

Review of the accuracy and objectivity of the MARAD/USMMA narrative on the cause of the accreditation Warning from the Middle States Commission on Higher Education

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Background

On June 23, 2016 the Middle States Commission on Higher Education (“MSCHE”) put the Academy on “Warning”, finding it deficient in 5 of the 14 requirements for accreditation. All five were associated with problems it found with leadership, management and governance; and included criticism of the state of sexual assault and harassment (“SASH”) at the Academy and the Academy’s lack of a proper and effective response.

On July 13, 2016 the Academy’s Advisory Board presented its annual report to the Secretary of Transportation, dated June 10, 2016, to the Congressional Board of Visitors. The overall theme of this report was an exoneration of the Academy and MARAD leadership of any fault for action, or inaction, in causing this Warning, the first ever issued to a Federal Service Academy. The primary focus of the report was on SASH and making a case that resolving this problem was out of the control of the Academy because of the sexual environment of the Sea Year.

The secondary focus (i.e. substantially shorter) focus was on “*Governance, Leadership, and Administration—Maintaining Regional Accreditation*” which again made the case that the Academy and MARAD leadership was not at fault for the deficiencies issued by MSCHE in those areas. The basis for the Advisory Board’s conclusion was its judgment that the restrictions on key Academy business processes (which were criticized by MSCHE) were caused by Congress and, therefore, not in control of the Academy or MARAD (a judgment that was apparently accepted on its face by MSCHE, based upon statements in its report).

Statements by the Maritime Administrator, Chip Jaenichen, in the press and during MARAD sponsored Town Hall conference calls, echoed these “no-fault” judgments, particularly with respect to Congressional responsibility for the Warning, but went into further detail. In his 8/2/16 address, Mr. Jaenichen went back to financial irregularities in 2006-2008 that were investigated by the GAO which, he claimed, resulted **in Congress imposing controls and restrictions that “hamstrung many of the things that we do...including...the actual capital improvement**

program, hiring, student and computer services". He further claimed that **these restrictions went to the "heart" of the deficiencies cited by MSCHE "regarding communications between leadership, faculty and the midshipmen at the academy"**; and **that lifting those restrictions by Congress would be "the single biggest thing that can be done to help the Academy address the deficiencies"**.

He also pointed to the GAO 2009 report which, he claimed, "*found 47 different financial and management deficiencies that were identified that had to be resolved*"; and indicated that no action had been taken to correct those deficiencies until "*Admiral Helis reported on board in 2012*" and he "*commenced to ensure that the deficiencies that were identified by the GAO were fixed*". However, he added, "*It wasn't until 2014 that the GAO reported that all 47 of those deficiencies, not only had been corrected, but had been validated and there was a plan going forward to ensure that they did not reoccur*".

Thus, the message to all stakeholders, Congress and MSCHE was that, under the circumstances, nothing could have been done to avoid the Warning issued by MSCHE; and that the Academy and MARAD leadership were blameless.

Executive Summary: Exposing the myth of an Academy allegedly "hamstrung" by Congressional restrictions that go to the "heart" of the deficiencies cited by MSCHE

The sudden announcement of the "Warning" on accreditation has raised questions on the judgment, motivations and competence of the Advisory Board, the Academy leadership and MARAD. This paper provides clear evidence that the Advisory Board, the Superintendent and MARAD ignored or misrepresented the facts in arguing that the Warning was out of their control; and that there was no action they could have taken to avoid it. Consequently, it is clear that they have perpetrated a massive hoax in an attempt to deceive all stakeholders, particularly the Board of Visitors and MSCHE, to excuse their unprecedented and devastating failure to maintain a clean accreditation—an event that none of them anticipated or had any plan to avoid.

The "Warning" on accreditation is a near-catastrophic event, with dire implications to recruiting and retention of faculty and Midshipmen and the value of a USMMA diploma, not to mention the overhanging threat of the loss of accreditation. Yet the Academy appears in no hurry to remove the Warning. MSCHE now requires the Academy to provide evidence by March 1, 2017 that it has cured the deficiencies. Yet Superintendent Helis, in apparent defiance of MSCHE, has repeatedly stated that he has two years to come into compliance—when no such allowance of two years is made in the "Public Disclosure Statement" on the action taken by MSCHE (see Appendix A).

- Kings Point is the only Federal Academy to ever be placed on Warning; its peer group is now a group of colleges and universities with far less academic prestige (see Appendix B); and the others on Warning have only one or two deficiencies to correct against the five leveled at Kings Point—underscoring the gravity of the problem and the gross negligence of the leadership of MARAD and the Academy. Yet **the Advisory Board made the incomprehensible judgments in its 2016 report that "the Academy is heading in the right direction" and "is on the right path"**; and Superintendent Helis "**brought sound management practices to the Academy**".

(along with its 2015 advice for the Academy to “*Stay the course*”)—fueling informed speculation that the Board acts not as an independent advisor but simply as a cheerleader for the Academy and MARAD leadership.

This did not have to happen; and did so through the negligence of the Advisory Board, the Superintendent and MARAD. The problems cited by MSCHE have been well known and ignored for at least the last five years; and corrective action rigorously resisted. In any normal organization, such negligence would have been met by mass resignations and/or dismissals. However, the Maritime Administration has apparently made the decision to circle the wagons around itself and the Academy leadership, with the support of the Advisory Board, in the development of a false narrative that places the blame on a former Superintendent, the commercial sector of the shipping industry and Congress.

The false SASH narrative, and its defamation of the commercial shipping industry, was comprehensively covered in the companion document, the “Sea Year Hoax”. However, it needs to be highlighted, in the context of the broader hoax, that **data from the 2014 SAGR survey indicates that no more than 2 or 3 women (and probably less) could possibly have been sexually assaulted by crew members of commercial vessels.** Even one sexual assault is unacceptable; but 2 or 3 (if even that) is not cause to declare the industry “unsafe”, have the Maritime Administrator grand stand with the comment that he would not send his daughter into that “environment”, shut down the Sea Year and defame the entire U.S. flag commercial fleet—all to avoid accountability for failing to maintain a clean accreditation and being issued a Warning.

The extended hoax now includes the false representations that Congress imposed severe budget restrictions on the Academy, and removed authority over key business functions from, the Academy that went to the “*heart*” of the deficiencies cited by MSCHE—representations that led MSCHE to require legislative action “*by Congress so that the annual budget is available to the institution at the start of the fiscal year*”.

However, the only substantive financial limitations put on the Academy by Congress were the ‘easy to comply with requirements’ that 50% of the Academy’s funding be available only after an approved spending plan is sent to Congress by the DOT Secretary; and that the allotments be held by MARAD for distribution to the Academy as needed. In fact, it was DOT delays in approving the Academy’s spending plan that delayed allotments—a fact that is corroborated in the original July 1, 2015 draft of the self-study for MSCHE: ***“The FY 2015 budget was appropriated by Congress in December 2014 but the FY 2015 Spend Plan was not approved [by the DOT Secretary] and transmitted to Congress until May 1, 2015”.***

And then it was MARAD, not Congress, that further withheld funds from the Academy—a fact that is also corroborated in the original draft of the self-study: ***“...in the past few years, MARAD has taken several months to actually provide the remaining 50% balance of the Academy’s funding even after the plan has been approved by the Secretary and transmitted to Congress”***—facts that are curiously missing from the MSCHE report. The draft self-study also pointed out that ***“the Spend Plan was not formally distributed to Academy management,***

making it very difficult for the managers to grasp their budget allocations”—indicating a problem with MARAD and/or the Superintendent, not Congress.

The July 1, 2015 Self Study goes further with the statement: “*Currently, all aspects of USMMA financial management are the responsibility of the MARAD Assistant Chief Financial Officer for Academy Operations, also referred to as the Academy Chief Financial Officer (ACFO), who reports directly to the MARAD Associate Administrator for Budget and Programs (MARAD CFO). As a result, the Superintendent does not have direct decision-making authority over critically important aspects of USMMA business operations*”. Again, the problem is with MARAD, not Congress.

However, this fact did not stop Superintendent Helis from informing MSCHE that it was Congress who controlled financial management and writing in his May 20, 2016 letter to MSCHE: “*DOT will seek the removal of restrictive financial management controls from legislation and returning financial management responsibilities to USMMA in order to improve financial planning and to support the effective, efficient, and timely use of institutional resources at USMMA*”. Whether the criticisms of DOT and MARAD in the self-study were communicated to MSCHE is not known; but the lack of any acknowledgement in the MSCHE report suggests that they were withheld.

With the expeditious approval of the spending plan by the Secretary and proper release of the funds by MARAD, the 50% rule should be no more than an irritation that does not interfere with the release and allocation of funds (an irritation that three former Superintendents successfully dealt with). Thus, the deficiency identified by MSCHE could have, and should have, been resolved by MARAD and DOT ceasing to hold onto the funds when they are needed at the Academy. Thus, it was not Congress that withheld the funding; and, therefore, no Congressional legislation to correct the problem is necessary—a fact apparently withheld from MSCHE, given its “Requirement” for legislative action.

Likewise, Congress never ordered DOT and MARAD to take direct control over key Academy business functions—that decision was made by DOT and MARAD—and concern over the widespread and pervasive disruption it caused and efforts to return control over key business functions to the Academy go back at least five years.

For example, in its **2011 report to the Secretary**, the former members of the Advisory Board stated that they “*remain concerned that Admiral Greene is inhibited because after nearly one year in charge, he does not have the necessary tools and authority that needs to accompany the responsibility you have vested in him to lead the institution*”. However, they go on to express their understanding that the authorities were to be restored to the Superintendent within the year—leading the Board to write in its 8/5/11 report: “*We conclude that during the upcoming year you, your staff, and the Maritime Administration leadership will develop a concrete plan to restore authority to the Superintendent that was rescinded in the wake of the 2009 GAO Report*”. Then, instead of restoring the authorities, but clearly intended to eliminate any future criticism of its control, **MARAD replaced the former Board and Superintendent with a compliant Advisory Board and Superintendent who would not challenge MARAD’s iron grip on control.**

The new Advisory Board, appointed in 2013, is exactly what MARAD was looking for; and quickly established itself as a promotor of MARAD's agenda. In its 2014 and 2015 reports it either overlooked or ignored the real accreditation problems facing the Academy involving ineffective leadership and a destructive governance structure; and instead gave the Board of Visitors the ludicrous and uniformed advice in 2014 that the Academy was in danger of being cited by the accreditation board for not having enough liberal arts.

MARAD then echoed this advice in an address by Brian Blower, the MARAD-USMMA liaison, who is recorded in the minutes of a meeting with the New York Metro Parents Association on March 19, 2015 as stating: *"The accreditation is at risk. Because of the new requirements, the curriculum is too technical and professional and does not have enough humanities classes. **We are in danger of being put on probation for not having enough liberal arts**"*. Just as MSCHE was about to zero in on everything but a deficiency in liberal arts.

And MARAD got just what it was looking for as well in Superintendent Helis—a retired Army Colonel who was lacking in senior level command experience (he was never given any command as a Colonel)—and who could be counted upon to leave control of the Academy in MARAD's hands without question.

And evidence that MARAD is still in no rush to turn over controls to the Academy is contained in Superintendent Helis' dutiful May 20, 2016 letter to MSCHE in which he states confidence that *"MARAD will have fully restored the means, authority, and responsibility for USMMA to directly manage its own personnel and procurement activities" by **October 1, 2007—over 16 months from the date of the letter***, when assumption of those authorities by MARAD was accomplished by the stroke of a pen. And Superintendent Helis has now stretched that timeline out even further by informing members of the Parents Association on 9/1/16 that *"it's probably going to take the full two years"*—or **by June 23, 2018, 25 months from the date of the letter.**

Moreover, in evading close questioning from the parents, Superintendent Helis gave every indication that, over five months after MSCHE's notification of deficiencies, no steps have been taken to restore authorities. Instead, he spoke only of the difficulties ahead: *"That's going to be a process. We can't just throw a switch." "There's going to be some staffing adjustments...I expect that that is probably going to take us nearly the full two years to get through"*.

Of course, absent from that distant commitment is the restoration of *"financial management responsibilities"* about which he conforms with the MARAD party line *"that ultimately it is up to the Congress to determine if and when the necessary legislative changes that you and we have recommended take effect, and that this political process can be time-consuming"*—when no such *"legislative changes"* are necessary.

MARAD's control over these key business functions has been nothing short of incompetent, including such basics as text books and uniforms not ordered in time for classes, funding withheld for no reason other than bureaucratic indifference (which included withholding the distribution of financial donations from alumni) and, as identified in the MSCHE report, *"The*

inflexible and indifferent approach of Human Resources personnel” which does not “appear to have as its primary charge the advancement of the mission of the academy”.

And in a little reported example of overreach, MARAD took effective control over non-competitive Midshipmen appointments, asserting its uninformed opinion of candidates over the Academy’s Admissions professionals—even imposing its judgment of the athletic prowess of recruited athletes over the judgments of the Academy’s coaches. MARAD’s interference was so intrusive that recommendations made by the Academy in January would not obtain MARAD approval until after the May 1 commitment deadline set nationwide for applicants to all schools.

MARAD resistance to returning authorities back to the Superintendent is indicative of a bloated bureaucracy with nothing else to do. With, reportedly, 300 employees involved in managing the Academy (and no required expertise in governing an institution of higher learning)—and managing the Reserve fleet its only other substantive function—MARAD has become a dysfunctional anachronism.

MARAD was not even able to expeditiously and competently take care of the deficiencies in internal controls identified by the GAO in 2009 and touted by Mr. Jaenichen as a great success for Superintendent Helis upon his arrival in 2012. On December 1, 2010 the former Maritime Administrator, David Matsuda, reported that 41 of the 47 recommendations had been “successfully completed” with a plan to complete the remaining six by the end of the month. But the GAO apparently did not accept MARAD’s actions as “*successfully completed*” and issued a subsequent report stating that as of a year later only 32 of the recommendations had been implemented. In total it took the MARAD bureaucracy over five years to resolve internal control issues basic to any organization.

MARAD/DOT instinct to blame others was revealed by a well-respected 30-year veteran (and now retired) attorney in the General Counsel’s Office of the Secretary of Transportation who, in a written statement to the parent of a recent graduate about the cause of the GAO audit, gave an insider’s view that it was well known that ***MARAD had been responsible for the mismanagement mess, that MARAD had neglected its responsibilities and that “OST officials have taken over several of its functions”.***

As part of this false narrative the Academy and MARAD leadership is attempting to convince all stakeholders that the only substantive actions needed to be taken to cure the deficiencies are: a) convince Congress to remove a requirement that the Academy’s spending plan be approved by the Secretary, and b) either force a change in the cultural environment on board commercial vessels, or invoke a permanent stand down in the Sea Year, or eliminate the Sea Year altogether and provide alternative training. And most recently, the Academy has announced it is bringing in “*independent outside experts experienced in assessing institutional and organizational culture*” which “*will delay the resumption of Sea Year on commercial vessels for a number of months*”—with the “*number of months*” projected to reach, at least, well into 2017 and no assurance that there will be a “*resumption*” at all.

However, none of these “solutions” will bring the Academy into compliance with the requirements issued by MSCHE—which means further problems in gaining a clean

accreditation. Indeed, these misrepresentations convinced MSCHE to issue an unnecessary “Requirement” for legislative action that can only serve to delay compliance.

Moreover, both Superintendent Helis and Administrator Jaenichen have made written and verbal statements to the effect that the Academy has two years to cure the deficiencies. Those assurances are false with respect to MSCHE general procedures and the specific directive to the Academy; and nothing short of delusional with respect to maintaining the credibility of Kings Point as a premier institution with the prospect of losing its accreditation hanging over its head.

In 2011 the Academy’s accreditation was re-affirmed by MSCHE with no follow up requirements. Former DOT **Secretary LaHood then issued his congratulations and confidence that “we know Kings Point will be ready to meet its next 10-year review in 2016 with another clean bill of health”**. However, something clearly happened under the leadership of Administrator Jaenichen and Superintendent Helis (who were both brought on board in 2012) to shatter that confidence and put Kings Point on the wrong path to anything but “another clean bill of health”.

MARAD’s failures were predictable as it employs no one with any experience or expertise in governing or overseeing an institution of higher learning—apparently believing that anyone with a college degree is qualified to manage and govern a college. Mr. Jaenichen’s statement on 8/2/16 about talks within MARAD on accreditation is chilling but indicative of the agency’s lack of expertise in higher education: **“We’ve also begun some high level talks here within the agency about what accreditation means and some of the steps that will be taken to support the Academy as it goes through the process of accreditation.”** Too little, too late; but indicative of an agency that has no business governing an institution of higher learning, much less a Federal academy.

Throughout this crisis there has been a continuing failure of leadership from MARAD and the Academy, with attempts to intimidate and silence parents and alumni looking for answers. And now, with that unblemished record of gross negligence, incompetence and willful misconduct, this leadership team is looking for another two years of ‘trust-me’s’ to fix the train wreck they created and never saw coming. The only real solution is a clean sweep of the leadership of the Academy and MARAD before they do any further damage; and implementation of MSCHE’s recommendation to put governance of the Academy in the hands of an outside governing board.

The False Narrative

The developing false narrative goes something like this: In general, the Academy and MARAD leadership did nothing wrong and nothing they could have done would have prevented the Warning. Responsibility can rather be found with the following:

- A former Superintendent engaged in serious fiscal mismanagement, failed to comply with the Anti-Deficiency Act (according to Mr. Jaenichen), and caused an investigation by the GAO.
- The GAO identified 47 deficiencies in its 2009 report, which were impossible to correct in a timely manner, and took until 2014 complete.

- According to Mr. Jaenichen, it wasn't until "*Admiral Helis reported on board in 2012*" that work "*commenced to ensure that the deficiencies that were identified by the GAO were fixed*".
- As a result of the mismanagement, Congress directed MARAD to take over direct control of all key Academy business functions which meant, according to the judgment in the MSCHE report, that "*the CEO of the institution does not in practice currently have the means, authority, and responsibility assigned or delegated to enable effective and efficient accomplishment of the Academy's mission.*"
- According to Mr. Jaenichen, the severe financial and budget restrictions put on the Academy by Congress "**hamstrung**" the Academy and, as per the MSCHE report, resulted in the annual budget not being "*made available to the Superintendent until late in the fiscal year*";
- Congress directed that the financial and budget restrictions would not be removed until the 47 deficiencies had been corrected, with validation from the GAO;
- Legislative changes are required, according to Superintendent Helis in his 5/20/16 letter to MSCHE, for "*the removal of restrictive financial management controls...and returning financial management responsibilities to USMMA*"; and the removal of these restrictions is out of the control of the Academy, as "*ultimately it is up to Congress to determine if and when the necessary legislative changes...take effect, and...this political process can be time-consuming.*"
- According to statements from Mr. Jaenichen in the 8/2/16 Town Hall conference call, legislation to remove the financial and budget restrictions imposed by Congress, "**is the single biggest thing that can be done to help the Academy address the deficiencies**" cited by MSCHE.
- The U.S. flag commercial fleet has tolerated a predatory sexual environment on board ships which not only victimized Midshipmen but caused them to bring that culture back to the Academy, re-infecting the Regiment and undoing the extraordinary efforts by the Academy from "*moving the needle*" on this problem.

Consequently, despite the best efforts of the Superintendent and MARAD (with the advice and support of the Advisory Board) there was no way to resolve these problems in this time frame and avoid the Warning on accreditation from the MSCHE; and the Academy and MARAD leadership will need the better part of the 2-year window that MSCHE is allowing to bring the Academy into compliance.

The Academy and MARAD leadership insist that it is this narrative that caused MSCHE to issue its "Warning", requiring the Academy to correct seven specific deficiencies in order to come into compliance. **It makes a fine story (with the Academy and MARAD leadership the heroes of the story)—but none of it is true.**

What Really Happened

The SASH narrative is thoroughly debunked in the companion document on SASH and will not be repeated here except to underscore the undeniable conclusion that the Superintendent and MARAD were negligent and manufactured a story to avoid responsibility.

With respect to the rest of the false narrative, the facts are as follows:

- Former Superintendent, Vice Admiral Stewart (1998-2008), made no financial arrangements without the approval of, or direction by, MARAD—a fact that has been well documented. Nevertheless, Admiral Stewart and other Academy officials were either relieved or dismissed while all MARAD officials retained their positions, despite their complicity and failure to provide proper oversight. Mr. Jaenichen exploits the sensationalism of violating the Anti-Deficiency Act but fails to mention that no charges were ever made for a violation of the Act against any persons.
- The GAO report did not identify 47 “deficiencies” as alleged by Mr. Jaenichen (the actual number was 23). It made 47 “recommendations”, 27 of which were to write policies and procedures, 16 to perform certain analyses, 2 to determine specific legal authorities and others as mundane as “*Require that all affiliated organizations have approved governing documents*”. Most of the rest consist of ensuring basic organizational financial controls and correcting any past errors that any properly run organization should have resolved within 6 months, not the 5+ years it took MARAD.
- If serious work in implementing the recommendations of the GAO only began with the arrival of Superintendent Helis in 2012, as alleged by Mr. Jaenichen, then MARAD, which had responsibility for compliance, had been grossly negligent by not doing anything from 2009 to 2012. However, Mr. Jaenichen’s statement is false and gratuitous:
 - According to the 2009 GAO report, work was commenced on implementing the recommendations even before the report was issued in 2009—three years before Superintendent Helis’ arrival. In fact, part of the Title of the report stated: “*Some Corrective Actions Are Under Way*”.
 - **According to a July 2012 update report by the GAO, as of September 30, 2011, ten months before Superintendent Helis took office, 32 (or 68%) of the Recommendations had been implemented.**
 - According to an Information Memorandum, dated **December 1, 2010**, from David Matsuda, the former Maritime Administrator, to the Deputy Secretary, “***MARAD had successfully completed actions addressing 41 [of the 47] recommendations***” and had a plan for “*completing agency actions for all recommendations by December 30, 2010*”. Apparently the GAO did not accept MARAD’s actions as “successfully completed”.
 - It would appear that Superintendent Helis slowed the process down rather than initiated it.
 - It also appears that the only action that MARAD accomplished efficiently was the 2013 eviction of the alumni association from the campus. Perhaps, if the legions of lawyers assigned to that task had been focused instead on the GAO recommendations it would not have taken three more years to finish the job.
- MARAD apparently convinced the GAO that it had satisfied the criticism in the GAO’s July 2012 report that “*the Academy did not have a capital improvement plan that identified long-term capital improvement needs aligned with the Academy’s strategic objectives*”. However, one of the recommendations in the MSCHE report is: “*The Capital Improvement Program (CIP) and the Information Technology Department require more formal and direct integration with the Academy’s mission and strategic plan*”. Thus, four years after being notified by the GAO of this deficiency it still hasn’t been corrected.

- Congress never ordered DOT and MARAD to take direct control over key Academy business functions—that decision was made by DOT and MARAD as detailed in the July 1, 2015 draft Self-Study for accreditation.
- The only financial restrictions put on the Academy were the ‘easy to comply with requirements’ in each annual Appropriations Act for: a) allotments to be held by MARAD; and b) conditioning the availability of 50% of the amount appropriated to the approval of the Academy’s spending plan by the Secretary and submission to the appropriations committees. Therefore, it was MARAD that withheld funds from the Academy, not Congress—a fact that is corroborated in the original draft of the self-study; and no Congressional legislation is necessary.
- With the expeditious approval of the spending plan by the Secretary and proper release of the funds by MARAD, the 50% rule should be no more than an irritation that does not interfere with the release and allocation of funds. Thus, the deficiency identified by MSCHE could have, and should have, been resolved by MARAD and DOT ceasing to hold onto the funds when they are needed at the Academy.
- Since no legislative action was ever taken to remove the authorities from the Superintendent, MARAD needs only to hand them back. Failure to comply with all 47 GAO recommendations was never an issue with such restitution.
- The removal of the so called “*restrictive financial management controls*” would do nothing but remove the simple, and easily complied with, requirement that the DOT Secretary approve the spending plan of the Academy and send it to Congress. Since preparing a spending plan is a routine part of the budget process Superintendent Helis has misled the MSCHE that legislative action is required to cure the deficiency; and has simply put forth an illegitimate excuse to provide cover for the negligence of MARAD in withholding funds appropriated to the Academy.
- **Mr. Jaenichen, therefore, misled stakeholders in the 8/2/16 Town Hall** when he stated: “*it’s those budget restrictions that have really hamstrung many of the things that the Academy needs to do, “including...the actual capital improvement program, hiring, student and computer services”*”. In fact, according to the Academy’s draft “Self-Study”, dated July 1, 2015, “*...in the past few years, MARAD has taken several months to actually provide the remaining 50% balance of the Academy’s funding even after the plan has been approved by the Secretary and transmitted to Congress*”.
- **In 2011 the Academy’s accreditation was re-affirmed by MSCHE with no follow up requirements.** Former DOT Secretary LaHood then issued his congratulations and confidence that “*we know Kings Point will be ready to meet its next 10-year review in 2016 with another clean bill of health*”. However, something clearly happened under the leadership of MARAD and Superintendent Helis to shatter that confidence and put Kings Point on the wrong path to anything but “another clean bill of health”.
- An insider’s view on what caused the GAO investigation was provided by an attorney, Gwyneth Jones Radloff, who at the time was an attorney in the General Counsel’s Office for the Secretary of Transportation who, in a finger pointing written statement to the parent of a graduate in December, 2014, let it be known that MARAD was responsible for the mismanagement mess but also provided a window into the animosity against the alumni and Congress prevalent in the General Counsel’s office of DOT as follows:
 - “**MARAD has serious problems**, which are being addressed internally, some due to years of poor management and some due to Congressional interference and the

*ubiquitous budget slashing. OST officials have taken over several of its functions. **MARAD has responsibility for the Merchant Marine Academy...but neglected these responsibilities**, which allowed an alumni group (and Congressional friends) to essentially run the MM Academy.*

- *The alumni group engaged in serious criminal behavior, as did several recent [Superintendents] ...I remember the former Deputy Secretary of DOT [John Porcari] had to go up personally to make sure that Federal money siphoned off and planned for a big alumni party (to raise money, I presume) was used instead to fix condemned dormitories and install fire protection in other buildings. The students were not safe, while these folks partied with Congressional friends.”*
- *Of course, neither the alumni nor previous Superintendents engaged in any criminal behavior nor was any Federal money ever “siphoned off” for any reason; but that apparently is the storyline within DOT that is shared privately with the public.*
- **Concern over the disruption caused by MARAD’s control of key business functions goes back at least five years. In its 2011 report to the Secretary, the former members of the Advisory Board stated that they “remain concerned that Admiral Greene is inhibited because after nearly one year in charge, he does not have the necessary tools and authority that needs to accompany the responsibility you have vested in him to lead the institution”** [The same deficiency now cited by MSCHE]. However, they go on to express their understanding that the authorities were to be restored to the Superintendent within the year—leading the Board to write in its 8/5/11 report: **“We conclude that during the upcoming year you, your staff, and the Maritime Administration leadership will develop a concrete plan to restore authority to the Superintendent that was rescinded in the wake of the 2009 GAO Report”**. Then, instead of restoring the authorities, MARAD replaced the former Board and Superintendent with a compliant Advisory Board and Superintendent who would not challenge MARAD’s iron grip on control; and, five years later, MARAD retains that control, causing the MSCHE Warning and putting accreditation at risk.
- **This new Advisory Board became a major cause of the Accreditation Warning by failing to address the obvious and well documented governance deficiencies identified by the previous Board**; providing ill-considered advice on accreditation (e.g. the Academy was in danger of being cited for not having enough liberal arts); and **advising the Academy to “Stay the course” in its 2015 Report and concluding in its 2016 Report that “the Academy is heading in the right direction” and “is on the right path”**—despite failing 5 of the 14 Accreditation Standards and receiving an unprecedented Warning.
- **Superintendent Helis is culpable as he had four years to recognize and cure the accreditation issues and did not even recognize that they existed**—despite the maintenance of accreditation as the number one priority of every college CEO. Instead he installed an abusive culture that lost the respect of Faculty and Midshipmen which made it impossible for him to make any inroads on the SASH problem which worsened over his four years, while declining at the other academies.
- **Superintendent Helis’ failure to provide effective leadership overshadows the consensus among all stakeholders that he never had the proper credentials to take command of the Academy as its Superintendent.** He then invited disrespect and

resentment with a misleading biography and wearing the “Screaming Eagle” Combat Service Identification Badge of the 101st Airborne Division (Air Assault) on his USMS uniform when he never served in combat or in the 101st (or served as an Army Ranger as implied on his bio); thus projecting an air of pretentiousness to Midshipmen looking for role models.

Conclusions:

- ✓ Since the so called “*restrictive financial management controls*” were no more than a requirement to simply inform Congress on how 50% of the appropriations would be spent, Congress has been no impediment to the flow of appropriated funds to the Academy.
- ✓ The assumption of control by MARAD over all the key Academy business functions was not imposed by Congress, but was a decision made by DOT and MARAD. Thus, no Congressional action is required to restore control to the Superintendent.
- ✓ Superintendent Helis, in his 5/20/16 letter to MSCHE, indicated that it was going to take over 16 months for MARAD to transfer those authorities; and, in his 9/1/16 meeting with the Parents Association, stretched this out to 25 months. This would appear to be nonsense since MARAD took over those authorities with the stroke of a pen. His statements fuel speculation that MARAD has no intention of complying with the MSCHE requirement; and that, as an entrenched and bloated bureaucracy, is not about to give up control and find something else to do with its time.
- ✓ The Advisory Board, Superintendent Helis and Administrator Jaenichen misled MSCHE, causing it to falsely conclude that Congress had removed key business processes from the Academy and caused it to make the false statement in its 6/23/16 report: “*After the results of a 2009 GAO audit...key Academy business processes...were removed from USMMA by Congress and now report directly to the DOT and MARAD headquarters*”.
- ✓ The MSCHE was no doubt influenced by the Advisory Board which stated in its 6/10/16 report: “*As a result of the GAO report, Congress directed U.S. DOT to implement extensive financial oversight procedures to more closely monitor the Academy’s monthly budget management, hiring, and procurement activities*”.
- ✓ Unfortunately, the Advisory Board, Superintendent Helis and Administrator Jaenichen, in order to excuse their own gross negligence, misled the MSCHE into believing that legislative action was required. And MSCHE has consequently issued the unnecessary requirement: “*The institution does not have access to its approved annual budget in a manner that supports the effective, efficient, and timely use of financial resources at the institution level. The Secretary of Transportation must initiate and lead an effort to ensure statutory and regulatory change is made by Congress so that the annual budget is available to the institution at the start of the fiscal year.*”

The Myth of the “two years to reach compliance”:

In his announcement that the Academy had been issued a Warning on accreditation, Superintendent Helis stated: “*The Academy has two years to reach compliance, and we are confident that we can return to compliance within that span of time*”; and during the 8/2/16 Town Hall conference call he repeated the statement with: “*For the accreditation process, this is in effect a two-year process by which we have to demonstrate that we have taken steps to address the shortcomings identified in the Middle States Commission report*”. And told the Parents

Association on 9/1/16 that ***“you’re given two years because the intent is that this is an intentional, deliberate, thought out process that the changes you put in place are going to work”***. Administrator Jaenichen said much the same thing at the 7/13/16 Town Hall conference call (*“there’s two years for the Academy to be able to correct what’s going on”*).

These statements are at best misleading and at worst deliberate misrepresentations, giving the impression that the Academy can just go away and come back in two years with the deficiencies cured. In fact, MSCHE may give an institution up to two years to cure deficiencies; but **has given the Academy only until March 1, 2017** (see Appendix A for “Summary of Recent Commission Actions”).

In general, if the MSCHE determines, through reports and visits, that an institution is not making progress within a reasonable time it will take further action—either putting the institution on Probation or issuing a Show Cause, requiring an institution to demonstrate why its accreditation should not be withdrawn. Specifically:

- **General Time Frames for Non-Compliance Actions [from MSCHE Web-Site]**
 - “The Commission must determine whether compliance has been achieved no later than 24 months after the initial non-compliance action was taken. The Commission will ask for one or more reports and visits within that time frame in order to determine compliance.”
 - “Commission actions of warning, probation, or show cause (none of which is deemed to constitute an adverse action) automatically result in further Commission review of the institution’s status prior to the expiration of the 24 month period. Such review will either result in the removal of the non-compliance action, the imposition of a subsequent non-compliance action, or the imposition of an adverse action.” [i.e. withdrawal of accreditation]

- **Specific MSCHE Directives to the Academy**
 - As per the provisions of the 6/23/16 notice of Warning from MSCHE, the Academy is required to submit ***“a monitoring report, due March 1, 2017, documenting evidence that the institution has achieved and can sustain compliance with Requirement of Affiliation 7 and Standards 2, 3, 4, 5 and 9...”***—i.e. the Academy has cured the deficiencies.
 - *“Following submission of a monitoring report on March 1, 2017, the Commission will conduct a small team visit to assess the institution’s compliance with the Commission’s standards. Following the on-site visit, a report by the visiting team will be completed. The monitoring report, the small team report and the institutional response to the small team report will be considered by the Committee on Follow-Up Activities, and then by the Commission.”*
 - ***“Following review by the Committee on Follow-up Activities, the Commission will take further action, in accordance with the Commission’s policy, Accreditation Actions”.***
 - *“If, based on the monitoring report and small team report, the Commission determines that the United States Merchant Marine Academy has made appropriate progress in addressing the cited concerns, the Commission may act to remove the warning and reaffirm accreditation. **If the Commission determines***

that progress sufficient to demonstrate compliance with its accreditation standards has not been made, the Commission may take further action as allowed under Accreditation Actions.”

Consequently, Superintendent Helis’ statement to the Parents Association on 9/1/16 that he has been given two years (which he will take) to restore authorities over key business functions to the Academy appears to be in complete defiance of the 6/23/16 directive from MSCHE:

Helis: “There’s going to be some staffing adjustments that have to go. I expect that that is probably going to take us nearly the full two years to get through just especially when we look at the staffing issues and we want to do this in an orderly manner.”

MSCHE: “On June 23, 2016, Middle States Commission on Higher Education acted as follows: ...To request a monitoring report, due March 1, 2017, **documenting evidence that the institution has achieved and can sustain compliance** with Requirement of Affiliation 7 and Standards 2, 3, 4, 5, and 9, **including but limited to evidence of... (3) a governance structure that includes an active governing body with sufficient autonomy** to assure institutional integrity and to fulfill its responsibilities of policy and resource development, consistent with the mission of institution (Standard 4)”

Necessary steps to be taken to restore confidence in the Academy and ensure compliance with MSCHE requirements:

It is now clear that strong steps must be taken, and quickly, to restore confidence in the Academy. Recruiting, fund-raising and retention are already being threatened, with a general loss of confidence in the leadership of the Academy and MARAD among all stakeholders. Therefore, the following actions need to be taken:

- Immediate secondment of former Dean Shashi Kumar to organize a task force to correct the deficiencies cited by MSCHE. **Dr. Kumar would report directly to the Board of Visitors.**
- Replacement of Superintendent Helis and his leadership team for cause. See Addendum for detail.
- Replacement of the Advisory Board for cause. See Addendum for detail.
- Removal of MARAD as the oversight and governing body for USMMA
 - **MARAD failed in its oversight responsibility in the mid 2000’s, resulting in the GAO investigation;** and failed in its oversight and control over the past seven years resulting in the accreditation Warning. Having created the deficiencies through its own negligence, it is now no more qualified to correct them.
 - **In 2011 both the former Advisory Board and former Superintendent advised MARAD and the Secretary that continued MARAD control over key business functions deprived the Superintendent of the “necessary tools and authority” necessary to run the Academy.** After committing to restore those authorities the Secretary and MARAD instead put the issue to rest by replacing the former Board and Superintendent with a compliant Advisory Board and Superintendent who would not challenge MARAD’s iron grip on control; and, **five years later, MSCHE agreed with that 2011 advice and issued its accreditation Warning.**

- Mr. Jaenichen’s statement on 8/2/16 about talks within MARAD on accreditation is chilling but indicative of the agency’s lack of expertise in higher education: ***“We’ve also begun some high level talks here within the agency about what accreditation means and some of the steps that will be taken to support the Academy as it goes through the process of accreditation.”*** Too little, too late; but indicative of an agency that has no business governing an institution of higher learning, much less a Federal academy.
- In an email exchange obtained through a lawsuit filed by the AAF over FOIA requests, Executive Director Szabat was found collaborating with Superintendent Helis to mislead the DOT director of finance with respect to published reasons for the eviction of the AAF from the campus.
- MARAD’s failures were predictable as it employs no one with any experience or expertise in governing or overseeing an institution of higher learning.
- MARAD has repeatedly made misrepresentations to all Academy stakeholders, including Congress and a Federal judge.
- MARAD has declined to hold the leadership team at Kings Point accountable for any errors.
- Creation of Board of Trustees to replace MARAD as the governing authority over the Academy
 - MSCHE has already suggested this in its report with a “Non-binding Finding for Improvement”: ***“Consider creating a governing board consisting of representatives outside of USMMA that have a statutory and/or regulatory role in the operation of the Academy and that acts to assure institutional integrity and supports the institution in policy and resource development.”***
 - Two former Chairmen of the USMMA Alumni Association & Foundation (AAF) made the same recommendation in articles in the AAF’s magazine, the “Kings Pointer”.
 - The first, in 2011 was met by an effort by the former Maritime Administrator to have the AAF Chairman removed from office for writing in the alumni magazine ***that “to remain relevant to the future of Kings Point, MARAD needs to demonstrate that: 1) it has the skill base to run a college; 2) its ranks are filled with staffers dedicated to the welfare of the Academy and its Midshipmen; and 3) there is accountability for its decisions, actions and inaction. However, all three of those elements are missing. The skill set is not there”***. Unfortunately, five years later the skill set is still demonstrably not there.
 - The second, in early 2014, drew a response from MARAD Executive Director, Joel Szabat, in which he stated that ***the suggestion “drives a stake in the heart of our efforts to reconcile” and made it clear that he would retaliate by refusing to return the AAF to campus: “it would be inappropriate for any organization to be campaigning against a federal agency’s policies, while occupying an office or property of that agency.”***
 - There has been no comment from MARAD on MSCHE’s recommendation and, therefore, it is not clear if Mr. Szabat will take it seriously or let MSCHE know that they have “driven a stake through the heart” of its relationship with the Academy and MARAD.

Summary of key findings on misrepresentations and negligence:

- The Advisory Board inexplicably reported that “*the Academy is on the right path*” and “*is heading in the right direction*”, despite failing 5 of the 14 standards for accreditation, being placed on Warning by the MSCHE, having incidents of sexual assault increase by 20% and the judgment of MSCHE that “*the institution is not able to function successfully as it is not properly administered and staffed*”; and statements by Superintendent Helis that it will take two years to correct the deficiencies.
- With respect to returning control of key business functions from MARAD to the Academy, Mr. Jaenichen stated during the 8/2/16 Town Hall conference call that: “*In 2015, the secretary of the Advisory Board of the Merchant Marine Academy recommended that authority be returned to the Merchant Marine Academy*”. However, no such recommendation was made in the Board’s 2015 report; and to make such a suggestion is revisionist history by Mr. Jaenichen.
- The MSCHE was given a false representation that Congress had directed MARAD to take control over key Academy business processes when this was a MARAD decision—thus enabling the Academy and MARAD to blame Congress for the MSCHE criticism on governance and failure of Standard 3.
 - The original draft of the Academy’s self-study had the correct facts: “*...as a result of 2009 GAO audit findings of weak internal controls and mismanagement both MARAD and the Department of Transportation recognized the need for direct engagement in the administration of the Academy. Key Academy business processes such as Finance, Procurement, and Human Resources that once reported to the Superintendent now report to their respective managers at MARAD headquarters.*” And, “*Currently, all aspects of USMMA financial management are the responsibility of the MARAD Assistant Chief Financial Officer for Academy operations...*”
 - Given the approval process, it is apparent that either the Superintendent or MARAD made changes in the final message on this topic and is responsible for this willful misrepresentation to the MSCHE and other stakeholders.
 - As a consequence, MSCHE inaccurately reported that after the results of the 2009 GAO audit “*key Academy business processes...were removed from USMMA by Congress and now report directly to the DOT and MARAD headquarters...*”
- These misrepresentations led MSCHE to issue an unnecessary “Requirement” for legislative action that can only serve to delay compliance: “*The Secretary of Transportation must initiate and lead an effort to ensure statutory and regulatory change is made by Congress so that the annual budget is available to the institution at the start of the fiscal year.*”
- Although MSCHE passed the Academy on “Standard 6: Integrity”, it raised a number of troubling issues on integrity at the Academy that are not compatible with the culture of a Federal academy and reliance on an Honor Code; and concluded that **the Academy “is weak in many of the tenets of integrity as outlined by MSCHE”**.
- The misrepresentations of the Advisory Board, Superintendent and MARAD with respect to SASH and the stand down of the Sea Year, and the misrepresentation with respect to

the role of Congress in governance puts the Academy at risk of failing “Standard 6: Integrity” when the MSCHE is informed.

- The Advisory Board failed to address obvious and well documented governance deficiencies in its previous reports. **Both the former Advisory Board and the former Superintendent advised MARAD in 2011 that MARAD control of key business processes was dysfunctional and both were replaced after providing that advice.**
- The Advisory Board failed to comprehend the requirements for accreditation and, consequently, consistently provided the Academy with bad advice.
- The Advisory Board failed to recognize real and obvious accreditation problems in its previous reports. Instead, in 2014 the Chairwoman warned the Board of Visitors that the Academy could be cited by the accreditation board for failing to meet the minimum requirements for liberal arts. However, MSCHE found no problem with the curriculum and this warning proved to be alarmist nonsense.
- **With its misguided and inaccurate warnings on deficiencies in liberal arts, the Advisory board completely overlooked the real accreditation problems facing the Academy involving ineffective leadership and a destructive governance structure.**

Detailed Review:

- **The Advisory Board and MSCHE are misled and improperly hold Congress responsible for a flawed governance structure:** The Advisory Board and MSCHE both make statements that “*key Academy business processes such as financial management, procurement, and human resources were removed from USMMA by Congress and now report directly to the DOT and MARAD headquarters*”. (pg 11 MSCHE); and “*...Congress directed U.S. DOT to implement extensive financial oversight procedures to more closely monitor the Academy’s monthly budget management, hiring, and procurement activities*”. (pg 8 Advisory Board)
 - These statements are false.
 - Control over those “*Academy processes*” by MARAD were imposed solely by DOT and need no Congressional action to return them to the Academy.
 - Comments from the Maritime Administrator and Superintendent have echoed these false statements, creating the impression that Congress is responsible for the accreditation “WARNING”, and not the insistence of MARAD that it retain those controls.
 - The only Congressional limitation has been a requirement that that 50% of the Academy’s funding is available only after a plan is submitted to Congress by the DOT Secretary detailing how the funding will be expended.
 - Credible sources report that this requirement was put in place to ensure that the DOT Secretary paid attention to the Academy.
 - There is no reason this requirement would delay funding allotments to the Academy.
 - However, according to the Academy’s self-study (pg 25), delays have been encountered because of MARAD withholding the money for no apparent reasons [“*...in the past few years, MARAD has taken several months to actually provide the remaining 50% balance of the Academy’s*”

funding even after the plan has been approved by the Secretary and transmitted to Congress”].

- The original draft of the Academy’s self-study, dated July 1, 2015, and presented to the Superintendent for approval prior to delivery to MSCHE in November, 2015 had the correct facts: “...as a result of 2009 GAO audit findings of weak internal controls and mismanagement both MARAD and the Department of Transportation recognized the need for direct engagement in the administration of the Academy. Key Academy business processes such as Finance, Procurement, and Human Resources that once reported to the Superintendent now report to their respective managers at MARAD headquarters.” And, “DOT and MARAD have taken direct control of most significant human resources, acquisitions, and financial policy matters.” (pg 15)
 - Given the approval process, it is apparent that either the Superintendent or MARAD made changes in the final message on this topic and is responsible for this willful misrepresentation to the MSCHE and other stakeholders.
 - These misrepresentations led MSCHE to issue an unnecessary “Requirement” for legislative action that can only serve to delay compliance. From page 10 of its report: “*The institution does not have access to its approved annual budget in a manner that supports the effective, efficient, and timely use of financial resources at the institution level. The Secretary of Transportation must initiate and lead an effort to ensure statutory and regulatory change is made by Congress so that the annual budget is available to the institution at the start of the fiscal year.*”
- **A further risk to Accreditation with a subsequent failure of “Standard 6: Integrity”**

It is reasonable to project a MSCHE issuance of a failure for “Standard 6: Integrity” when it learns of the facts behind the Sea Year stand down and the decision of DOT and MARAD to take and maintain control over key business processes; and conclude that MARAD and the Academy leadership have not adhered to the requirement that “*In the conduct of its programs and activities and involving the public and constituencies it serves, the institution demonstrates adherence to ethical standards...*” (pg 14)

 - There is conclusive evidence (as detailed in the companion document on SASH) that the Advisory Board, the Superintendent and MARAD collaborated in the production of a report intended to deceive all stakeholders, particularly members of the Board of Visitors, and defame the commercial sector of the U.S. flag merchant marine to justify their decision to stand down the Sea Year in an apparent effort to divert attention from the accreditation Warning and their failure to deal with on-campus SASH, despite repeated warnings.
 - Consequently, the Superintendent and MARAD have shut down a program critical to accreditation at the same time that the Academy is given a Warning; have probably put the Midshipmen in greater danger of SASH; have made blatant misrepresentations to the Board of Visitors and Congress, the alumni, Midshipmen, faculty, MSCHE and parents; and defamed the commercial sector of the U.S. flag merchant marine.
 - It is also clear that the Academy willfully misrepresented the role of Congress in the assumption of control over specific business activities of the Academy by MARAD and DOT.

- Moreover, MSCHE will learn that this action is part of a pattern of unethical conduct on the part of MARAD and the Superintendent which is exemplified by the 2013 scandal when they evicted the alumni from the campus, lied to all stakeholders, including Congress, and a Federal judge and then conspired (as evidenced in written documents) to conceal that information from the Chief Financial Officer of DOT.
 - It is reasonable to assume that the Academy will be at risk of having “Standard 6: Integrity” added to the list of 5 failed Standards when MSCHE is informed of these ethical breaches.
- **Advisory Board failure to previously address obvious and well documented governance deficiencies:** With respect to the deficiencies in governance covered in the MSCHE report, the Advisory Board concluded in its 2016 report “...that the Superintendent, as the Chief Executive Officer of the institution, does not in practice currently have the means, authority, and responsibility—assigned or delegated—to effectively and efficiently accomplish the Academy’s mission” (pg 27) and “...that the remaining issues around governance at the Academy must be addressed by first returning appropriate management authority over budget, procurement, and human resources to Superintendent Helis and his team.” (pg 28)
 - However, the previous Advisory Board came to that conclusion **five years ago** in its August 5, 2011 report to DOT Secretary LaHood, which concluded “...that Admiral Greene is inhibited because after nearly one year in charge, he does not have the necessary tools and authority that he needs to accompany the responsibility you have vested in him to lead the institution.” The report went on to indicate that it was led to believe “...that during the upcoming year you, your staff, and the Maritime Administration leadership will develop a concrete plan to restore authority to the Superintendent that was rescinded in the wake of the 2009 GAO Report.”
 - Then, not only was this advice ignored and dismissed by MARAD/DOT, but the Board itself was dismissed, apparently for offering politically incorrect advice.
 - Former Superintendent, Rear Admiral Greene (2010-2011), repeatedly attempted to have these authorities restored to the Superintendent, knowing full well that a failure to do so could create problems with the effective management of the Academy, which have now proved critical to accreditation.
 - Informed speculation is that Rear Admiral Greene was dismissed because of MARAD’s resistance to his well-intentioned efforts to restore normal governance, which would have complied with accreditation requirements—suffering the same fate as the former Advisory Board.
 - Moreover, applicants for the Superintendent’s position in 2012 were informed that MARAD planned to permanently maintain its grip on control of the Academy—thus discouraging candidates far more qualified than Superintendent Helis from applying.
 - Why didn’t the current Advisory Board question this practice and intention in 2014 but instead wait until 2016 when the MSCHE flagged it and put the accreditation at risk?

- **Advisory Board’s ill-considered advice on accreditation:** The Advisory Board failed to comprehend the requirements for accreditation and, consequently, consistently provided the Academy with bad advice.
 - For example, during its July 16, 2014 presentation to the Board of Visitors, the Chairwoman, Dr. van Wyk, stated (as quoted in the MARAD published minutes): *“She also addressed that the accreditation rules require some courses in order to meet minimum criteria (i.e., liberal arts) and mentioned that the Academy only marginally meets some accreditation criteria. **Dr. van Wyk noted that the Academy is up for re-accreditation and could be cited by the accreditation Board for failing to meet the minimum requirements.**”*
 - MARAD apparently accepted this advice from the Advisory Board over the opposition of the former Dean. For example, Brian Blower, the MARAD-USMMA liaison, addressed the New York Metro Parents Association on March 19, 2015 and is recorded in the minutes as stating: *“**The accreditation is at risk. Because of the new requirements, the curriculum is too technical and professional and does not have enough humanities classes. We are in danger of being put on probation for not having enough liberal arts.**”*
 - In fact, the “accreditation Board” found no issue with the Academy’s curriculum or “minimum criteria” for liberal arts; but found serious fault in other areas that the Advisory Board and Superintendent Helis failed to consider.
 - Thus, Mr. Blower’s warning of the “*danger of being put on probation for not having enough liberal arts*” was alarmist nonsense.

- **Advisory Board failure to previously recognize real and obvious accreditation problems:** With its misguided and inaccurate warnings on deficiencies in liberal arts, the Advisory Board completely overlooked the real accreditation problems facing the Academy involving ineffective leadership and a destructive governance structure.
 - In fact, the Board indicated in its 2014 report that it had been asked to review the governance structure for accreditation compliance but never did so (*“The Superintendent is also engaging the Board to review the Academy’s governance structure and ensure it complies with the accreditation standards”*) (pg 6).
 - Other than recommending that the Academy *“Analyze each area of the accreditation process where additional [emphasis added] governance structures and oversight are needed...”* (pg 7), no further comment is made on governance or leadership in the 2014 report and none is made in the 2015 report.
 - The Board only comments on it in the 2016 report in the context of the expectation that the MSCHE was going to conclude that the Academy failed to meet those requirements with the statement of the obvious that it should have made in 2014: *“...the Academy will need to make changes in the Academy’s current governance and administration policies and statutes in order for the institution to maintain its current accreditation.”* (pg 8)
 - The Advisory Board also tries to convince the reader that it has been on top of this issue from the start with the advice: *“The return of statutory authority is long overdue. Further delay puts the Academy’s accreditation at risk”*. If it is “long overdue” why did the Advisory Board fail to mention the issue in its 2014 and 2015 reports?

- And the Board is disingenuous with this “warning” of a risk when it knew when it wrote this report that the “delay” had already put the Academy’s accreditation at risk and it was to be issued a “Warning” by MSCHE.
- Had it made that recommendation in 2014 (and it was followed by the Superintendent), it is likely the “Warning” from the MSCHE could have been avoided. Thus, it is fair to conclude that the Advisory Board was derelict in its advice to the Academy; and, it is fair to speculate that its sudden focus on sexual harassment and assault has been an effort to create a diversion from its dereliction.

Addendum:

Actions to be taken to restore confidence in the leadership of the Academy

- Replacement of Superintendent Helis for cause, including the following:
 - He had four years to cure the accreditation deficiencies but did not even recognize that they existed. Maintenance of accreditation is the number one priority of every college CEO; and failure to even recognize a problem should be sound cause for termination by itself.
 - Curing the deficiencies will take leadership and communication skills, neither of which he has shown. As per the MSCHE report: *“The team did not find any evidence of efforts of the senior administrative structure to be in regular contact with faculty thinking or with students to understand their concerns and perspectives”*.
 - He has stated that he needs two years to correct the deficiencies. The Academy doesn’t have two years—from MSCHE or the Academy’s loss of credibility.
 - He has installed an abusive culture that has lost the respect of Faculty and Midshipmen which will make it impossible for him to make any inroads on the SASH problem which has worsened over his four years, while declining at the other academies.
 - He invites disrespect and resentment by wearing the “Screaming Eagle” Combat Service Identification Badge of the 101st Airborne Division (Air Assault), one of the most famous and recognizable badges in the Army, on his USMS uniform. Whether authorized to wear it or not, he never served in combat or in the 101st and projects an air of pretentiousness to Midshipmen looking for role models.
 - He also invites disrespect with statements in his bio posted on the Academy’s web-site which misleadingly present him as a warrior. Although he went to Ranger School 35 years ago he never served as an Army Ranger; and his command of *“1st Battalion, 28th Infantry Regiment”* was only of its Headquarters unit (assigned to the Army Training and Doctrine Command) since that regiment had been deactivated in 1983, long before Superintendent Helis’ assignment.
 - He has repeatedly made material misrepresentations to all stakeholders including Congress.
 - MSCHE indicated its no confidence with statement: *“the institution is not able to function successfully as it is not properly administered and staffed”*

- His failure to provide effective leadership overshadows the consensus among all stakeholders that he never had the proper credentials to take command of the Academy as its Superintendent.
- Replacement of Superintendent Helis' leadership team
 - The Deputy Superintendent and Commandant, hand-picked and loyal to Superintendent Helis, have not demonstrated any aptitude for leadership or governing and do not have the respect of the Faculty or Midshipmen.
 - The Deputy Superintendent mirrors the Superintendent's inability to communicate with Faculty and Midshipmen.
 - The Commandant's use of public humiliation as a form of discipline has irreparably damaged his relationship with the Midshipmen.
 - Their failure to provide effective leadership overshadows the consensus among all stakeholder that they did not have the proper credentials to assume their leadership positions.
- Replacement of the Advisory Board
 - The Board, appointed for its supposed expertise in higher education, has proven inept with respect to accreditation by failing to recognize the deficiencies prior to the Warning, delivering two annual reports (2014 and 2015) which covered none of them. Although Mr. Jaenichen stated on 8/2/16 that "*In 2015, the secretary of the Advisory Board of the Merchant Marine Academy recommended that authority be returned to the Merchant Marine Academy*", the Board's 2015 report makes no such recommendation.
 - The Board ignored the advice of the previous Advisory Board and former Superintendent, given in 2011, that the authorities over key business processes needed to be returned to the Superintendent.
 - The Board has materially misrepresented facts in its annual reports.
 - The Board has inexplicably advised that Academy is going in the "right direction" despite receiving an unexpected Warning on accreditation and seeing incidents of SASH increasing at Kings Point while declining at the other four academies.
 - With its actions and statements, the Board has cast itself as no more than a public relations arm of MARAD and has failed to be an independent voice.

Appendix A

Public Disclosure Statement

United States Merchant Marine Academy

June 23, 2016

By the Middle States Commission on Higher Education

Summary of Recent Commission Actions

At least every ten years, all accredited institutions engage in an 18-24 month period of self-study intended to demonstrate institutional compliance with accreditation standards and to promote institutional improvement. The United States Merchant Marine Academy completed its self-study process and hosted an evaluation team visit during the 2015-16 academic year.

On June 23, 2016, the Middle States Commission on Higher Education acted as follows:

To warn the institution that its accreditation may be in jeopardy because of insufficient evidence that the institution is currently in compliance with Requirement of Affiliation 7 (Institutional Planning), Standard 2 (Planning, Resources, and Institutional Renewal), Standard 3 (Institutional Resources), Standard 4 (Leadership and Governance), Standard 5 (Administration), and Standard 9 (Student Support Services). To note that the institution remains accredited while on warning. To request a monitoring report, due March 1, 2017, documenting evidence that the institution has achieved and can sustain compliance with Requirement of Affiliation 7 and Standards 2, 3, 4, 5, and 9, including but not limited to evidence of (1) institutional planning that (a) integrates plans for academic, personnel, information resources and technologies, learning resources, and financial development; (b) includes goals and objectives, both institution-wide and for all individual units, that are clearly stated, reflect conclusions drawn from assessment results, are linked to mission and goal achievement, and are used for planning and resource allocation at the institutional and unit levels; and (c) includes planning and improvement processes that are clearly communicated, provide for constituent participation, and incorporate the use of assessment results (Requirement of Affiliation 7 and Standard 2); (2) resource allocation procedures that include (a) strategies to measure and assess the level of, and efficient utilization of, institutional resources required to support the institution's mission and goals; (b) rational and consistent policies and procedures in place to determine allocation of assets; (c) a financial planning and budgeting process that provides for an annual budget and multi-year budget projections, both institution-wide and among departments; utilizes planning and assessment documents; and addresses resource acquisition and allocation for the institution; and (d) adequate institutional controls to deal with financial, administrative and auxiliary operations (Standard 3); (3) a governance structure that includes an active governing body with sufficient autonomy to assure institutional integrity and to fulfill its responsibilities of policy and resource development, consistent with the mission of the institution (Standard 4); (4) an administration characterized by (a) a chief executive whose primary responsibility is to lead the institution toward the achievement of its goals and with responsibility for administration of the institution; (b) administrative leaders with appropriate skills, degrees and training to carry out their responsibilities and functions; (c) qualified staffing appropriate to the goals, type, size, and complexity of the institution; and (d) adequate information and decision-making systems to support the work of administrative leaders (Standard 5); and (5) steps taken to build a climate of mutual trust and respect on campus and during the Sea Year (Standard 9). To further request that the monitoring report also document (6) further development and implementation of an organized and sustained institutional assessment process, including evidence that assessment results are shared and discussed with appropriate constituents and used in planning, resource allocation, and renewal at all levels (Standard 7). A small

team visit will follow submission of the monitoring report. To direct a prompt Commission liaison guidance visit to discuss the Commission's expectations. The date of the next accreditation review will be established when accreditation is reaffirmed.

Current Status and Expected Activities

The United States Merchant Marine Academy remains accredited by the Middle States Commission on Higher Education while on warning.

Following submission of a monitoring report on March 1, 2017, the Commission will conduct a small team visit to assess the institution's compliance with the Commission's standards. Following the on-site visit, a report by the visiting team will be completed. The monitoring report, the small team report and the institutional response to the small team report will be considered by the Committee on Follow-Up Activities, and then by the Commission.

Following review by the Committee on Follow-up Activities, the Commission will take further action, in accordance with the Commission's policy, *Accreditation Actions* (available at <http://www.msche.org/documents/P2.3-AccreditationActions.pdf>) . If, based on the monitoring report and small team report, the Commission determines that the United States Merchant Marine Academy has made appropriate progress in addressing the cited concerns, the Commission may act to remove the warning and reaffirm accreditation. If the Commission determines that progress sufficient to demonstrate compliance with its accreditation standards has not been made, the Commission may take further action as allowed under *Accreditation Actions*.

Appendix B: List of colleges with Warnings and number of cited deficiencies

MSCHE currently has outstanding Warnings issued to the following colleges (with the number of deficiencies), from the MSCHE web-site:

Allegany College of Maryland: (2)

Butler County Community College: (1)

Dutchess Community College: (1)

Frostburg State University: (2)

Le Moyne College: (1)

Monroe College: (2)

Richmond, The American International University In London: (1)

Roberts Wesleyan College: (2)

St. Mary's College of Maryland: (1)

United States Merchant Marine Academy: (5)

York College of Pennsylvania: (1)