

ANTI-HARASSMENT/HATE INCIDENT (AHHI) POLICY AND PROCEDURE



SUPTINST 5350.9B

August 2023

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U.S. Department of
Homeland Security

United States
Coast Guard



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SUPTINST 5350.9B

14 Aug 2023

U.S. COAST GUARD ACADEMY INSTRUCTION 5350.9B

Subj: ANTI-HARASSMENT/HATE INCIDENT (AHHI) POLICY AND PROCEDURE

Ref: (a) Harassing Behavior Prevention, Response, and Accountability, COMDTINST 5350.6 (series)
(b) U. S. Coast Guard Civil Rights Manual, COMDTINST M5350.4 (series)
(c) Coast Guard Officer Evaluation and Rating Chain, SUPTINST 1611.1 (series)
(d) Coast Guard Investigative Service Roles and Responsibilities, COMDTINST 5520.5 (series)
(e) Coast Guard Regulations, COMDTINST M5000.3 (series)
(f) Manual for Courts-Martial, United States (2019 ed.)
(g) Military Justice Manual, COMDTINST M5810.1 (series)
(h) Administering the Coast Guard Academy Scholar (CGAS) Program, SUPTINST 5354 (series)

1. **PURPOSE.** To clarify the United States Coast Guard Academy's (CGA) Anti-Harassment/Hate Incident (AHHI) reporting policy and to delineate the consequences for Cadets and Cadet Candidates (Scholars) who commit substantiated incidents of harassing behavior, as required by paragraph 18.b of reference (a). Nothing in this manual alters timelines for investigations, or deviates from Commandant policy as it relates to military and civilian personnel that are not Cadets or Scholars. This Instruction also designates the Commandant of Cadets as the Commanding Officer of alleged Cadet offenders for the sole purpose of convening command investigations into allegations of harassing behavior. Nothing in this Instruction supersedes guidance in reference (a).
2. **ACTION.** All divisions of CGA shall comply with the provisions of this Instruction.
3. **AUTHORIZED RELEASE.** Internet release is authorized.
4. **UNIT INSTRUCTIONS AFFECTED.** Anti-Discrimination and Anti-Harassment Policy and Procedures, SUPTINST 5350.9A; Prevention of Sexual Harassment, SUPTINST 5350.8B; and CGA Notifications to Civil Rights Service Provider and Administrative Investigator Selection and Training, SUPTINST 5850.3E are hereby cancelled.
5. **DISCUSSION.** On 01 February 2023, the United States Coast Guard released reference (a) to create and maintain a workplace free of harassment and other harassing behavior by ensuring prevention, timely and independent investigation, corrective action, and

accountability. Reference (a) specifically cancels Chapters 3.C through 3.J of reference (b). Additionally, it directs CGA and FORCECOM to issue policies addressing consequences for Cadets, new officer accessions, and enlisted recruits who commit substantiated incidents of harassing behavior. Accordingly, this Instruction clarifies the reporting policy at CGA and outlines the consequences for Cadet and Scholar offenders.

6. DISCLAIMER. This guidance is not a substitute for applicable legal requirements. It applies to and is intended to clarify the requirements for personnel assigned to CGA.
7. EQUITY CONSIDERATIONS. The development of this Instruction and the policies contained within have been thoroughly reviewed by the CGA Staff Judge Advocate in conjunction with the Office of Inclusion and Diversity (OID). This Instruction will not perpetuate implicit bias, stereotypes, or other forms of discrimination and will not intentionally or unintentionally create barriers or inequities that reinforce or result in equity gaps for members of the applicable community.
8. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this Instruction and have been determined to be not applicable.
9. DISTRIBUTION. No paper distribution will be made of this Instruction. An electronic version will be stored on the CGA Portal website in the General Links section for Superintendent Instructions.
10. POLICY.
 - a. BACKGROUND
 - (1) Reference (a) defines “harassing behavior” to include harassment, sexual harassment, bullying, hazing, retaliation, and reprisal. It provides the following definitions:
 - (a) Harassment. Harassment is unwelcome conduct, whether verbal, nonverbal, or physical, that has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, offensive, or hostile environment. Harassment includes conduct – whether or not based on a protected status – that includes, but is not limited to, race, sex, gender, or gender identity. Hate-based harassment that targets one or several people requires special reporting and investigation.
 - (b) Sexual Harassment. Sexual harassment is gender-based harassment in which the aggrieved and harasser can be or identify as the same or another gender. Sexual harassment occurs where the subject knowingly makes sexual advances, demands or requests for sexual favors, or knowingly engages in other acts of a sexual nature; such conduct is unwelcome; AND under the circumstances, such conduct:

1. Would cause a reasonable person to believe, and the person at whom the behavior is directed does believe, that submission to such conduct is, or would be made, either explicitly or implicitly, a term or condition of that person's job, pay, career, benefits, or entitlements;
 2. Would cause a reasonable person to believe, and the person at whom the behavior is directed does believe, that submission to, or rejection of, such conduct is, or would be used, as a basis for decisions affecting that person's job, pay, career, benefits, or entitlements; OR
 3. Is so severe, repetitive, or pervasive that it unreasonably interferes with an individual's work performance, or other conditions of employment, OR a reasonable person would perceive, and the person at whom the behavior is directed does perceive, an intimidating, hostile, or offensive working environment.
- (c) Hazing and Bullying. These harassing behaviors physically or psychologically injure or create a risk of physical or psychological injury to Coast Guard personnel. Physical contact is unnecessary. Hazing is done for the purposes of initiation or admission into, affiliation with, change in status or position within, or as a condition for continued membership in any Coast Guard unit or organization. Hazing has no legitimate or properly authorized government purpose and is not excused by consent of the target of hazing. Bullying is threatening, humiliating, or intimidating behavior done with an intent to exclude.
- (d) Retaliation or Reprisal. Retaliation or reprisal comprises illegal, unacceptable, or hostile actions taken against a military member or civilian employee, as a result of that individual engaging in, or being suspected of engaging in, a protected activity.
- (2) Reference (a) creates lawful general orders which are punitive in nature:
- (a) Coast Guard members are prohibited from engaging in conduct that constitutes harassing behavior, hate, or other conduct as described and prohibited in reference (a); and,
 - (b) Convening authorities must investigate or otherwise process reports or complaints of harassing behavior, hate, or other conduct as described and prohibited by reference (a).
- (3) Reference (a) states that, in general, the Coast Guard's AHHI policy applies at all times to all active duty members, reserve members, civilian employees, and members of the Coast Guard Auxiliary. It covers and prohibits harassing behavior that has a direct nexus to a member or employee's position or responsibilities, which occurs on duty, off duty, face-to-face, or remotely via written or electronic/digital means, including, but not limited to telephone, email, social media, websites, and chat

applications. Such conduct is prohibited regardless of whether it occurs during working hours or onboard Coast Guard installations or assets.

- (4) Reference (a) defines harassing behavior. Applying this definition to a training environment presents unique challenges, as some parts of military indoctrination can look like harassing behavior (yelling, yelling in close proximity, and other forms of behavior modification). However, when done with a valid military purpose, these behaviors would normally fall outside the scope of harassing behavior as the conduct would not reasonably be considered “unwelcome.”

b. CGA MANDATORY REPORTING REQUIREMENTS

- (1) In general, CGA will comply with all reporting requirements of reference (a). Anyone who receives a complaint or otherwise learns of apparent harassing behavior shall report the incident through their chain of command. The complaint may be made verbally or in writing, though a notification in writing is preferable to a verbal notification. A complainant who perceives that the convening authority has taken no action on a complaint should inform the Anti-Harassment Program Office (AHPO) as outlined in reference (a).

(2) Chain of Command.

- (a) Cadets: Upon receiving a complaint or otherwise learning of apparent harassing behavior, a Cadet shall notify their Company Officer or Chief. If that is impractical, then the Cadet shall make the notification to any Officer or Chief of Cadet Division (C-Div), who will pass the information to the Assistant Commandant of Cadets. Either the Assistant Commandant of Cadets or the Commandant of Cadets will share the report with the Staff Judge Advocate.
- (b) Scholars: Upon receiving a complaint or otherwise learning of apparent harassing behavior, a Scholar shall notify the Admissions Division, who will pass the information to the Deputy Director of Admissions. Either the Deputy Director or Director of Admissions will share the report with the Staff Judge Advocate.
- (c) All Other CGA Personnel: Upon receiving a complaint or otherwise learning of apparent harassing behavior, all other CGA personnel shall notify their Division Officer through their supervisory rating chain. The relevant Division Officer will notify the Staff Judge Advocate.

- (3) Academic and Training Discussions: There are no “academic or training discussion” exceptions to the mandatory reporting policy set forth by reference (a). Faculty and students shall report apparent harassing behavior without exception. If a discussion is expected to involve sensitive topics (e.g., race, gender, sexual orientation, religion, political affiliation), the facilitator may open the discussion with a reminder of this

Coast Guard policy. Additionally, faculty may include such a reminder in their syllabi as desired. Sample language for such a reminder is provided in Appendix 1.

c. COMMAND REQUIREMENTS AND PERFECTING A COMPLAINT

- (1) Upon learning of an alleged incident of harassing behavior, the convening authority of the respondent will follow all response requirements found in reference (a). The Academy Chief of Mission Support serves as the Commanding Officer of Enlisted Personnel and is the convening authority and final action authority for all enlisted member and Scholar respondents. As delegated in section 10.d, below, the Commandant of Cadets is the convening authority and final action authority for all cadet respondents. The Assistant Superintendent is the convening authority for all officer and civilian respondents. For administrative efficiency, the Chief of Mission Support may at times convene investigations for officer and civilian respondents, and will forward those investigations to the Assistant Superintendent as the final action authority. In instances where the Assistant Superintendent is unavailable or conflicted from acting on a certain case, the Superintendent will be the convening authority and final action authority.
- (2) Any allegation of Sexual Harassment must immediately be reported to CGIS in accordance with reference (d).
- (3) To be “perfected,” a complaint of harassing behavior must allege facts that, if true, would meet the definition of harassing behavior provided in reference (a). If, upon initial review and consultation with the Staff Judge Advocate, the command receiving a report of harassment does not believe the conduct alleged would constitute harassing behavior, the command shall meet with the complainant to provide them with the relevant definition of harassment and allow them an opportunity to articulate their complaint in such a way that it can be properly investigated. This meeting shall be conducted by a Command Selected Representative (CSR) within five days of receiving the complaint. CSRs should be selected based on their maturity, and shall complete “Conducting Investigations into Allegations of Harassment (100326)” through the Learning Management System prior to working with any complainant.
- (4) As an example, a complainant who makes a claim of harassment based on their race without providing further detail would be approached by a CSR and offered an opportunity to provide additional detail as to what conduct they experienced that made them perceive harassment based on race. If the complainant still failed to articulate a colorable complaint (i.e., one that, if true, would fall within the definition of harassing behavior), the investigation would be held in abeyance until the complainant provided necessary details.
- (5) To make a complainant feel most at ease when perfecting an allegation, the CSR will, when feasible, be as close in rank as possible to the complainant, but no junior than E-6. No Cadets will be assigned as a CSR. Further, the complainant may elect to have a third-party representative present when the CSR meets with them to perfect their

complaint under section 9.c.(3), above. A specifically requested third-party representative must be reasonably available in person or through electronic means. Even though requested, a third-party representative should not be appointed if they are involved in the matter that is the subject of the complaint or is expected to be a witness in a potential investigation into the alleged behavior. The CSR is not required to wait for a specifically requested third-party representative and may, in those situations where a requested third-party representative is not reasonably available, allow the complainant to select another reasonably available representative. Otherwise, the command may assign a third-party representative deemed capable of best assisting the member in perfecting their allegation. In keeping with the Commandant's guidance to efficiently investigate and resolve allegations of harassment, a requested third-party representative is considered reasonably available if they can meet with the CSR and complainant within 24 hours. The CSR will document their discussion with the complainant on the CG-5354A form. Enclosure (1).

d. DESIGNATION OF COMMANDANT OF CADETS

- (1) In accordance with Article 3-2-5 of reference (e), the Commandant of Cadets is hereby designated as the Commanding Officer of Cadets for CGA.
- (2) This authority is limited in scope to convening and taking final action on administrative investigations, including those convened pursuant to reference (a), where the alleged offender is in the pay status of a "Cadet."
- (3) This designation in no way limits the Superintendent's authorities under references (f) and (g).
- (4) Pursuant to Article 5-2-11 of reference (e), in the event of incapacity, death, relief from duty, or during the absence of the Commandant of Cadets, the Assistant Commandant of Cadets shall assume the duties and functions of the Commanding Officer of Cadets.

e. CONSEQUENCES FOR CADETS AND SCHOLARS WHO COMMIT SUBSTANTIATED INCIDENTS OF HARASSING BEHAVIOR

- (1) This section applies only to Cadets and Scholars. CGA will provide harassing behaviors training to all Cadets and Scholars early in their initial indoctrination training period. For incidents arising prior to the completion of that harassing behaviors training, any substantiated incidents of harassing behavior may not be recorded in a Cadet or Scholar's CGA record. After completion of the harassing behaviors training, all new substantiated incidents of harassing behavior will be recorded in the offending member's CGA record pursuant to the procedures below.
- (2) Cadets.

- (a) Each substantiated incident of harassing behavior shall, at a minimum, be documented with a memorandum of counseling. This memorandum will be entered into the offending Cadet's CGA record and physically retained by the C-Division Servicing Personnel Office (SPO). These memoranda will not be included in a Cadet's permanent military record or forwarded to the AHPO. Depending on the nature and severity of the harassing behavior, a single substantiated incident of harassment may warrant a recommendation for disenrollment to the Superintendent.
 - (b) AHPO shall be provided a Final Action Memorandum for all investigated allegations of harassing behavior, in accordance with reference (a). Accordingly, all substantiated incidents of harassing behavior a Cadet committed while in a training status will not count against them for purposes of future promotions (i.e., no such memoranda will appear in their permanent military record), but documentation of substantiated incidents of harassing behavior will be retained by AHPO and may be considered if the member commits further misconduct.
 - (c) If a Cadet commits two or more substantiated incidents of harassing behavior, the Commandant of Cadets shall forward a recommendation for their disenrollment to the Superintendent.
 - (d) If a Cadet commits a single substantiated Hate Incident or incident of Sexual Harassment, the Commandant of Cadets shall forward a recommendation for their disenrollment to the Superintendent.
- (3) Scholars.
- (a) Each substantiated incident of harassing behavior shall, at a minimum, be documented with a memorandum of counseling. This memorandum will be stored in the offending Scholar's CGA record and physically retained by the C-Division SPO. Upon a Scholar's acceptance of a Cadet appointment, all memoranda documenting incidents of harassing behavior shall be entered into their Cadet record.
 - (b) AHPO shall be provided a Final Action Memorandum for all investigated allegations of harassing behavior, in accordance with reference (a). Accordingly, all substantiated incidents of harassing behavior a Scholar committed while in a training status will not count against them for purposes of future promotions (i.e., no such memoranda will appear in their permanent military record), but documentation of substantiated incidents of harassing behavior will be retained by AHPO and may be considered if the member commits further misconduct.
 - (c) In accordance with reference (h), the Commanding Officer of Enlisted Personnel has disciplinary authority over Scholars. The Director of Admissions shall relay all Scholar-related allegations of harassing behavior to the Commanding Officer of Enlisted Personnel for investigation in accordance with reference (a). As

Scholars are geographically dispersed at various educational institutions, the Commanding Officer of Enlisted Personnel will inform the Coast Guard Investigative Service as necessary to investigate incidents of harassment at other institutions.

- (d) In accordance with reference (h), if a Scholar commits two substantiated incidents of harassing behavior, the Director of Admissions shall route a memo to the offender, through the Superintendent, removing them from the program and stating the reason for disenrollment and discharge.
 - (e) In accordance with reference (h), if a Scholar commits a single substantiated Hate Incident or incident of Sexual Harassment, the Director of Admissions shall route a memo to the offender, through the Superintendent, removing them from the program and stating the reason for disenrollment and discharge.
- f. RIGHT OF APPEAL: CGA will adhere to the appeal procedures found in reference (a).

Michael Johnston, RADM
MICHAEL J. JOHNSTON
Rear Admiral, U. S. Coast Guard
SUPERINTENDENT
U.S. COAST GUARD ACADEMY

Appendix A. Sample Reminder of Coast Guard Reporting Policy

Enclosure (1): CG 5354A – Report of Harassment, Hate, Bullying, Hazing, Misconduct, or Other Disruptive Behaviors

Appendix A – Sample Reminder of Coast Guard Reporting Policy

I encourage you all to engage in meaningful discussions as we explore [insert topic(s)]. The topics we will be discussing may remind you of situations you have encountered, or events that were recounted to you by friends. You are reminded that any disclosures you make in this forum or to me personally are not confidential. In accordance with Commandant Instruction 5350.6, I am required to report apparent incidents of harassment, sexual harassment, hazing, bullying, and retaliation or reprisal. If you have stories that relate to the scenarios we will be discussing, you can speak in hypotheticals rather than tell of past real events, unless it is your intention to file a complaint and potentially initiate an investigation into the event. I say this not to stifle discussion, but rather to create a space where we can share in meaningful dialogue and understand the consequences of certain discussions.

DEPARTMENT OF HOMELAND SECURITY
U.S. COAST GUARD
**REPORT OF HARASSMENT, HATE, BULLYING, HAZING, MISCONDUCT, OR
OTHER DISRUPTIVE BEHAVIORS**

Privacy Act Statement

Pursuant to 5 U.S.C. 552a(e)(3), this Privacy Statement serves to inform you of why DHS is requesting the information on this form.

Authority: 14 U.S.C. § 505 and COMDTINST 5350.6, Harassing Behavior Prevention, Response, and Accountability.

Purpose: To collect initial complaint data and determine the applicable policies to follow when individuals report undesirable, unlawful, or disruptive behaviors.

Routine Uses: Authorized USCG officials will use this information to investigate reports of undesirable, unlawful, or disruptive behaviors. Any external disclosures of information within these records will be made in accordance with DHS/ALL-020 Department of Homeland Security Internal Affairs, 79 FR 23361, April 28, 2014.

Disclosure: Providing this information is voluntary. However, failure to provide this information may result in a delay in processing the complaint.

REPORTING PARTY: AGGRIEVED WITNESS

LAST FIRST MIDDLE SUFFIX (*Jr, III*)

ASSIGNED UNIT DEPARTMENT ID EMPLOYEE TYPE RANK/GRADE RACE
 MILITARY CIVILIAN

ADDRESS CITY STATE ZIP CODE

TELEPHONE EMAIL DUTY STATUS
 ON DUTY TDY/TRAINING LEAVE OTHER

Click button for :

INCIDENT DATES:

REPORTED DATE: OCCURRED FROM: OCCURRED TO:

BRIEF DESCRIPTION OF INCIDENT/OFFENSE:

ALCOHOL INVOLVED: YES NO EO/EEO PROCESS INITIATED YES NO EXTERNAL INTEREST YES NO
 VIOLENCE/THREATS ALLEGED: **Follow Coast Guard Investigative Service Roles and Responsibilities, COMDTINST 5520.5 (series), and refer to the Office of Civilian Human Resources (CG-121)**

PHYSICAL HARM ATTEMPTED PHYSICAL HARM THREATENING PHYSICAL HARM
 INTIMIDATION PROPERTY DAMAGE/DESTRUCTION UNUSUAL BEHAVIOURS/THREATS
 WEAPONS/FIREARMS

If assault or other criminal activity is alleged, STOP and report to Coast Guard Investigative Services.

INCIDENT TYPE

HARASSMENT SEXUAL HARASSMENT HATE INCIDENT
 BULLYING HAZING OTHER
 OTHER

MOTIVATION BIAS/BIAS(ES) ALLEGED OR UNKNOWN: **Follow Harassing Behavior Prevention, Response, and Accountability (COMDTINST M5350.6 (series)).**
(Identify the specific targeted/protected group in the blank provided.)

RACE COLOR RELIGION
 SEX/GENDER NATIONAL ORIGIN AGE
 DISABILITY GENETIC INFORMATION SEXUAL ORIENTATION
 MARITAL STATUS PARENTAL STATUS POLITICAL AFFILIATION
 REPRISAL UNKNOWN MOTIVATION

AHPO notification required, if any are checked.

NOTIFICATION DATES:

CGIS/LEO NOTIFICATION DATE: AHPO NOTIFICATION DATE: HATE INCIDENT 48 HOUR REPORT DATE:

NO MOTIVATING BIAS/BASIS(ES)/VIOLENCE ALLEGED: REPORTING PARTY CONFIRMED NO BIAS OR VIOLENCE
Follow Harassing Behavior Prevention, Response, and Accountability COMDTINST M5350.6 (series) for all active duty members, reserve members, civilian employees, and members of the Coast Guard Auxiliary.
CG-124 notification required, if any allegations involve civilian employees.

LOCATION WHERE OCCURRED:

UNIT/LOCATION NAME ON-BASE OFF-BASE

ADDRESS CITY STATE ZIP CODE

ALLEGED RESPONSIBLE PERSON: 1

LAST FIRST MIDDLE SUFFIX (*Jr, III*)

ASSIGNED UNIT DEPARTMENT ID EMPLOYEE TYPE RANK/GRADE RACE
 MILITARY CIVILIAN

ADDRESS CITY STATE ZIP CODE

TELEPHONE EMAIL DUTY STATUS
 ON DUTY TDY/TRAINING LEAVE OTHER

IF ALLEGED, RELEVANT PROTECTED GROUP(S)/DEMOGRAPHICS:

Click button for :

INVESTIGATION REPORTING DATES:				
EXTENSION APPROVED DATE		CONVENING ORDER SIGNATURE DATE: INVESTIGATION START DATE: SCHEDULED END DATE:		
WITNESS/PERSON WITH KNOWLEDGE: 1				
LAST	FIRST	MIDDLE	SUFFIX (Jr, III)	
ASSIGNED UNIT	DEPARTMENT ID	EMPLOYEE TYPE <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		RANK/GRADE RACE
ADDRESS	CITY		STATE	ZIP CODE
TELEPHONE	EMAIL	DUTY STATUS <input type="checkbox"/> ON DUTY <input type="checkbox"/> TDY/TRAINING <input type="checkbox"/> LEAVE <input type="checkbox"/> OTHER		
IF ALLEGED, RELEVANT PROTECTED GROUP(S)/DEMOGRAPHICS:				
Click button for :	Additional Witness		Delete Witness	
CO/OIC CONDUCTING INQUIRY/INVESTIGATION AND REPORTING				
LAST	FIRST	MIDDLE	SUFFIX (Jr, III)	
ASSIGNED UNIT	DEPARTMENT ID	EMPLOYEE TYPE <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		RANK/GRADE
COMMAND SUPERIOR	ADDRESS	CITY	STATE	ZIP CODE
TELEPHONE	EMAIL	CO/OIC SIGNATURE		