immediate Actions by each Vessel Operator

Before accepting cadets on board, each operator shall take the following actions:

1. Affirm that SASH reporting policies and procedures that ensure compliance with the Standards of the EMBARC program will be incorporated into their safety management system (SMS) within 45 days of enrollment in EMBARC.
2. Designate a person ashore who will be the primary contact for all SASH issues (SASH contact). Within 90 days of enrollment in EMBARC, the designated contact must have completed the free 40-hour [Victim Assistance Training Online](#) provided by the Office for Victims of Crime Training & Technical Assistance Center and attain the National Advocate Credentialing Program provisional level certification (<https://www.thenacp.org/>) or an equivalent training program.
 - a. Confirm that cadets have had either a virtual or in-person meeting with the designated SASH contact before joining a ship. If there is inadequate time between a cadet's assignment to a vessel and the cadet's embarkation, the SASH contact shall make contact with the cadet within 48 hours of the cadet's embarkation via the cadet's satellite phone (if cadets are equipped with these devices).
 - b. Implement measures to ensure SASH contacts and cadets are able to communicate as needed once a cadet is on board, including confirmation that the SASH contact has initiated contact with each assigned cadet within the first 7 days of vessel onboarding if the cadet has not already reached out.
 - c. Ensure that the SASH contact maintains regular (at least every 14 days) check-ins with assigned cadets.

- i. The SASH contact shall monitor for any violations of the SASH prevention policies and procedures, make a record of any possible violations, and ensure corrective action.
- ii. The SASH contact should encourage and honor requests from cadets for increased frequency of check-ins.

3. Safety practices.

Reinforce safety practices (including SASH prevention, reporting procedures, and alcohol prohibitions) frequently with every cadet and crew member through on board or virtual meetings in accordance with existing company procedures and ensure that all crew and cadets know reporting procedures.

4. Crew-Cadet Interaction.

Adopt policies that prohibit cadets from being present in the stateroom of any other crew member; prohibit ship's crew members from being present in cadets' private staterooms for any reason other than official maintenance or housekeeping duties; and provide safeguards, including functional door locks, for all cadet staterooms. Vessel Operator SASH policies shall include a list of all master key holders with access to cadet staterooms identified by position. Vessel Operator policies shall also establish and maintain open-door office or workspace interaction between cadets and other ship's employees.

5. Vessel Operator training requirements.

- a. Safety Management Systems shall establish quarterly training requirements on SASH prevention, reporting, and response procedures for all shipboard personnel, whether or not cadets are on board. Cadets shall attend, but shall not have any role in conducting, this training.
- b. All officers and crew shall be required to complete the *Maritime Sexual Assault and Sexual Harassment Prevention Training* before a cadet is embarked and to repeat the training annually.²
- c. Incorporate SASH discussions in periodic Vessel Safety Meetings using materials similar to those in the Facilitator's Guide and Student Workbook in the [SOCP SASH Tool Kit](#).
- d. Provide copies of SASH prevention policies and reporting procedures in every stateroom.
- e. Display company policies prohibiting SASH, drug and alcohol usage, and fraternization in common areas on board.

² This interactive Cognitive Behavioral Training (CBT) is available at no charge from SOCP.

- f. Display posters and guides that support a respectful and inclusive workplace culture. Display SASH prevention, reporting, and response posters prominently in all common areas of the vessel. Vessel Operators shall also display such posters in shoreside facilities to which cadets have access.
 - g. Distribute the quick reference guide brochures in the [SOCP SASH Tool Kit](#) or other comparable materials to all crew, officers, cadets, and all shore-based personnel who interact with or have responsibilities related to officers, crew and cadets. Zero tolerance techniques and tips for prevention of and response to SASH behaviors shall be provided as appropriate for each different intended audience.
 - i. Vessel Operators agree to reinforce training; specifically,
 - i. Require Vessel Masters to introduce cadets to ship's company employees as soon as practicable after boarding to foster an open, welcoming environment for Sea Year students.
 - ii. Require Vessel Masters to ensure that cadets are familiarized with the ship during onboarding in accordance with the Safety Management System.
5. Reporting.
- a. When cadets are embarked, vessel Operators shall immediately notify the Academy (USMMA or State Maritime Academy) of an allegation of SASH-involved behavior. Operators shall provide a complete report of investigation to the USMMA when concluded. Vessel Operator policies shall require that (1) thorough investigation of alleged violations of the SASH policy that meet best practices for investigations of sexual assaults and sexual harassments; and, (2) interviews be conducted using trauma-informed interview methods.
 - b. The Vessel Operator's company policies shall require that the SASH contact independently and promptly informs the Coast Guard of any and all shipboard complaints of a sexual offense prohibited under Chapter 109A of title 18, United States Code. All notifications can be made to the Coast Guard by contacting the nearest Coast Guard Sector Command Center or the National Command Center, which are available 24/7 to initiate investigations and provide victim support. Command Center contact information, including emergency phone lines and email addresses can be found at the following website: <https://www.uscg.mil/contact/>. In addition, the Coast Guard Investigative Service (CGIS) has established CG Tips, a web-based and mobile alternative to submit anonymous reports about crimes witnessed or experienced aboard a vessel directly to a Coast Guard criminal investigator. The CG Tips App can be downloaded from a mobile provider's marketplace using the following QR code:



For more information about CGIS, or to submit a tip via the web, visit:
<https://www.uscg.mil/Units/Coast-Guard-Investigative-Service/>”

3. Vessel Operator company leadership should inform the Coast Guard of predatory or problematic behaviors by assigned personnel, including adverse or disciplinary actions that result in termination or a probationary status of any crewmember for harassment or SASH behavior.

4. Best Practices.

Vessel operators are encouraged to create an advisory group of officers and crew to serve as a sounding board and as champions among their peers of creating an inclusive and respectful culture. Each Vessel Operator shall review company policies within the safety management system to determine if they are at least as comprehensive as those listed in the current version of the [SOCP Best Practices Guide](#) and revise as necessary, including but not limited to the following policies:

- a. Employee Best Practices:

- i. Best Practice #1: Reporting of Sexual Harassment & Sexual Assault
- ii. Best Practice #2: Basic Do's and Don'ts
- iii. Best Practice #3: Safety on Shore Leave
- iv. Best Practice #4: Response to Sexual Harassment & Sexual Assault
- v. Drugs & Alcohol
- vi. Company Investigation Process
- vii. Victim Advocacy
- viii. “Did You Know?”

- b. Vessel Operator Company Best Practices:

- i. Best Practice #1: Defining Sexual Harassment & Sexual Assault
- ii. Best Practice #2: Nurturing a Culture Free of Sexual Harassment & Sexual Assault
- iii. Best Practice #3: Development of Prevention Policies
- iv. Best Practice #4: Training of Sexual Harassment & Sexual Assault
- v. Best Practice #5: Establishing Reporting Options
- vi. Best Practice #6: Response to Sexual Harassment & Sexual Assault

5. Compliance Review.

Vessel Operators shall meet with MARAD, the Academies, and other invited government and industry participants quarterly, or as called by the Maritime Administration or an Academy, to assess compliance with SASH policies and implement any necessary adjustments and/or corrections.

V. Intermediate Actions to be taken by Vessel Operators, to be completed within the times noted below after adoption of these EMBARC Standards.

1. Within one year, implement vessel master key control systems, manual or electronic.
2. Within two years, install real-time and recorded video monitoring of, at a minimum, passageways immediately adjacent to cadet staterooms.
3. Within eighteen months, expand mandatory annual SASH training for all crew members to include
 - a. SASH, including bystander intervention – 4 hours
 - b. Micro aggression consciousness – 2 hours
 - c. Cadet relationships – 2 hours
4. Within one year, review and enhance SASH policies used by vessel operators. MARAD will initiate revision of the SOCP SASH Best Practices Guide, including:
 - a. Developing best practices and templates to support incorporation of SASH prevention, reporting, and response as well as internal audit and external audit procedures into company and Vessel Safety Management.
5. Within one year, develop enhanced policies and training pertaining to bystander reporting requirements and bystander duty to intervene in SASH incidents.
6. As soon as practicable, but not later than two years, work with the appropriate federal legal authorities and to the extent permissible under law, participate in the maintenance and operation of a SASH perpetrator information exchange. The exchange shall contain the names of all merchant mariners who are the subjects of substantiated reports of discriminatory, SASH-related, violent, or other violative behavior, or who were terminated in related proceedings; the incident dates; the bases of substantiation; and the disposition of each circumstance shall be recorded and accessible to all operators of U.S.-flag vessels.
7. Within one year, develop and implement designated SASH contact training and annual refresher training for designated SASH contacts to include victim advocacy and instruction in training and education principles.
 - a. Each Vessel Operator shall designate and train an appropriate number of designated SASH contacts to ensure that an adequate number (minimum one primary and one alternate) are always available.

VI. Long-Term Actions to be taken by Vessel Operators. These will be developed in coordination with the Maritime Administration and other Government and maritime industry participants and may include:

1. Develop and provide regular training on creating and maintaining a respectful work environment.
2. Develop labor/management agreements to address accountability for the SASH climate onboard Vessel Operator ships, including:
 - a. training record maintenance;
 - b. identified perpetrator tracking and record keeping; and
 - c. advanced crew member screening procedures.
3. Establish an office of Diversity, Equity, and Inclusion (DEI) to address continuous improvement of vessel practices and procedures.
4. Ensure that one officer aboard each vessel at all times is trained and credentialed at the Basic level as specified by the National Advocate Credentialing Program.
5. Collaborate with the U.S. Coast Guard and other vessel operators through the SOCP to develop the requirements of a merchant mariner credential that satisfies training requirements for SASH contacts and designated onboard officers or other persons ashore to attain and maintain respective Basic and Provisional NACP training levels.
6. Develop training to include testing or other mechanism to confirm crew proficiency with SASH principles.

ADDENDUM: Definitions

The following definitions and examples are derived from the 2017 Best Practices Guide on Prevention of Sexual Assault and Sexual Harassment in the U.S. Merchant Marine (SOCP BPG), published by the Ship Operations Cooperative Program with support from the U.S. Department of Transportation Maritime Administration under Agreement No. DTMA 91H1600008 and the U.S. Merchant Marine Academy's 2018 [Sexual Assault, Sexual or Gender-Based Harassment, Relationship Violence, Stalking, and Retaliation Policy](#).

A. **Sexual Assault** is a crime of violence defined as intentional touching of a sexual nature against the will (by use of force, physical threat, coercive conduct, or abuse of authority), or without the consent of another person, or where that person is incapacitated (e.g., "passed out," sleeping, or impaired due to the use of alcohol or drugs, including prescription medications) or otherwise incapable of giving consent. The other person can be male or female and the perpetrator of the sexual assault can be of the same or opposite sex. Sexual assault includes, but is not limited to, the following:

1. Sexual intercourse, including anal, oral, or vaginal penetration, however slight, with a body part (e.g., penis, finger, hand or tongue) or an object;
2. Kissing, touching, groping, fondling, or other intentional contact with the breasts, buttocks, groin, or genitals (over or under an individual's clothing) for purposes of sexual gratification or when such private body parts are otherwise touched in a sexual manner;
3. Sexual contact with someone who is unable to say "no" and/or change their mind due to the presence of coercion or intimidation; or
4. Sexual contact with someone who is under the age of consent in the jurisdiction in which the sexual assault occurs.

B. Sexual Harassment and Gender-Based Harassment: Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal, non-verbal, graphic or physical conduct of a sexual nature, including, but not limited to the following:

1. Submission to or rejection of such conduct is either an explicit or implicit term or condition of an individual's employment or advancement in employment, evaluation of academic work or advancement in an academic program, or basis for participation in any aspect of an Academy program or activity, including shipboard training (*quid pro quo*);
2. Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting the individual (*quid pro quo*); or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's learning, working, or living environment; in other words, it is sufficiently severe, pervasive, or persistent as to create an intimidating, hostile, or offensive learning, working, or living environment under both an objective - a reasonable person's view- and subjective - the Complainant's view - standard (hostile environment).

Examples of Sexual Harassment include, but are not limited to, the following behaviors:

- Verbal conduct such as epithets, derogatory or off-color jokes or comments of a sexual nature, slurs or unwanted sexual advances, invitations, or comments, discussing sexual activities, commenting on physical attributes, using demeaning names, or using crude language;
- Visual conduct such as derogatory or sexually oriented posters, photography, cartoons, drawings, or gestures, or exposing oneself;
- Physical conduct such as unwanted or unnecessary touching, the blocking of voluntary movement, or interfering with a person's work due to the refusal of sexual advances or a person's sexual orientation;
- Threats and demands to submit to sexual requests as a condition of continued employment or to avoid discipline; and
- Rewards and offers of employment benefits in return for sexual favors.

4. **Gender-Based Harassment** includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature. Examples of sexual or gender-based harassment include, but are not limited to, the following:

- a) Unwanted flirtation, advances or propositions of a sexual nature;
- b) Verbal conduct, including lewd or sexually suggestive comments, jokes, or innuendos, or unwelcome comments about an individual's sexual orientation or gender identity;
- c) Written conduct, including letters, notes, or electronic communications containing comments, words, jokes, or images that are lewd or sexually suggestive, or relate in an unwelcome manner to an individual's sexual orientation or gender identity.

C. **Relationship Violence** refers to controlling, abusive behavior, including any act of violence or threatened act of violence, against a person who is, or has been involved, in a sexual, dating, domestic, cohabiting or married relationship with that person. Relationship violence can take place in heterosexual or same-sex relationships, and sometimes also involves violence against the children in the family. Relationship violence can take a number of forms including physical, verbal, emotional, economic, and sexual abuse, or any combination thereof.

1. **Domestic violence:** The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the applicable jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the applicable jurisdiction.

2. Dating violence: The term "dating violence" means violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

D. **Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Such conduct includes, but is not limited to, unwelcome acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. It includes cyber-stalking, in which electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used. Stalking can occur in a dating relationship, friendship, or past relationship, or can be perpetrated by a stranger.

E. **Harassment** is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. The purpose may vary, including racial prejudice, personal malice, and attempt to force someone to quit a job or grant sexual favors, or merely gain sadistic pleasure from making someone fearful or anxious.

F. **Bullying** is the use of force, threat, or coercion to abuse, intimidate or aggressively dominate others. The behavior is often repeated and habitual. One essential prerequisite is the perception, by the bully or by others, of an imbalance of social or physical power, which distinguishes bullying from conflict.

G. **Consent** means clear words or overt acts by a competent person indicating freely given agreement to engage in mutually agreed upon sexual conduct. An expression of refusal through words or conduct means there is no consent. Consent may not be inferred from silence, passivity or lack of resistance alone. Consent to one form of sexual activity does not imply consent to other forms of sexual activity, and the existence of a current or previous dating or sexual relationship is not sufficient to constitute consent to additional sexual activity. Consent may be initially given but can be withdrawn at any time.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, being asleep, being involuntarily restrained, or being coerced or intimidated. Depending on the degree of intoxication, an individual who

is under the influence of alcohol, drugs, or other intoxicants, may be incapacitated and, therefore, unable to consent.

H. **Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another person for their own advantage or benefit or for the advantage or benefit of anyone else. Examples of sexual exploitation include but are not limited to the following:

1. Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person engaging in a sexual act, in a state of undress, or in a place and time where such person has the reasonable expectation of privacy, such as a changing room, toilet, bathroom, or shower, each without the affirmative consent of all parties);
2. Disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's affirmative consent;
3. Exposing one's genitals to another person without affirmative consent; or
4. Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.

I. **Retaliation** (sometimes referred to as reprisal) means taking or threatening to take any adverse action taken against an individual for making a good faith report of conduct prohibited under the organization's Policy, or for participating in any investigation or proceeding resulting from such a report. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from making a report, or from participating in proceedings related to such a report. Examples of retaliation include, but are not limited, to the following:

1. Disadvantaging or restricting a person in their status as an employee or cadet, or in their ability to gain benefits or opportunities available at the organization or the USMMA;
2. Precluding a person from filing a report of prohibited conduct;
3. Pressuring someone to drop or not support a complaint, or to provide incomplete, false, or misleading information; or
4. Adversely altering the educational or work environment of someone who has complained or participated in the complaint process.