

TSA HCM 771-4, Handbook

National Resolution Center for Bargaining Unit Employees

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Approval

Signed

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**TSA HANDBOOK TO HCM 771-4 NATIONAL RESOLUTION CENTER
FOR BARGAINING UNIT EMPLOYEES**

NOTE: *This Handbook and all related Appendices and/or Attachments contain provisions to implement the provisions of [TSA HCM 771-4, National Resolution Center](#). Until such time as TSA HCM 771-4 is rescinded, the Human Capital Policy, Handbook, Appendices, and any Attachments are considered TSA policy, and must be applied and followed accordingly.*

Summary of Changes

Multiple revisions throughout document to reflect Section 11.B.1 of the 2022 *Determination on Transportation Security Officers and Collective Bargaining*, which includes updating this policy to: remove the exclusion of issues from the grievance process that were excluded from bargaining under the 2019 Determination; allow for third parties (arbitrators) to review dismissal determinations made by the National Resolution Center, as well as continue to review claims on the merits; and Incorporate the joint recommendations regarding grievance procedures made by the Working Group convened under Section 1907 of the *TSA Modernization Act*. Also, revisions in Section A.(22) to reflect Human Capital Advisory Memo 2022.771-4 dated July 8, 2022.

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NOTE: Consistent with the December 30, 2022 *Determination on Transportation Security Officers and Collective Bargaining* (2022 Determination), this updated policy is effective until a Memorandum of Agreement between TSA and the American Federation of Government Employees (AFGE) regarding the grievance and arbitration processes is in effect. To the extent that the HCM and Handbook refers to an outdated Determination (to include a section(s) of an outdated Determination), the 2022 Determination applies. Where this Handbook references Sections V.C.9.a and V.C.9.b those are now considered TSA policy references and are defined in Section A.15 of this Handbook.

A. Definitions:

- (1) **Adverse Action:** A suspension of more than 14 days, including an indefinite suspension, an involuntary demotion for performance or conduct, or a removal.
- (2) **Alternative Dispute Resolution (ADR):** An alternative method to resolving workplace disputes or issues using a variety of approaches to arrive at resolution. ADR methods emphasize flexibility, creativity, cooperation, and interest-based problem solving.
- (3) **American Federation of Government Employees (AFGE):** The union certified by the Federal Labor Relations Authority as the exclusive representative of bargaining unit employees (BUEs) as set forth in the Determination.
- (4) **Arbitrator:** A neutral, third party selected from the Roster of Neutrals to hear expedited arbitration cases as provided for in the Memorandum of Agreement on the Dispute Resolution Process for Adverse Actions, Disciplinary Actions, and Other Covered Disputes (MOA) and this handbook.
- (5) **Bargaining Unit Employees (BUEs):** As defined in the Determination, full-time and part-time non-supervisory personnel carrying out screening functions under 49 U.S.C. § 44901, as that term is used in the Aviation and Transportation Security Act of 2001, § 111(d), and as stated in the June 29, 2011 Federal Labor Relations Authority (FLRA) Certification of Representative.¹
- (6) **Charge:** A description or labeling of the specific act(s) of unacceptable conduct or performance that forms the basis for a proposed adverse or disciplinary action.
- (7) **Claim:** For purposes of this handbook, a claim is an allegation(s) contained in a grievance. “Claim” may also refer to the grievance itself.
- (8) **Collective Bargaining Agreement (CBA):** A collective bargaining agreement in effect

¹ As described by FLRA, the bargaining unit does not include: supervisors; management officials; professional employees; all other nonprofessional employees; confidential employees; employees engaged in personnel work in other than a purely clerical capacity; employees engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; and employees primarily engaged in investigation or audit functions relating to the work of individuals employed by TSA whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

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between TSA and AFGE covering BUEs in accordance with the Determination.

- (9) Confidentiality: The duty to maintain confidence, including the obligation to withhold specified information from others, usually to keep sensitive information private, and assure participants' trust and confidence in the integrity of a process. This duty may be subject to exceptions.
- (10) Conflict Coach: A neutral individual who helps a TSA employee to improve his/her conflict management skills to resolve disputes more effectively and prevent unnecessary conflict in his/her work life.
- (11) Covered Disciplinary Actions: For BUEs, as defined in Section 2.a of the Memorandum of Agreement on the Dispute Resolution Process for Adverse Actions, Disciplinary Actions, and Other Covered Disputes (MOA), "covered disciplinary actions" are reprimands and suspensions of 14 days or less.
- (12) Day: Calendar day, unless otherwise specified.
- (13) Designated Grievance Official (DGO): A TSA non-bargaining unit employee designated to review grievances regarding workplace disputes and disciplinary actions consistent with this handbook. The DGO must be at a J Band level or above, unless designated and approved by the Federal Security Director (FSD), the Supervisory Air Marshal In-Charge (SAC), or the applicable Assistant Administrator. The DGO must not have been involved in the issue being grieved, and must be equal to or above the level of the official who made the decision, took the action, or failed to take the action. The DGO must not have participated in mediation, interest-based conversations, or other attempts to resolve the grievance being reviewed. The DGO renders a written decision consistent with TSA policy and may grant, in whole or in part, or deny the requested remedy.
- (14) Determination: Former Administrator Peter V. Neffenger's Determination on Transportation Security Officers and Collective Bargaining, dated August 12, 2016 and any subsequent modifications.
- (15) Determination-Related Allegations: Allegations that involve alleged violations of the CBA and/or alleged violations of the Determination, and/or Sections V.C.9.a and V.C.9.b as defined below. Allegations may be local in scope or national in scope, as determined by the National Resolution Center (NRC).
 - (a) Local in Scope: Determination-related allegations that are local in scope involve actions alleged to occur at one airport (to include spokes where applicable).
 - (b) National in Scope: Determination-related allegations that are national in scope involve actions alleged to occur at multiple airports nationwide or allegations involving a national-level decision.

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Where this Handbook references Section V.C.9.a the following applies:

Section V.C.9.a: Issues that arise during the collective bargaining process:

- i. Failure to agree on ground rules;
- ii. Allegations of a party's failure to bargain in good faith as set forth in the Determination; and
- iii. Failure to agree upon terms of the collective bargaining agreement.

Where this Handbook references Section V.C.9.b the following applies:

Section V.C.9.b.i: Allegations that TSA management or the exclusive representative violated covered employees' rights as set forth in the Determination.

Section V.C.9.b.ii: Allegations that TSA management or the Union failed to act in a manner consistent with its respective rights, roles, and responsibilities set forth in the Determination.

Section V.C.9.b.iii: Allegations that TSA management or the exclusive representative failed or refused to comply with a binding collective bargaining agreement.

- (16) Disciplinary Actions: Actions consisting of a Letter of Reprimand to a suspension of 14 days or less.
- (17) Employee: As used in this handbook, this term refers to both a bargaining unit employee and a non-bargaining unit employee.
- (18) Ex Parte Communication: As used in this handbook, one party's substantive communication with a Senior Reviewing Official (SRO) or with an external neutral third party regarding a dispute, without the knowledge and/or consent of the other party to the dispute.
- (19) Expedited Arbitration: For BUEs only, as set forth in the Memorandum of Agreement on the Dispute Resolution Process for Adverse Actions, Disciplinary Actions, and Other Covered Disputes (MOA), a neutral, third party review of covered disciplinary actions or other covered disputes. Only AFGÉ may invoke expedited arbitration and take a grievance to expedited arbitration on a grievance involving a covered disciplinary action or other covered dispute.
- (20) Facilitated Interest-Based Conversation: A facilitator-led, structured dialogue regarding an issue or concern in which the parties express their interests in an attempt to reach resolution.

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- (21) **Facilitator:** An employee or other individual with appropriate skills and training who helps manage the process of effective information exchange and group discussion as well as cooperative problem solving.
- (22) **Grievance:** A request for relief filed in an issue covered by TSA HCM 771-4 and this handbook. A grievance is as follows:
- (a) For a BUE, a request for relief regarding a covered disciplinary action, other covered dispute, and/or a Determination-related allegation(s) (including an alleged CBA violation(s)). Additionally, a non-trial period BUE may file a grievance seeking relief from an adverse action if that employee would have otherwise been able to seek redress at the MSPB as provided in [Human Capital Advisory Memo 2021.77-1B, Appeals to the Merit System Protection Board for Transportation Security Officers](#), but does not meet the time in position requirements to do so.
 - (b) For AFGE, a request for relief regarding a Determination-related allegation(s) (including an alleged CBA violation(s)). AFGE may file a grievance containing Determination-related allegations on its own behalf or on behalf of a group of BUEs regarding an action at a given airport or nationwide.
 - (c) For TSA, a request for relief regarding a Determination-related allegation(s) (including an alleged CBA violation(s)). TSA may file a grievance containing a Determination-related allegation that is at a given airport or nationwide in scope.
- (23) **Grievant:** The employee or entity requesting or seeking resolution through the NRC as set forth in this policy. Depending on the issue, the Grievant may be:
- (a) The employee (including a BUE) who files a grievance;
 - (b) AFGE; or
 - (c) TSA.
- (24) **Group Grievance:** A Determination-related allegation filed by or on behalf of a group of BUEs who were affected at the same time and in the same way by a management action. However, the grievance may not be based on a disciplinary action or other covered dispute
- (25) **Interest-Based Conversation (IBC):** An informal dialogue regarding an issue or concern in which the parties express their interests in an attempt to reach resolution.
- (26) **Management Official:** Any TSA employee (non-BUE) occupying a supervisory or management position (e.g., Supervisory Transportation Security Officer (STSO), Transportation Security Manager (TSM), Assistant Federal Security Director (AFSD), Federal Security Director (FSD), Supervisory Air Marshal In-Charge (SAC), Assistant Administrator (AA)).

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- (27) Management Representative: As used in this handbook, an individual designated or authorized to represent management for the purpose of addressing and/or resolving a grievance (e.g., participating in non-EEO mediation or interest-based conversation on behalf of management regarding a grievance, responding to AFGE or BUE allegations on behalf of the Non-Filing Party, representing the agency in arbitration or neutral review).
- (28) Mediation: A structured alternative dispute resolution (ADR) process in which a mediator assists two or more parties attempting to reach resolution of a dispute in accordance with [TSA MD 100.9, Settlement Agreements](#). Mediation is a confidential process that is voluntary for all participants.
- (29) Mediator: A neutral third party who is trained in mediation and who assists two or more parties to resolve disputes. Mediators do not make decisions on the issues in dispute.
- (30) Memorandum of Agreement (MOA): The Memorandum of Agreement between TSA and AFGE on the Dispute Resolution Process for Adverse Actions, Disciplinary Actions, and Other Covered Disputes dated July 24, 2012.
- (31) National Resolution Center (NRC): An impartial TSA office within the Office of Human Capital (OHC) responsible for administering and implementing the Unitary Dispute Resolution System (UDRS), the TSA non-EEO mediation program, and other alternative dispute resolution (ADR) services.
- (32) National Resolution Center Point of Contact (NRC POC): A TSA non-bargaining unit employee designated by the FSD, the SAC, or the applicable AA who serves as the point of contact for the NRC consistent with this HCM and handbook.
- (33) Neutral: A neutral third party selected by the parties to serve on the Roster of Neutrals. If the neutral is selected from the Roster of Neutrals, the neutral alone or on a panel will provide third party review and render decisions on a grievance that is not covered by the MOA.
- (34) Neutral Assistance: A coordinated effort designed to assist headquarters offices and field locations in effectively addressing organizational and communication issues that detract from organizational effectiveness and/or performance. Neutral Assistance helps to improve the workplace environment and helps prevent concerns from becoming disputes.
- (35) Neutral Review: For BUEs only, a neutral, third party review of grievances containing eligible Determination-related allegations (which may include alleged CBA violations) that are not covered by the MOA. Only AFGE or TSA may request neutral review, which may be either:
- (a) Single Neutral Review, for Determination-related allegations that are local in

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scope consistent with this handbook; or

- (b) Panel of Neutrals Review, for Determination-related allegations that are national in scope consistent with this handbook.
- (36) Non-Bargaining Unit Employees (Non-BUEs): All TSA employees who are not bargaining unit employees (BUEs) (as defined in Subsection 5, above).
- (37) Non-Filing Party: The individual/group (e.g., management officials), or entity (e.g., TSA, AFGE) allegedly responsible for the action or decision being grieved. The Non-Filing Party may identify a designee to act on his/her/their behalf.
- (38) Official Time: Time authorized by a TSA supervisor, manager, or other TSA official with the authority to grant official time, to allow a BUE, when otherwise in a duty status, to participate in certain authorized activities that are not related to the BUE's official duties consistent with TSA policy, the Determination, and the CBA (as applicable).
- (39) Other Covered Disputes: A type of workplace dispute involving BUEs, as defined in Section 2.b of the MOA. As set forth in Section 2.b of the MOA, "other covered disputes" are, consistent with the Determination, cases for which arbitrators must consider whether there was a violation or misapplication of an employment-related policy and for which remedies may be awarded consistent with Agency policy. "Other covered disputes" do not involve: (i) challenging or altering any TSA Standard Operating Procedure (SOP) or other agency policy; or (ii) matters that are Security-related. For purposes of this definition, "Security-related" shall mean: (i) any matter involving security policies, procedures, directives and instructions, or, (ii) any matter involving statutory or agency-required certification, eligibility, qualification, or training standards or requirements.
- (40) Personal Representative: An individual properly designated in writing by an employee to assist the employee in preparing and/or presenting his/her issue through the UDRS to the extent personal representation is permitted and consistent with the Determination, applicable TSA policy, and/or the CBA. A union representative may be designated as a personal representative consistent with TSA policy.
- (41) Requested Remedy: The specific relief requested by the Grievant and/or his/her representative which relates directly to the allegations contained in the grievance. It may not include a disciplinary or other action affecting a third party, including the employment or reassignment of another employee. The requested remedy must also be consistent with TSA policy.
- (42) Remedy: The specific relief awarded to the prevailing party(ies). It may not include a disciplinary or other action affecting a third party, including the employment or reassignment of another employee. The remedy must also be consistent with TSA policy.

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- (43) Roster of Neutrals: A list of neutrals, agreed upon by TSA and AFGE, and maintained by the NRC. A neutral on the Roster of Neutrals, if selected, will provide third party review consistent with TSA HCM 771-4, this handbook, the Determination, and the MOA (as applicable).
- (44) Senior Reviewing Official (SRO): A TSA employee, designated in coordination with the NRC, who reviews Determination-related allegations (including alleged violations of the CBA) and other allegations consistent with this handbook. The SRO renders a written decision and must not have been involved in the issue being grieved and reviewed. The SRO must not have participated in mediation, interest-based conversations, or other attempts to resolve the grievance being reviewed. The SRO may grant, in whole or in part, or deny the requested remedy consistent with this handbook and applicable TSA policy.
- (45) Settlement Agreement: A voluntary agreement between TSA and an affected employee and/or AFGE resolving a dispute under the UDRS consistent with [TSA MD 1100.55-9, Settlement Agreements](#). Settlement agreements resolve issues without resorting to further litigation or other administrative procedures. The settlement agreement does not constitute an admission or evidence of any fact, wrongdoing, misconduct, or liability on the part of TSA or its officials with respect to the subject matter of the underlying dispute. Settlement agreements may be reached during any stage of UDRS to resolve a dispute.
- (46) Table of Offenses and Penalties: A list of possible charges, applicable TSA policies, and penalty ranges for common offenses. The Table of Offenses and Penalties is intended to provide guidance for determining appropriate corrective, disciplinary, and adverse actions. See [Table of Offenses and Penalties](#).
- (47) Union Representative: An individual authorized to represent the interests of AFGE and who is acting in that capacity consistent with the Determination, the CBA, the MOA, TSA policy, and any related guidance. A BUE may serve as a union representative if so designated by AFGE.
- (48) Unitary Dispute Resolution System (UDRS): The dispute resolution system established by TSA under the Determination that contains both interest-based and neutral, third party rights-based options for resolving disputes consistent with the Determination and TSA policy.
- (49) Workplace Dispute: A matter of concern or dissatisfaction relating to an employee's employment with TSA that is subject to the control of TSA. As applied to BUEs, "workplace dispute" includes covered disciplinary actions and other covered disputes as referenced in Sections 2.a and b, respectively, of the MOA. A workplace dispute may only be filed on behalf of an individual employee. The UDRS does not permit workplace dispute claims filed on behalf of, or signed by, multiple employees.

B. Filing Requirements and Process:

- (1) Overview: If an employee and/or his/her personal representative wishes to file a grievance, it must be filed within 30 days of when the affected party first became aware or reasonably should have become aware of the issue being grieved.
 - (a) Depending on the issue(s) being grieved, as explained below, a Designated Grievance Official (DGO) or Senior Reviewing Official (SRO) will review and render a decision on the eligible issue(s) raised in the grievance.
 - (b) BUEs, with AFGE, may seek third party review of eligible grievances. Depending on the issue(s) of the eligible grievance, the third party review may be through expedited arbitration or neutral review. For additional information on grievance resolution processes, see Section C, Grievance and Third Party Review Processes, below.
 - (c) Notice to Prioritize a Grievance. AFGE may notify the NRC in writing of its decision to prioritize a grievance based on articulated need (e.g., shift bid, annual leave bid, attendance and leave issue) and the NRC will prioritize handling of the grievance consistent with this notice.
- (2) The NRC will not accept issues that are excluded from the UDRS. Please see Appendix C, UDRS Exclusions, for a list of exclusions.
- (3) Filing Deadline:
 - (a) A complete grievance must be submitted to the NRC within thirty (30) days of when the affected party first became aware or reasonably should have become aware of the issue being grieved. Grievances are considered complete when they meet the requirements set forth in Subsections (4) and (5), below. Grievances are considered timely filed when they are emailed or faxed to the NRC on or before the due date. Generally, filing extensions will not be granted.
- (4) Filing the Grievance Form and Supporting Information:

NOTE: Failure to provide the information required below may result in the NRC's dismissal of the grievance. However, grievances will not be closed solely as a result of the filing party's failure to provide information beyond the minimum required (i.e., policy citation or Determination/CBA provision, how it was violated/action being grieved and date when BUE became aware of action/decision).

The NRC's dismissal determinations are subject to third party review.

- (a) The Grievant and/or his/her personal representative must file a completed [TSA Form 1115-1](#) in accordance with the thirty (30)-day time limit provided in Section B(1) above. Regardless of who files the grievance, the submission is not complete

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without the Grievant's signature in Section VII of [TSA Form 1115-1](#).

- (b) As specified in Section B.(5) below, the Grievant and/or his/her personal representative must include sufficient information in order for:
 - i. The NRC to be aware of what the Grievant and/or his/her personal representative alleges occurred, when, how, and why; and
 - ii. The parties to have a meaningful opportunity to attempt resolution and/or for the decision-maker to have sufficient information upon which to issue a decision on the allegations.
 - (c) All required fields on [TSA Form 1115-1](#) must be completed with sufficient information as set forth in 5(a) through 5(j) of this Section, below. If additional space is needed to complete the narrative response(s), the Grievant and/or his/her personal representative may continue the response(s) on a separate attachment if necessary.
 - (d) If the same issue is raised in a different forum (including but not limited to Civil Rights, Diversity & Inclusion Division (CRDI), Office of Professional Responsibility (OPR), and/or Office of Special Counsel (OSC)), after the Grievant and/or his/her personal representative files a grievance, the Grievant and/or his/her personal representative must notify the NRC in writing. Completing Sections VI and VII of [TSA Form 1115-1](#) may satisfy this notification requirement. However, the grievant and/or his/her personal representative must notify the NRC in writing if the same issue is raised in a different forum after the filing of [TSA Form 1115-1](#).
- (5) When filing a grievance, the Grievant and/or his/her personal representative must include the following information in writing:
- (a) A description of the action or decision being grieved, including the date on which the BUE became aware of the action or decision;
 - (b) The specific provisions of TSA policy that were allegedly violated, if applicable, and how;

- (c) The specific provisions of the Determination and/or CBA that were allegedly violated, if applicable, and how;
- (d) Any documentation in support of the grievance;
- (e) A copy of the disciplinary/corrective action being grieved, if applicable

NOTE: The NRC has the authority to dismiss claims, in whole or in part, that do not meet the procedural (e.g., timeliness) and/or jurisdictional (e.g., eligibility) requirements of the UDRS. The NRC's dismissal determinations are subject to third party review. See Appendix B, NRC Authority, Role and Functions, for additional information.

- (6) Reconsideration Requests. If the NRC dismisses the grievance or any part of a grievance, the Grievant and/or his/her personal representative has the option of submitting a request for reconsideration of NRC dismissals. Requests for reconsideration must be submitted within seven (7) days of the dismissal. The NRC's dismissal determinations are subject to third party review. Please see Appendix B, NRC Authority, Role, and Functions, for additional information.

NOTE: If the grieving party elects to request reconsideration of the NRC's decision to dismiss the grievance or any part of the grievance, the deadline to notice the case for arbitration will be 21 days after receipt of the NRC's decision on reconsideration.

C. Grievance and Third Party Review Processes:

- (1) Grievances involving disciplinary actions and/or other covered disputes, as defined in the MOA between AFGE and TSA, will go to a Designated Grievance Official (DGO) for review and decision. Please see Appendix D, Designated Grievance Official Process, for additional information.

After the DGO has issued a final decision, AFGE may give notice that it may seek expedited arbitration for the grievance by electronically submitting (by email or fax) [TSA Form 1123-1, Expedited Arbitration Request](#), to the NRC within 21 days of the BUE's receipt of the final decision, or expiration of the 30-day timeline to issue, if no decision is issued. If TSA Form 1123-1 is not submitted consistent with this handbook, the DGO's decision is final with no further review. However, the NRC's dismissal determinations are subject to third party review. Please see Appendix F, Expedited Arbitration Process for Disciplinary Actions and Other Covered Disputes, for additional information.

- (2) Grievances containing Determination-related allegations (which may include alleged CBA violations) will go to a Senior Reviewing Official (SRO) for review and

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decision, except as specified in Subsections (d) and (f), below.

- i. AFGE may file this type of grievance on behalf of a group of BUEs or on behalf of AFGE.
 - ii. A personal representative (who may also be an AFGE representative) may file this type of grievance on behalf of an individual BUE.
 - iii. A BUE may also file on his/her own behalf.
- (3) Senior Official Review may not be waived for grievances containing Determination-related allegations (which may include alleged CBA violations) with issues that are **local** in scope as set forth in Appendix H, Single Neutral Review for Determination-Related Allegations that are Local in Scope (hereafter Appendix H, Single Neutral Review).
- (4) The parties may agree to waive Senior Official Review for a grievance containing Determination-related allegations that are **national** in scope as set forth in Appendix I, Panel of Neutrals Review for Allegations that are National in Scope (hereafter Appendix I, Panel of Neutrals Review).
- (5) After the SRO has issued a final decision, as applicable, AFGE may request neutral third party review as set forth in Appendix H, Single Neutral Review, or Appendix I, Panel of Neutrals Review. For grievances that are local in scope, AFGE's request must be submitted in writing to the NRC within fifteen (15) days of receiving the SRO's decision. For grievances that are national in scope, if the parties agree to waive Senior Official Review, the parties will also confirm that they seek Panel of Neutrals Review.
- (6) For grievances involving issues arising under Section V.C.9.a² of the Determination (i.e., during the collective bargaining process), Senior Official Review is not applicable. The grievance will proceed directly to Panel of Neutrals Review after any interest-based processes are completed and the Non-Filing Party has submitted its response to the grievance. Please see Appendix I, Panel of Neutrals Review, for additional information.

² Section V.C.9.a is now a TSA policy reference and defined in Section A.15 of this Handbook.

Appendix A

Overview of the UDRS

- A. The UDRS was first established in former Administrator John S. Pistole's February 4, 2011 Decision Memorandum Determination on Transportation Security Officers and Collective Bargaining. It continued in former Administrator Pistole's Determination on Transportation Security Officers and Collective Bargaining, dated December 29, 2014, and in former Administrator Peter V. Neffenger's Determination on Transportation Security Officers and Collective Bargaining, dated August 12, 2016 (the Determination). The Determination, TSA HCM 771-4, and this handbook set forth and implement the UDRS. As described in the Determination and this handbook, the NRC is responsible for administering and implementing the UDRS in accordance with the Determination and TSA policy.
- B. TSA is committed to fostering an environment in which issues and concerns can be raised by employees with confidence that they will not be subject to retaliation for raising their concerns and that, if covered by the UDRS, their concerns will be addressed, as appropriate.
- C. The UDRS contains both interest-based and neutral, third party rights-based options for employees seeking resolution of eligible disputes as described in the Determination, the MOA (as applicable), and TSA policy (including this handbook).
- D. It is in the interests of both employees and management that issues and concerns be raised and resolved as close to the origin of the issue or concern as possible by the affected individuals or groups themselves. For this reason, the NRC encourages that the first step in addressing an issue, as appropriate, be an interest-based conversation between or among the individuals or groups closest to the issue. Interest-based conversations are encouraged at any point of the resolution processes outlined in this handbook.
- E. An employee who seeks resolution through the UDRS will not be subject to restraint, coercion, discrimination, or reprisal as a result of, or in connection with, filing a grievance and/or seeking resolution through the UDRS.
- F. Grievances filed by a personal representative on behalf of an employee require the employee's consent and written designation using [TSA Form 1163-1, *Personal Representative Designation*](#).
- G. Grievances submitted according to the provisions of this handbook will not stay any action from being proposed, implemented, effected or processed.
- H. Participating in the UDRS will not extend time limits for filing in an administrative process not covered by the NRC (e.g., EEO-related complaints, OPR appeals).
- I. After a grievance has been filed consistent with this handbook, participation in non-EEO mediation will suspend the calendar for UDRS processes until the conclusion of the

mediation.

J. The parties are prohibited from disclosing information obtained in the UDRS to non-authorized parties unless both parties agree to the disclosure or if the disclosure is required by law, regulation, or policy. Some examples of information constituting agreed-upon or required disclosures may include:

- (1) Information concerning theft relating to TSA activities or property;
- (2) TSA employee drug or alcohol use as prohibited by law, regulation, or policy;
- (3) Breaches of TSA security procedures;
- (4) Criminal activity;
- (5) Allegations of prohibited discrimination or sexual harassment;
- (6) Communications needed to resolve a dispute between two or more parties; and
- (7) Disclosures covered by the Whistleblower Protection Enhancement Act.

K. In matters for which personal representation is permitted consistent with the Determination, TSA policy (including this handbook), and the CBA, [TSA MD 1100.63-3, *Employee Representation*](#), is the applicable policy and contains the procedures for employee representation.

Appendix B

**NRC Authority, Role, and
Functions**

- A. The NRC is an internal, impartial entity responsible for administering and implementing the UDRS. The NRC will administer and implement the UDRS in accordance with the Determination and TSA policy.

- B. As the entity responsible for administering and implementing the UDRS, the NRC has the authority to do the following at any point in the process:
 - (1) Dismiss claims, in whole or in part, that do not meet the procedural (e.g., timeliness) and/or jurisdictional (e.g., eligibility) requirements of the UDRS set forth in this Appendix and Appendix C, UDRS Exclusions;
 - (2) Ensure all parties meet their respective obligations under the Determination, the MOA (if applicable), and TSA policy before advancing claims through the UDRS;
 - (3) Dismiss, or stay, a grievance(s) on a party's request or on the NRC's own initiative;
 - (4) Join or consolidate a grievance(s) on a party's request; and
 - (5) Take actions that the NRC determines necessary to ensure that the UDRS functions consistent with the Determination and TSA policy.

- C. As part of its responsibility in administering and implementing the UDRS, the NRC will process grievances through the appropriate process consistent with this handbook.

- D. The NRC's actions in Section B of this Appendix are subject to the reconsideration process set forth in Section H of this Appendix. The NRC's actions in Section B of this Appendix are not grievable and not reviewable by a third party, except that the NRC's dismissal determinations are reviewable by a third party.

- E. The NRC also will:
 - (1) Provide and administer alternative dispute resolution services set forth in Appendix J, Mediation, and Appendix L, Other Alternative Dispute Resolution Services;
 - (2) Facilitate the review of alleged breaches of settlement agreements entered into under the UDRS as set forth in Appendix K, Enforcement;
 - (3) Oversee the enforcement of final decisions reached in the UDRS processes as set forth in Appendix K, Enforcement; and
 - (4) Oversee the grievance process.

F. NRC Action on Claims. As explained in Appendix C, UDRS Exclusions, at any stage of the UDRS, the NRC will dismiss claims, in whole or in part, that do not meet the jurisdictional and procedural requirements or if there is a clear pattern of misuse of the UDRS.

- (1) NRC will dismiss claims in whole or in part on issues that are excluded from the UDRS (i.e., they do not meet the jurisdictional requirements of the UDRS). A list of exclusions is located in Appendix C, UDRS Exclusions, and includes jurisdictional exclusions, procedural exclusions, and patterns of abuse exclusions.
- (2) Partial Dismissals. If a grievance is filed containing more than one allegation and the NRC dismisses one or more of those allegations, only those allegations of the grievance that the NRC did not dismiss will move to the next step of the process.

The NRC's dismissal is considered a final agency decision on whether the issue being grieved is eligible and/or procedurally proper in the UDRS, subject to the reconsideration process set forth in Section H of this Appendix, below. The NRC's dismissal is subject to third party review.

G. Requests by a Party:

- (1) At any point in the resolution process, a party (or both parties jointly) may, in writing:
 - (a) Request that the NRC dismiss a grievance in whole or in part if the party believes that the grievance has not met the eligibility or procedural requirements set forth in this handbook;
 - (b) Request that the NRC not advance a party's claims, in whole or in part, through the UDRS if the party believes that the other party failed to meet its obligations under the Determination, the MOA (if applicable), and TSA policy; and/or
- (2) The request must include a statement detailing the reason(s) for the request. The party will provide a copy of the request to the non-requesting party when submitting the request to the NRC (if the request is not made by both parties).
- (3) The non-requesting party, if any, has ten (10) days to provide a written response to the NRC, unless it requests and is granted an extension from the NRC in advance of the 10-day timeline. The non-requesting party will copy the requesting party in its response to the NRC.
- (4) A request by a party (or both parties jointly) will stay the resolution process until the NRC renders its final decision on whether or not to grant the request.
- (5) Generally, within 10 days, the NRC will notify the parties in writing of the NRC's decision on the request.

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- (6) If the NRC grants the request, the non-requesting party may file a request for reconsideration as set forth in Section H of this Appendix, below. If the NRC does not grant the request, the requesting party may file a request for reconsideration as set forth in Section H of this Appendix, below. The NRC's decision to grant or deny a request for reconsideration is not grievable and is not eligible for third party review. However, the NRC's dismissal determinations are subject to third party review.

H. Reconsideration. For those NRC actions for which the handbook allows for reconsideration requests, the party may request that the NRC reconsider its action on the grievance. A request for reconsideration by a party (or both parties jointly) will stay the resolution process until the NRC renders its final reconsideration decision.

- (1) The NRC will reconsider its decision if it appears that the NRC misinterpreted the facts or misapplied TSA policy.
- (2) The requesting party must submit a request for reconsideration in writing within seven (7) days of the date the requesting party received the applicable NRC decision. The requesting party must include in its writing the reasons for the reconsideration.
- (3) The NRC may then decide to uphold or reverse the decision for which reconsideration was sought.
- (4) The NRC's decision on reconsideration is the final agency decision on whether the NRC's action was proper under the Determination and this handbook. It is not a final decision on the merits of the grievance; it cannot be grieved; and it is not subject to third party review. However, the NRC's dismissal determinations are subject to third party review.

I. Roster of Neutrals

- (1) The NRC will maintain a Roster of Neutrals.
- (2) AFGE and TSA will jointly select the neutrals who are placed on the Roster of Neutrals. The neutrals listed in the Roster of Neutrals may serve as expedited arbitrators and third party neutrals consistent with this handbook.
- (3) Each neutral will be assigned a successive number, starting with number one (1) for the name drawn and continuing until all neutrals have been assigned a number.
- (4) The NRC may remove the name of a neutral from the Roster of Neutrals as follows:
 - (a) When the neutral is no longer willing or able to serve as a neutral;
 - (b) When TSA and/or AFGE makes a formal request that the NRC remove the neutral from the Roster of Neutrals; and/or

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- (c) When the neutral does not comply with the MOA, the Determination, TSA policy (including this handbook), and/or instructions from the NRC.
- (5) All neutrals, whether active, inactive, or removed, will retain the original number assigned.
- (6) TSA and AFGE may decide to jointly select additional neutrals for the Roster of Neutrals. Any neutrals added to the list will be assigned the next number after the number of the last neutral on the roster. If several new neutrals are added at one time, the new neutrals will be assigned a number using a random method for the assignment.
- (7) The Roster of Neutrals will be organized by region and will be revisited by TSA and AFGE annually.

J. NRC's Maintenance of Grievance Files

- (1) The NRC will maintain the official file of each grievance in a secured location and in accordance with all applicable laws, rules, regulations, and TSA policy.
- (2) Grievance files will be maintained in accordance with the appropriate Records Disposition Schedule.

UDRS Exclusions

- A. Jurisdictional Exclusions. The NRC will dismiss claims on the following issues because they do not meet the jurisdictional requirements of the UDRS:
- (1) Decisions made by other agencies or third parties, such as courts, the Office of Personnel Management (OPM), or the Department of Labor's Office of Workers' Compensation Programs (OWCP).
 - (2) Issues for which there is another avenue of redress not specifically set forth in the UDRS, including but not limited to:
 - (a) Decisions of the TSES Performance Review Board (PRB);
 - (b) Concerns alleging prohibited discrimination, including, but not limited to, allegations of hostile work environment, which are processed in accordance with TSA's discrimination complaint procedure and administered by the Civil Rights, Diversity & Inclusion Division (CRDI), with the exception of mixed case appeals filed with MSPB as appropriate; and
 - (c) Complaints of alleged whistleblower retaliation that have been filed with the Office of Special Counsel (OSC).
 - (3) Retirement, life insurance, or health insurance claims.
 - (4) Adjudication of the results of personnel security investigations and suitability/fitness determinations.
 - (5) Oral or written counseling(s).
 - (6) The content of performance discussions including progress reviews (e.g., quarterly and/or mid-year) under a TSA performance management system. However, the employee may file a grievance, as appropriate, that management failed to conduct the reviews as required by TSA policy or the CBA (as applicable).
 - (7) The content or receipt of Improvement Period Notices (IPNs) and Performance Improvement Plans (PIPs) that put employees on notice of deficient performance. However, the employee may file a grievance that the notice or process was deficient per TSA policy and/or the CBA.
 - (8) The content of performance elements, goals, and standards.
 - (9) Notices proposing a disciplinary or adverse action.
 - (10) Non-selection for competitive promotion or reassignment from a list of eligibles.

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- (11) Failure to receive a non-competitive promotion or reassignment, unless documented evidence exists that the relevant policies and procedures have not been appropriately applied.
- (12) Reassignment without loss in band or rate of pay from one position to another (including a reassignment from a supervisory to a non-supervisory position, within or outside the local commuting area, in connection with a reorganization and/or realignment).
- (13) Removal from a supervisory or managerial position during the supervisory or managerial trial period.
- (14) Change of position or organizational title (e.g., classification changes).
- (15) Involuntary Workforce Reduction.
- (16) Failure to receive a performance or incentive award; unless documented evidence exists that the relevant policies and procedures have not been appropriately applied.
- (17) The monetary amount or value of a performance or incentive award.
- (18) Pay setting (includes any action relating to the setting of initial pay upon appointment or the setting of pay connected with an internal action, e.g., promotion, voluntary/involuntary pay band changes).
- (19) Approval, continuation, reduction or termination of a recruitment, referral, relocation, or retention incentive.
- (20) Receipt or non-receipt of a within band increase in pay, such as an In-Position Increase (IPI), or amount of such an increase.
- (21) Non-adoption of a suggestion or recommendation.
- (22) The content of any law, rule, regulation, policy, instruction, or directive.
- (23) The termination or expiration of a time-limited (i.e., temporary or term) appointment or promotion.
- (24) Any signed agreement between affected parties, except for allegations of settlement agreement breaches raised in accordance with Appendix K, Enforcement.
- (25) Separation or termination of employment during the trial period.
- (26) Termination of a reemployed annuitant.

- (27) Furlough of any length.
- (28) The test results and/or the scores of any/all Annual Proficiency Review (APR) assessments, including Practical Skills Evaluation (PSE) assessments. However, if the affected employee demonstrates that the assessment is flawed, the issue may be grieved.
- (29) Work assignments.
- (30) AFGE's decision not to invoke expedited arbitration or external neutral third party review.
- (31) The NRC's authority to administer the UDRS, including the administration of the third party review process.
- (32) The NRC's decision to deny a reconsideration request made under Appendix B of this handbook.
- (33) The NRC's decision not to grant a request to extend a timeline(s) contained in this handbook.
- (34) The NRC's decision that a grievance raises allegations that are national in scope or local in scope as defined in Appendices H and I, respectively, of this handbook.

B. Procedural Exclusions. The NRC will dismiss grievances, in whole or in part, that do not meet the procedural requirements of the UDRS, including but not limited to failing to:

- (1) Comply with the filing requirements set forth in Section B of this handbook, including but not limited to failure to timely file a grievance or provide the minimum required information.
- (2) Provide a sufficient description of the grievance as set forth in Section B(4) of this handbook, if the Grievant and/or his/her personal representative fails to articulate the reasons for the grievance, or if the minimum required information on [TSA Form 1115-1](#) is not provided.

NOTE: Grievances regarding Determination-related allegations, disciplinary actions, and other covered disputes will not be closed solely as a result of the Grievant's failure to provide information beyond the minimum required (i.e., policy citation, action being grieved and date when BUE became aware of the action/decision).

- (3) Pursue the grievance (including but not limited to failure to respond to an NRC request for information).
- (4) Exhaust the internal process before seeking third party review.

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C. Pattern of Abuse Exclusions. The NRC will also dismiss grievances, in whole or in part, that are part of a clear pattern of misuse of the UDRS. The NRC will find a clear pattern of misuse of the UDRS process if there is evidence that the Grievant (or a personal representative on his/her behalf):

- (1) Has filed multiple grievances; and
- (2) Has filed allegations that are similar or identical, lack specificity or involve issues previously resolved; or
- (3) Circumvented other administrative processes or overburdening or otherwise obstructing the NRC in administering the UDRS.

D. The NRC's dismissal determinations are subject to third party review.

Appendix D

Designated Grievance Official Process

A. Grievance Notification and Initial Resolution Attempts:

- (1) Generally, within 7 days after the receipt of a complete and eligible grievance regarding a disciplinary action and/or workplace dispute, the NRC will provide to the applicable NRC POC: 1) a copy of the completed [TSA Form 1115-1](#); 2) any supporting documentation provided by the Grievant and/or his/her personal representative; and 3) instructions for processing the grievance in coordination with applicable local parties. The NRC POC will then promptly notify the applicable parties and begin making logistical arrangements per the NRC's instructions.
- (2) If the Grievant withdraws the grievance or the parties resolve the issue before a decision is issued (e.g., through interest-based conversation), the NRC POC will notify the NRC as applicable, the Designated Grievance Official (DGO) will not issue a decision, and the NRC will close the grievance.
- (3) If the Grievant requested mediation, the NRC POC will follow procedures set forth in Section D of Appendix J, Mediation, in coordination with the NRC and applicable parties. As set forth in Appendix A, Section I of this handbook, participation in mediation will stay the resolution process until the conclusion of the mediation. If mediation resolves the grievance, the NRC will close the grievance.
- (4) Notice to Prioritize a Grievance. AFGÉ may notify the NRC in writing of its decision to prioritize a grievance based on articulated need (e.g., shift bid, annual leave bid, attendance and leave issue) and the NRC will prioritize handling of the grievance consistent with this notice.

B. Assignment to the DGO:

- (1) If the Grievant did not request mediation, or if the mediation was unsuccessful in resolving the grievance, the NRC POC will, on behalf of the NRC, promptly forward the grievance to the assigned DGO for review and decision.
- (2) The DGO will conduct a preliminary review of the grievance and related documentation, including but not limited to the applicable management and/or personnel file(s), TSA policy, and/or other resource materials that the DGO determines necessary to render a decision. The DGO may also seek information from the Non-Filing Party, applicable subject matter experts, and/or other management officials who may have information or documents relevant to the issue being grieved. The DGO may identify a designee to obtain information on his/her behalf.

C. DGO Introduction:

- (1) Upon receipt of the grievance from NRC POC (in Section B(1) above), and concurrent with the DGO's preliminary review of the grievance (in Section B(2) above), the DGO or designee (who may be the NRC POC) will email a written notification to the Grievant and/or his/her personal representative, with a copy to the NRC, identifying himself/herself as the DGO assigned to review the grievance.

D. Grievant's Options for DGO Review. The Grievant has three (3) options for DGO review:

- (1) Option 1: The Grievant may meet with the DGO.

If the Grievant chooses to meet with the DGO, the applicable NRC POC will arrange the DGO meeting, e.g., set the date and time, secure a location for the meeting, and coordinate any other necessary logistics. In general, the DGO meeting will occur no later than thirty (30) days after the Grievant and/or his/her personal representative receive the DGO Introduction (in Section C(1) of this Appendix, above).

- (2) Option 2: The Grievant may file a written submission to the DGO in lieu of a meeting with the DGO.

If the Grievant chooses to file a written submission for the DGO's consideration in lieu of a DGO meeting, the Grievant (or a personal representative on his/her behalf, must forward the written submission to the DGO, with copy to NRC, within thirty (30) days of receiving the DGO Introduction (in Section C(1) of this Appendix, above), unless the Grievant (or a personal representative on his/her behalf) requests and is granted an extension from the NRC before the expiration of the thirty (30) day time period.

- (3) Option 3: The Grievant may meet with the DGO and file a written submission.

If the Grievant chooses to both meet with the DGO and file a written submission, the Grievant (or a personal representative on his/her behalf) will provide the written submission to the DGO during or prior to the DGO meeting. The DGO must provide a copy of the Grievant's written submission to the Non-Filing Party, with a copy to the NRC.

E. DGO Meeting. In general, the meeting between the DGO and the Grievant will occur no later than thirty (30) days after the NRC POC forwards the grievance to the DGO (in Section B(1) of this Appendix, above).

- (1) If logistical needs, cost, and/or operational needs so require, the DGO meeting may be conducted telephonically or by video conference.
- (2) If either the Grievant or the personal representative is unavailable after multiple attempts to schedule a DGO meeting:

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- (a) The Grievant may choose an alternative personal representative;
 - (b) The Grievant may waive the DGO meeting and file a written submission for the DGO in lieu of a meeting with the DGO;
 - (c) The Grievant may choose to meet with the DGO; or
 - (d) The DGO may request approval from the NRC to proceed with a paper review of the grievance, provided the DGO can demonstrate that reasonable attempts were made to accommodate the schedules of the Grievant and, as applicable, his/her personal representative.
- (3) The Grievant may have a personal representative at the DGO meeting consistent with the Determination, the CBA, and TSA policy, as applicable. The personal representative may be a union representative, consistent with TSA policy, if so designated by the Grievant.
- (4) Other than the DGO, TSA management officials will not be present at or otherwise participate in the DGO meeting unless agreed to by both parties. Although witnesses are not allowed, either party can have an individual assist them by taking notes during the proceeding. These individuals cannot have been substantively involved in the action being challenged, cannot participate in the discussion between the DGO and the Grievant, cannot serve as a witness or a representative, and are not eligible for official time. The DGO may request that counsel be present at the DGO meeting, provided the DGO notifies the Grievant and/or his/her representative prior to the DGO meeting that counsel will attend.

F. DGO Review:

- (1) The DGO will review the information provided by the Grievant and the Non-Filing Party that gave rise to the issue being grieved.
- (2) The DGO may obtain additional information as the DGO determines necessary to render a decision. The DGO may identify a designee to obtain information on his/her behalf. If the DGO or designee obtains new information directly from one or both parties, the DGO or designee will provide a copy to the other party and the NRC promptly.

G. DGO Decision:

- (1) In general, the DGO will issue a written decision fifteen (15) days after obtaining all of the information that the DGO determines necessary to render a decision. In his/her written decision, the DGO will explain the rationale for the decision. The DGO may grant, in whole or in part, or deny the requested remedy. Any remedy granted must be consistent with TSA policy.

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- (2) The DGO will send a signed copy of his/her written decision to the parties, including the Grievant's personal representative, who may be a union representative, (if any), the local Human Resources Specialist, and the NRC.
- (3) The DGO's decision must be signed and dated by the Grievant or must contain a notation that the Grievant refused to sign with date.
- (4) The DGO or his/her designee must forward to the NRC all written statements submitted to the DGO which were relied upon to reach the decision.

NOTE: If no decision is issued by a DGO within 30 days, the union can request expedited arbitration. When an AFGE representative is serving as a personal representative for a BUE, AFGE and the DGO can mutually agree to extend the decision timeframe.

- H. AFGE may, at its discretion, give notice that it may seek expedited arbitration for the grievance in accordance with the MOA. After TSA has issued a final decision as a result of the internal process (i.e., a final DGO decision), AFGE may give notice that it may seek expedited arbitration for the grievance by electronically submitting (by email or fax) to the NRC within twenty one (21) days of receipt of the final decision or the expiration of the 30-day timeline to issue the DGO decision, if no DGO decision is issued. Any failure to comply with these requirements shall render the decision of TSA final with no further review. The only issues that the arbitrator may hear and decide are those issues that were raised in the grievance, have exhausted the internal process, and were advanced to third party review by the NRC. However, the NRC's dismissal determinations are subject to third party review. Please see Appendix F, Expedited Arbitration, for additional information.
- I. The Grievant or his/her personal representative may withdraw the grievance at any stage of the process. The withdrawal must be submitted to the NRC in writing.

Appendix E

Senior Official Review Process

- A. As set forth in Section C(1)(c) of this handbook, the Senior Official Review process is mandatory for eligible grievances containing Determination-related allegations (which may include alleged CBA violations) that are **local** in scope.
- B. The parties may agree to waive Senior Official Review for grievances containing Determination-related allegations (which may include alleged CBA violations) when the issue(s) are **national** in scope. If the parties agree to waive Senior Official Review, the grievance may proceed to third party review by a panel of neutrals as set forth in Appendix I, Panel of Neutrals Review, after any interest-based processes are completed and the grievance file is complete (including the written response by the Non-Filing Party).

NOTE: Senior Official Review is not applicable to issues arising under Section V.C.9.a³ of the Determination (i.e., during the collective bargaining process). Consistent with this handbook, these issues will proceed to third party review by a panel of neutrals as set forth in Appendix I, Panel of Neutrals Review, after the grievance file is complete (including the written response by the Non-Filing Party).

- C. Grievance Notification and Initial Resolution Attempts
 - (1) Upon acceptance of an eligible grievance containing Determination-related allegations (which may include alleged CBA violations), the NRC will provide to the applicable NRC POC: 1) a copy of the completed [TSA Form 1115-1](#); 2) any supporting documentation provided by the Grievant and/or his/her personal representative; and 3) instructions for processing the grievance in coordination with applicable local parties. The NRC POC will promptly notify the applicable parties and begin making logistical arrangements per the NRC's instructions.
 - (2) If the Grievant withdraws the grievance or the parties resolve the issue before a decision is issued (e.g., through interest-based conversation), the NRC POC will notify the NRC as applicable, the Senior Reviewing Official (SRO) will not issue a decision, and the NRC will close the grievance.
 - (3) If the Grievant requested mediation, the NRC POC will follow the procedures set forth in Section D of Appendix J, Mediation, in coordination with the NRC and applicable parties. Participation in mediation will stay the resolution process until the conclusion of the mediation. If mediation resolves the grievance, the NRC will close the case.
- D. Notification to the Non-Filing Party. If the Grievant did not request mediation, or if the mediation was unsuccessful in resolving the grievance, the NRC POC will, on behalf of the NRC, promptly forward the grievance to the Non-Filing Party for response. The NRC POC

³ Section V.C.9.a is now a TSA policy reference and defined in Section A.15 of this Handbook.

must copy the NRC on this correspondence.

- E. **Non-Filing Party's Response.** Generally, within fifteen (15) days of receiving the grievance from the NRC POC (in Section D(1), above), the Non-Filing Party will submit its written response to each of the claims raised in the grievance that were identified as eligible by the NRC. The Non-Filing Party will submit a response in writing to the NRC, with a copy to the NRC POC and the Grievant and/or his/her personal representative. The NRC will ensure that all parties have a copy of the additional information submitted.

- F. **Notice to Prioritize a Grievance.** AFGE may notify the NRC in writing of its decision to prioritize a grievance based on articulated need (e.g., shift bid, annual leave bid, attendance and leave issue) and the NRC will prioritize handling of the grievance consistent with this notice.

- G. **SRO Review:**
 - (1) Upon receipt of the grievance from the NRC, the SRO may obtain additional information as the SRO determines necessary to render a decision. The SRO may directly email both parties to obtain additional information (from one or both parties). The SRO may identify a designee to obtain information on his/her behalf.

 - (2) If the SRO or designee obtains additional information, the SRO or designee must include the Grievant and/or his/her personal representative, the Non-Filing Party, and the NRC in the SRO's request for and receipt of additional information. The SRO (and/or designee, as applicable) will not have ex parte communications with any party.

- H. **Additional Submissions to the SRO:**
 - (1) If a party chooses to respond to the additional information submitted to the SRO (in Section G(2) above), the party must do so in writing within seven (7) days of the date that the SRO or the NRC shared the information with the parties, unless the party requests and is granted an extension from the NRC before the expiration of the seven day time period. The party submitting additional information will include the NRC and the opposing party in its response to the additional information.

 - (2) At the conclusion of H(1) above, the issue will remain open for an additional seven days to allow either party to submit additional information to the SRO. The party submitting additional information will include the NRC and the opposing party in its response to the additional information.

 - (3) Generally, at the conclusion of H(2) above, the NRC will consider the grievance documentation complete and the SRO will proceed with his/her final review of the grievance.

I. SRO Decision:

- (1) The SRO will consult, as appropriate, with the Office of Security Operations (OSO), OHC Policy, OHC-Labor Management Relations, and the Office of Chief Counsel (OCC) concerning issues involving the interpretation and/or application of the Determination, TSA policy, and/or the CBA.
- (2) All SRO decisions will be reviewed by OCC for legal sufficiency.
- (3) The SRO will issue a written decision after obtaining all of the information that the SRO determines necessary to render a decision. Generally, the SRO will issue a written decision within forty-five (45) days of his/her receipt of a complete grievance file that contains sufficient information such that the SRO can render a decision.
- (4) In his/her written decision, the SRO will explain the reasons and rationale for his/her decision.
- (5) The SRO may grant, in whole or in part, or deny the requested remedy consistent with this handbook and applicable TSA policy.
- (6) The SRO will send a copy of his/her written decision to both parties and the NRC.

J. The Grievant may withdraw a grievance at any time in the process. The withdrawal notification must be addressed to the NRC and submitted to the NRC by email or fax.

K. AFGE may seek third party review of the SRO's decision on a grievance containing Determination-related allegations as set forth in Appendix H, Single Neutral Review or Appendix I, Panel of Neutrals Review.

L. If the grievance contains allegations on disciplinary actions and/or workplace disputes as well as Determination-related allegations, the Grievant may seek expedited arbitration as set forth in Appendix F, Expedited Arbitration.

Appendix F

Expedited Arbitration Process for Disciplinary Actions and Other Covered Disputes

NOTE: If a grievance contains multiple issues, at least one of which is eligible for expedited arbitration, the entire grievance will go to expedited arbitration if third party review is invoked.

A. General. Note that Appendix F must be read in conjunction with the MOA.

- (1) Subject to the timelines and procedures contained in the MOA and as indicated below, a BUE may request that AFGE invoke expedited arbitration in his/her case. AFGE may choose to invoke expedited arbitration in its discretion. A BUE may not grieve AFGE's decision not to invoke expedited arbitration.
- (2) The internal grievance process set forth in Section C(1) of this handbook and Appendix D of this handbook must be exhausted before expedited arbitration may be invoked, unless TSA and AFGE have agreed in writing to waive any step of that process.
- (3) AFGE may not invoke expedited arbitration in any issue for which the BUE has elected another avenue of external redress, e.g., by filing an Equal Employment Opportunity (EEO) complaint with the Civil Rights, Diversity & Inclusion Division (CRDI) or by filing a complaint with the Office of Special Counsel (OSC). Allegations of discrimination or whistleblower retaliation will not be heard in expedited arbitration, nor will any single expedited arbitration case be used for a class action or similar proceeding.
- (4) As noted in this Appendix, grievances containing allegations involving disciplinary actions and/or other covered disputes as well as Determination-related allegations (which may include alleged CBA violations) may go to expedited arbitration as set forth in this Appendix.
- (5) For efficiency, and to ensure time limits are met, expedited arbitration hearings may be scheduled regionally and/or by video teleconference. TSA and AFGE may (but are not required to) agree that witnesses will participate in expedited arbitration hearings by teleconference.
- (6) AFGE will provide the NRC with a national single point of contact (POC) to which BUEs may be referred concerning questions about cases noticed for possible expedited arbitration or cases for which expedited arbitration has been invoked.
- (7) TSA and AFGE will select arbitrators from the Roster of Neutrals by mutual agreement. TSA will be represented in this process by the NRC and AFGE will be represented by a POC designated by AFGE.

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- (8) The NRC will coordinate and conduct arbitrator selection for a case using the Roster of Neutrals maintained pursuant to Appendix B, Section I of this handbook. The parties have the option to attend the selection (as requested by the parties). The NRC will randomly select one (1) arbitrator and five (5) sequentially-numbered alternates. The parties must mutually agree to the selected arbitrator and a party may object to the selected arbitrator. If a party objects to the first selected arbitrator, the parties will move to the first alternative to see if they mutually agree on that alternate. This process will continue until there is mutual agreement on the arbitrator. Upon the parties' mutual agreement on the arbitrator, the NRC will notify and confirm that arbitrator.
- (9) No party may contact the arbitrators until after the NRC informs the parties that the NRC received confirmation from the arbitrator that he/she is willing to serve as an arbitrator in the matter.
- (10) The NRC will provide to the arbitrator, copying the parties, documents related to the handling of Sensitive Security Information (SSI) and Personally Identifiable Information (PII), the Determination, the MOA, TSA HCM 771-4 and this handbook any other documentation the NRC determines the neutral must have prior to the hearing.
- (11) The parties will jointly consult with the arbitrators regarding the schedule of cases based on notification from AFGE as to which cases will be heard.
- (12) The total number of expedited arbitrations shall not exceed 120 cases per year.

B. Logistics:

- (1) After TSA has issued a final decision as a result of the internal process, AFGE may give notice that it may seek expedited arbitration for the grievance by electronically submitting (by email or fax) [TSA Form 1123-1, Expedited Arbitration Request](#), to the NRC within 21 days of the BUE's receipt of the final decision; or expiration of the 30-day timeline to issue a DGO decision. Any failure to comply with these requirements shall render the decision of the TSA final with no further review. However, the NRC's dismissal determinations are subject to third party review.
- (2) Upon AFGE's request, TSA and AFGE will schedule expedited arbitration hearings every two (2) months, with sufficient dates and arbitrators selected to hear the anticipated number of cases (20 cases on average).
- (3) If there are an insufficient number of hearings scheduled to accommodate every request for expedited arbitration in any two (2) -month period, excess cases shall be scheduled for a subsequent hearing session, subject to the limitations in the MOA.
- (4) If AFGE invokes expedited arbitration, the respective representatives for TSA and AFGE will arrange a time, date and location for the expedited arbitration hearing. This will include consulting with the participants as well as the arbitrator selected to hear the case. These communications will not include any discussion of the substance of the

matter(s) to be adjudicated.

- (5) The respective representatives for TSA and AFGE will give the NRC advance notice of the scheduled dates, times, and locations for the hearings. The NRC will then notify the designated applicable NRC POC who will support logistical coordination of hearings as necessary or as requested by the parties.

C. Expedited Arbitration Hearings and Official Time:

- (1) For each case, hearings before the arbitrator shall be limited to two (2) hours, (one (1) hour per side), unless extended by mutual agreement. The hearing process shall be informal, with relaxed rules of evidence and procedure, no written briefs (unless the parties mutually agree otherwise), and no discovery.
- (2) The Grievant and one (1) TSA employee representative, if applicable, shall each be entitled to up to four (4) hours of official time per case to prepare for and attend expedited arbitration hearings (in addition to any other official time authorized or permitted by TSA for internal grievance and appeal procedures).
- (3) Any other TSA employee providing evidence as a witness during an expedited arbitration hearing shall be entitled to up to two (2) hours of official time to prepare for and attend the hearing at which his/her evidence will be presented (in addition to any other official time authorized or permitted by TSA for internal grievance and appeal procedures).
- (4) TSA may grant additional official time upon request at the sole discretion of TSA if warranted due to the complexity or scope of a given case.
- (5) If an expedited arbitration hearing requires temporary duty (TDY) travel, TSA will authorize travel for the Grievant and up to two (2) TSA employees who will serve as witnesses for the Grievant. Travel and per diem for these employees will be reimbursed in accordance with [TSA MD 1000.6, Temporary Duty Travel](#). TSA shall not be responsible for the cost of travel for the Grievant's representative or any additional TSA employees.
- (6) Each party shall bear its own costs for attorneys, staff, experts, etc. The cost of the arbitrator shall be split evenly between TSA and AFGE.
- (7) For challenges to covered disciplinary actions, arbitrators may hear only material factual disputes and/or determine whether the TSA decision is supported by a preponderance of evidence.

D. Expedited Arbitrator Advisory Opinions:

- (1) For challenges to covered disciplinary actions:
 - (a) Arbitrators must agree to adhere to TSA policy, including the Table of Offenses and

Penalties in effect at the time of the offense.

- (b) If the arbitrator determines that TSA's decision is supported by a preponderance of the evidence, and if the penalty in TSA's decision is within the appropriate range set forth in the [Table of Offenses and Penalties](#), it shall be presumed reasonable.
 - (c) If the arbitrator finds that some or all of the charges in TSA's decision are not supported by a preponderance of the evidence, or that there are applicable mitigating factors not considered by the deciding official, the arbitrator may issue an advisory opinion overturning or mitigating the penalty.
 - (d) Advisory opinions issued by arbitrators may include remedies such as expungement of a disciplinary action from the BUE's personnel record and any make-whole remedies provided for by [TSA MD 1100.55-10, Back Pay](#), but shall not include payment of attorneys' fees or costs.
- (2) For other covered disputes, consistent with the Determination, arbitrators must consider whether there was a violation or misapplication of an employment-related policy for which remedies may be awarded consistent with TSA policy.
 - (3) Arbitrators shall issue advisory opinions in writing within two (2) business days after the expedited arbitration hearings are concluded.
 - (4) The arbitrator's advisory opinion shall be final, except that TSA may, within fifteen (15) calendar days after an advisory opinion, elect in writing to the NRC to request a review of the advisory opinion by the TSA Administrator or Acting Administrator ("Administrator").
 - (5) Upon receipt of a request for review of an arbitrator's advisory opinion by the Administrator, the NRC will notify AFGE. AFGE may respond to the request for review by the Administrator in writing within fifteen (15) days of the date AFGE was notified by the NRC.
 - (6) The Administrator is authorized to exercise his or her sole discretion to modify or overturn the advisory opinion if he or she determines, in writing and within 45 days of the request for the review, that:
 - (a) The advisory opinion is contrary to law, contrary to public policy, or for reasons of national security; or
 - (b) The case does not involve a covered disciplinary action or other covered dispute within the meaning of Sections 2.a or b of the MOA.
 - (7) Any such determination by the Administrator shall be final and unreviewable.

E. Expedited Arbitration Case Management:

- (1) In January of each calendar year, AFGE may elect, at its discretion, to carry over cases from the prior year, subject to the following limitations:
 - (a) No more than fifty (50) cases shall be carried over in any given year;
 - (b) No case shall be carried over more than once; and
 - (c) This carry-over of cases, if any, will count against the limit in Section A(12) in this Appendix, such that “the total number of expedited arbitrations shall not exceed 120 cases per year.”

- (2) In January of each calendar year, if the docket of pending expedited arbitration notices from the prior year exceeds 100 cases, AFGE and TSA will enter into a mediation/arbitration settlement conference(s) with the assistance of a mediator/arbitrator to address up to 100 cases and settle cases to the extent possible. TSA and AFGE shall determine the schedule for the settlement conference(s). The mediator/arbitrator shall determine the procedures for the settlement conference and shall have the authority to resolve cases. In establishing the procedures for the settlement conference, the mediator/arbitrator shall abide by the following:
 - (a) The record developed during the internal process and written evidence exchanged by the parties in advance of the settlement conference will be provided to the mediator/arbitrator;
 - (b) The parties can make any relevant argument;
 - (c) The mediator/arbitrator will not hear witnesses or receive witness statements; and
 - (d) There will be no requirement for pre- or post-hearing briefs.

- (3) Class action type cases are not suitable for the mediation/arbitration process.

- (4) Any remaining cases that were noticed in the prior year for expedited arbitration that are not carried over or resolved in accordance with this Section shall be dismissed with prejudice.

Appendix G

Neutral Review Process for Determination-Related Allegations

NOTE: The neutral review process for Determination-related allegations is intended to apply to Determination-related allegations that arise under the 2022 Determination (e.g., unfair labor practice claims, other labor-related disputes).

- A. This Appendix provides a general introduction to the Neutral Review processes under the UDRS, to include Single Neutral Review and Panel of Neutrals Review. Detailed processes for both types of Neutral Review are included in Appendices H and I, below.
- B. An eligible Determination-related grievance may proceed to Single Neutral Review or Panel of Neutrals Review, depending on the scope of the allegations contained in the grievance.
 - (1) Single Neutral Review: Grievances on Determination-related allegations (including alleged violations of the CBA) that are local in scope may proceed to a single neutral as set forth in Appendix H, Single Neutral Review, after the grievance file is complete (including the written response by the Non-Filing Party) and the SRO decision is issued. However, grievances that contain both Determination-related allegations as well as allegations involving disciplinary actions and/or workplace disputes will, consistent with this handbook, proceed to expedited arbitration if third party review is requested, as noted in Appendix F of this handbook, above.
 - (2) Panel of Neutrals Review: Grievances on Determination-related allegations that are national in scope may proceed to a panel of neutrals as set forth in Appendix I, Panel of Neutrals Review, after the grievance file is complete (including the written response by the Non-Filing Party) and the SRO decision is issued (as applicable). The parties may agree to waive Senior Official Review.
 - (3) For grievances filed on issues arising under Section V.C.9.a⁴ (i.e., during the collective bargaining process), Senior Official Review is not applicable. Consistent with this handbook, these issues will proceed to a panel of neutrals as set forth in Appendix I, Panel of Neutrals Review, after any interest-based processes are completed and the case file is complete (to include the Non-Filing Party's written response).
- C. Requesting Neutral Review:
 - (1) Within 15 days of: 1) receiving the SRO's decision (if applicable), or 2) agreement of the parties to waive Senior Official Review in grievances that are national in scope, only AFGE or TSA may submit a written request for neutral review with the NRC. A BUE on his/her own may not request neutral review.

The internal grievance process set forth in this handbook must be exhausted by the parties before

⁴ Section V.C.9.a is now a TSA policy reference and defined in Section A.15 of this Handbook.

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requesting neutral review (either by a single neutral or a panel of neutrals). No new allegations may be raised by either party during the neutral review process for which the interest- (if chosen) and rights-based processes have not been exhausted. Neutral review may also include review of NRC dismissal determinations.

Appendix H

**Single Neutral Review for Determination-Related Allegations that are Local
in Scope**

NOTE: The neutral review process for Determination-related allegations that are local in scope is intended to apply to Determination-related allegations that arise under the 2022 Determination (e.g., unfair labor practice claims, other labor-related disputes) and are local in scope.

- A. Determination-related allegations that are local in scope involve actions alleged to occur at one airport (to include spokes where applicable). These issues include:
- (1) Allegations that BUEs, the Union (AFGE), or TSA management at one airport (to include spokes where applicable) failed to act in a manner consistent with their respective rights, roles, and responsibilities as set forth in:
 - (a) Section IV.A of the Determination for BUEs;
 - (b) Section IV.C of the Determination for the Union (AFGE); and
 - (c) Section IV.D of the Determination for TSA management.
 - (2) Determination-related allegations that are local in scope are also allegations that BUEs, TSA management, or the Union (AFGE) failed or refused to comply with a binding collective bargaining agreement at the local level.
 - (3) The only issues that the neutral may hear and decide are those issues that were raised in the grievance, have exhausted the internal process, and were advanced to third party review by the NRC. The neutral may also hear and decide NRC dismissal determinations.
- B. Resolution Process for Grievances Arising Under Section V.C.9 of the Determination that are Local in Scope:
- (1) For grievances on Determination-related allegations that are local in scope, the SRO must issue a final decision before a party may seek neutral review on a grievance. No new allegations may be raised by either party during the Single Neutral Review process that were not identified during the UDRS intake process (i.e., neither party may raise issues that were not raised in the grievance and not decided on the merits by the SRO in a final decision). The neutral may review NRC dismissal determinations.
 - (2) The NRC will coordinate and conduct neutral selection for a case using the Roster of Neutrals maintained pursuant to Appendix B, Section I of this handbook. The parties have the option to attend the selection (as requested by the parties). The NRC will randomly select one (1) neutral and five (5) sequentially-numbered alternates. The

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parties must mutually agree to the selected neutral and a party may object to a selected neutral. If a party objects to the first selected neutral, the parties will move to the first alternative to see if they mutually agree on that alternate. This process will continue until there is mutual agreement on the neutral. Upon the parties' mutual agreement on the neutral, the NRC will notify and confirm the neutral. This selection will generally occur within thirty (30) days of the receipt of the request for neutral review.

- (3) No party may contact the neutral until after the NRC informs the parties that the NRC received confirmation from the neutral that he/she is willing to serve as a neutral in the matter.
- (4) The NRC will forward to the neutral, copying both parties, documents related to the handling of Sensitive Security Information (SSI) and Personally Identifiable Information (PII), the Determination, TSA HCM 771-4, this handbook, and the CBA in effect at the time of the matter raised in the grievance.
- (5) Generally, within thirty (30) days of receiving this information, the neutral will schedule a conference call with the parties to hold a preliminary discussion on logistics and schedule the hearing. The parties may raise with the neutral any desire for pre-hearing briefs or briefs in lieu of a hearing at this time. The parties also may inform the neutral that they have agreed to waive the hearing and have the matter adjudicated on the basis of the information of record, including written briefs. Whether the parties may submit written briefs is at the sole discretion of the neutral.
- (6) No party, or any person acting on behalf of a party, will engage in, or attempt to engage in, ex parte communications with the neutral regarding the grievance and/or the hearing. NRC communications with the neutral concerning hearing logistics, hearing schedules, and other process-related matters which have no bearing on the merits of the matter(s) being challenged are not considered ex parte communications and are permitted.
- (7) A proceeding before a neutral may be postponed when jointly requested by both parties, for good cause when requested by a party, or upon the neutral's initiative. When a party has requested a postponement, the neutral will determine whether there is good cause to grant a postponement. If a party requests a postponement and the neutral denies the request, the hearing will proceed as scheduled even if the party requesting the postponement does not attend.
- (8) The hearing may be scheduled in person or, by mutual agreement of the parties, may be scheduled regionally, locally and/or by video teleconference. The parties may request assistance from the NRC and applicable NRC POC with setting up the logistics of the hearing. The respective representatives for TSA and AFGE will give the NRC advance notice of the scheduled dates, times, and locations for the hearings. The NRC will then notify the designated applicable NRC POC who will support logistical coordination of hearings as necessary or as requested by the parties.
- (9) Any discussions between the parties during mediation and any settlement proposals

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made (in writing or orally) during or in conjunction with mediation or between the parties outside of mediation may not be used by the parties in neutral review and may not otherwise be considered by the neutral.

- (10) If TSA or AFGE wishes to have a stenographic transcript of the hearing proceedings, that party is responsible for making arrangements directly with a stenographer and will notify the other party of such arrangements seven (7) days in advance of the hearing that a stenographer will be present. The party requesting the stenographic record will pay the cost of the stenographer's fees and costs. However, the non-requesting party may purchase a copy of the transcript from the stenographer.
- (11) Each party will bear its own costs in presenting its case, including but not limited to the cost of attorneys, staff, experts, and exhibits (if any).
- (12) The parties will evenly split the costs of the neutral. Any obligation to pay these costs will not be dependent on the neutral's decision.
- (13) TSA will not incur any obligation to pay any costs for a neutral's services that are associated with a dispute between a BUE and AFGE.
- (14) Videotaping and/or recording, other than a stenographic record, of the hearing is not permitted unless agreed to by the parties and the neutral.
- (15) Pre-Hearing Teleconference. The neutral will hold a pre-hearing teleconference with the parties after which the neutral will determine the order and manner of presentations, the number and scope of witness testimony, and any limitations on the length and scope of briefing papers.
- (16) Official Time. TSA will approve reasonable amounts of official time for BUEs to participate in the hearing consistent with the Determination and TSA policy as applicable.
- (17) Length of Hearing. Hearings before the neutral will be limited to two hours (one hour per side), unless extended by agreement of the parties.
- (18) Authority of the Neutral. The neutral will conduct a fair and impartial hearing and will take all necessary action to avoid delay in proceedings. The neutral will have all powers necessary to that end unless those powers are otherwise limited by law, regulation, or this handbook. The neutral also must adhere to TSA policy, the Determination, and the CBA, as applicable. Specifically, the neutral may:
 - (a) Administer oaths and affirmations;
 - (b) Rule on offers of proof and receive relevant evidence:
 - i. To resolve an issue of credibility;

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- ii. To ensure that the record on significant issues is fully developed; or
 - iii. To otherwise ensure a fair and just adjudication of the case.
- (c) Regulate the course of the hearing, maintain decorum, and exclude any disruptive persons from the hearing;
 - (d) Rule on all motions, witness lists, exhibit lists, and proposed findings;
 - (e) Require the parties to file memoranda of law and/or policy and to present oral argument with respect to any question of law and/or policy;
 - (f) Order the production of evidence and the appearance of witnesses whose testimony would be relevant, material and non-repetitious consistent with Subsection 21, below;
 - (g) Hold prehearing conferences for the settlement and simplification of issues; and
 - (h) Issue decisions and remedial orders consistent with Subsections 21(j) and (k) below.
- (19) The neutral also will abide by the following:
- (a) The neutral should only allow evidence and testimony into the record that is relevant, material, and non-repetitious. The neutral may exclude any evidence of witness testimony that is not relevant or material, or is repetitive. Evidence, to include documents and testimony, must be properly authenticated under the Federal Rules of Evidence, otherwise credible, and the witness must be qualified to testify to the matter. The neutral and parties should rely on the Federal Rules of Civil Procedure and the Federal Rules of Evidence as guidance.
 - (b) There will be no discovery.
 - (c) Witnesses may not be present when other witnesses are testifying unless the parties agree in advance and inform the neutral.
 - (d) Cross-examination of witnesses is allowed only if the questioning is relevant to the matter being reviewed. The neutral may limit or terminate cross-examination that is not respectful or relevant to the matter being reviewed. When considering relevance, cross-examination shall be limited only to the scope of direct examination of the witness.
 - (e) The neutral may allow rebuttal testimony if requested by the parties. If the parties do not agree to rebuttal testimony, one party may request that the neutral allow rebuttal testimony and the neutral may grant the request at his/her discretion. Rebuttal testimony may only address evidence not reasonably foreseeable in the opposing party's case-in-chief and not already in the party's case-in-chief. Rebuttal testimony is not allowed if it repeats testimony heard previously during

the hearing.

Credibility. If a neutral must discern the credibility of a witness, at a minimum, the neutral must apply the following factors in assessing witness credibility as applicable: 1) the witness's opportunity and capacity to observe the event or act in question; 2) the witness's character; 3) any prior inconsistent statement by the witness; 4) a witness's bias, or lack of bias; 5) the contradiction of the witness's version of events by other evidence or its consistency with other evidence; 6) the improbability of the witness's version of events; and 7) the witness's demeanor. These factors must be addressed as relevant in the neutral's written decision when credibility is at issue.

- (f) **Briefs.** Opening and closing written briefs may be submitted at the discretion of the parties if the neutral agrees to allow briefs or as requested by the neutral.
- (g) After both parties have presented their evidence and written and oral submissions and arguments, as permitted by this handbook and/or as directed by the neutral and the neutral has determined the matter is closed, the matter may only be reopened in the sole discretion of the neutral for good cause shown.
- (h) **Decision and Remedies.** When issuing a decision and determining a remedy (if any), the neutral will abide by the following:
 - i. In rendering a decision, the neutral must apply precedent from the Federal court system regarding the interpretation of the TSA's enabling statute (the Aviation and Transportation Security Act (ATSA)).
 - ii. The decision of the neutral must be consistent with ATSA, TSA policy, the Determination, and the CBA, as appropriate.
 - iii. The burden of proof to be applied by the neutral in determining whether an alleged violation occurred is preponderant evidence. If the neutral decides that the filing party meets this burden and proves that a violation occurred, the burden of proof to be applied by the neutral in determining what, if any, remedies should be awarded is also preponderant evidence. The filing party carries both of these burdens. The neutral must make a finding as to the alleged violation(s) and a separate finding as to the remedy(ies) awarded. A finding of a violation does not automatically entitle the filing party to a remedy(ies); the filing party must prove to the neutral, by preponderant evidence, that the filing party is entitled to relief.
 - iv. **Remedies.** Any remedies awarded by the neutral, including make-whole remedies, must be consistent with TSA policy, including TSA MD 1100.55-10, *Back Pay* and any other applicable TSA policy. Remedies will not include:
 - 1. Compensatory or punitive damages;

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2. Payment of attorneys' fees or costs;
 3. Changes or alterations to TSA policy or procedures (unless those policies are found to conflict with the Determination or the CBA);
 4. Changes or alterations to the Determination;
 5. Changes or alterations to the CBA; or
 6. Disciplinary, adverse, or other action(s) affecting a third party, including the employment or reassignment of another employee.
- i. Decision. Generally, the neutral will issue a written decision within thirty (30) days from the close of the record as determined by the neutral. The neutral's decision is final. The neutral's decision is not precedential.

Appendix I

Panel of Neutrals Review for Determination-Related Allegations National in Scope

NOTE: The panel of neutrals review process for Determination-Related allegations that are national in scope is intended to apply to Determination-related allegations that arise under the 2022 Determination (e.g., unfair labor practice claims, other labor-related disputes) and are national in scope.

- A. Determination-related allegations that are national in scope involve actions alleged to occur at multiple airports nationwide or allegations involving a national-level decision. These issues include:
- (1) Allegations that BUEs, the Union (AFGE), or TSA management at multiple airports nationwide or allegations involving a national-level decision) failed to act in a manner consistent with their respective rights, roles, and responsibilities as set forth in:
 - (a) Section IV.A of the Determination for BUEs;
 - (b) Section IV.C of the Determination for the Union (AFGE); and
 - (c) Section IV.D of the Determination for TSA management.
 - (2) Determination-related allegations that are national in scope are also allegations that BUEs, TSA management, or the Union (AFGE) failed or refused to comply with a binding collective bargaining agreement at the national level.
 - (3) The only issues that the arbitrator or neutral may hear and decide are those issues that were raised in the grievance, have exhausted the internal process, and were advanced to third party review by the NRC. The arbitrator or neutral may also hear and decide NRC dismissal determinations.
- B. Resolution Process for Grievances Arising Under Section V.C.9 of the Determination that are National in Scope:
- (1) The parties may agree to waive Senior Official Review for grievances containing Determination-related allegations (which may include alleged CBA violations) when the issue(s) are national in scope. If the parties agree to waive Senior Official Review, the grievance may proceed to third party review by a panel of neutrals after any interest-based processes are completed and the grievance file is complete (to include the Non-Filing Party's written response).
 - (2) Issues arising under Section V.C.9.a of the Determination (i.e., during the collective bargaining process) may proceed directly to third party review, as set forth in this

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Appendix, after any interest-based processes are completed and the case file is complete (to include the Non-Filing Party's written response).

- (3) The NRC's decision that a grievance is national in scope is not grievable and may not be reviewed by a third party. If a party does not believe that the NRC correctly determined that a claim is national in scope, the party may file a reconsideration request as set forth in Appendix B of this handbook.
- (4) Section V.C.9 of the Determination states that "[t]he UDRS will include third-party review by panels selected from a roster of neutrals, with backgrounds in both security and collective bargaining, who are agreed upon by TSA management and the exclusive representative. Consistent with TSA policy, these panels will hear the following issues when national in scope":
 - (a) Issues that arise during the collective bargaining process:
 - i. Failure to agree on ground rules (Section V.C.9.a.i of the Determination);
 - ii. Allegations of failure to bargain in good faith as set forth in Section IV.C.5 for the Union (AFGE) and Section IV.D.1 for TSA management (Section V.C.9.a.ii of the Determination); and
 - iii. Failure to agree on terms of the collective bargaining agreement (Section V.C.9.a.iii of the Determination).
 - (b) Allegations that:
 - i. TSA management or the Union (AFGE) violated BUEs' rights as set forth in Section IV.A of this Determination (Section V.C.9.b.i of the Determination);
 - ii. TSA management or the Union (AFGE) failed to act in a manner consistent with its respective rights, roles, and responsibilities as set forth in Section IV.C for the Union (AFGE) and Section IV.D for TSA management (Section V.C.9.b.ii of the Determination); and
 - iii. TSA management or the Union (AFGE) failed or refused to comply with a binding collective bargaining agreement (Section V.C.9.b.iii of the Determination).
- (5) A grievance regarding an issue that is national in scope containing Determination-related allegation(s) may not be filed if it does not fall within Section V.C.9.a or Section V.C.9.b of the Determination.
- (6) National level Determination-related allegations filed on behalf of AFGE can only be filed by individuals authorized by AFGE national.
 - (a) AFGE will provide to the NRC a list of representatives who have the authority to

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file national-level, Determination-related allegations on behalf of AFGE.

- (b) The NRC will not accept national level allegations filed by individuals who are not on the list provided by AFGE.
- (7) For grievances on issues arising under Section V.C.9 of the Determination that are national in scope, during the Panel of Neutrals Review process, a party cannot raise new allegations that were not raised in the grievance during the UDRS intake process.
- (8) The NRC will coordinate and conduct the panel of neutrals selection for a case using the Roster of Neutrals maintained pursuant to Appendix B, Section I of this handbook. The parties have the option to attend the selection (as requested by the parties). The NRC will randomly select three (3) neutrals and seven (7) sequentially-numbered alternates. The parties must mutually agree to the selected neutrals and a party may object to a selected neutral. If a party objects to the first selected neutral, the parties will move to the first alternative to see if they mutually agree on that alternate. This process will continue until there is mutual agreement on the neutrals. Upon the parties' mutual agreement on the neutrals, the NRC will notify and confirm those neutrals. This selection will generally occur within thirty (30) days of the receipt of the request for neutral review.
- (9) No party may contact any of the neutrals selected on the Panel until after the NRC informs the parties that the NRC received confirmation from the neutrals that they are willing to serve in the matter.
- (10) If a neutral resigns, dies, or otherwise becomes unable to serve on the Panel and a hearing has already been completed on any procedural issues, the remaining two neutrals will render the written decision on those issues. A third neutral will be added to the Panel (consistent with the neutral selection process set forth in this handbook) for the hearing on the substantive and factual matters. If a neutral resigns, dies, or otherwise becomes unable to serve on the Panel and a hearing has already been completed on the substantive and factual matters, the remaining two neutrals will render the written decision on those matters.
- (11) The NRC will forward to the Panel, copying both parties, documents related to the handling of Sensitive Security Information (SSI) and Personally Identifiable Information (PII), the Determination, TSA HCM 771-4, this handbook, and the CBA in effect at the time of the issues raised in the grievance and any other documentation the NRC determines the neutral must have prior to the hearing.
- (12) No party, or any person acting on behalf of a party, will engage in or attempt to engage in ex parte communications with the Panel, or any member of the Panel, regarding the grievance and/or the hearing. NRC communications with the Panel, or any neutral on the Panel, concerning hearing logistics, hearing schedules, and other process-related issues which have no bearing on the matter(s) being challenged, are not considered ex parte communications and are permitted.

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- (13) Generally, within thirty (30) days of receiving this information, the Panel will schedule a conference call with the parties to hold a preliminary discussion on logistics and schedule the hearing. The parties may raise with the Panel any desire for pre-hearing briefs or briefs in lieu of a hearing at this time. The parties also may inform the Panel that they have agreed to waive the hearing and have the matter adjudicated on the basis of the information of record, including written briefs. Whether the parties may submit written briefs is at the sole discretion of the Panel.
- (14) A proceeding before a Panel may be postponed when jointly requested by both parties, for good cause when requested by a party, or upon the Panel's initiative. When a party has requested a postponement, the Panel will determine whether there is good cause to grant a postponement. If a party requests a postponement and the Panel denies the request, the hearing will proceed as scheduled even if the party requesting the postponement does not attend.
- (15) Hearings will take place in the Washington, D.C. area at a location that is agreed upon by TSA and AFGE.
- (16) Any discussions between the parties during mediation and any settlement proposals made in writing or orally during or in conjunction with mediation or between the parties outside of mediation may not be used by the parties in neutral review and may not otherwise be considered by the Panel.
- (17) If TSA or AFGE wishes to have a stenographic transcript of the hearing proceedings, that party is responsible for making arrangements directly with a stenographer and will notify the other party of such arrangements seven (7) days in advance of the hearing that a stenographer will be present. The transcript is not an official record of the proceedings unless the Panel and the parties agree. The party requesting the stenographic record will pay the cost of the stenographer's fees and costs. However, the non-requesting party may purchase a copy of the transcript from the stenographer.
- (18) Each party will bear its own costs in presenting its case, including but not limited to the cost of attorneys, staff, experts, and exhibits (if any).
- (19) The parties will evenly split the costs of the Panel. Any obligation to pay these costs will not be dependent on the Panel's decision.
- (20) TSA will not incur any obligation to pay any costs for a Panel's services that are associated with a dispute between a BUE and AFGE.
- (21) Videotaping and/or recording of the hearing, other than a stenographic record, is not permitted unless agreed to by the parties and the Panel of Neutrals.
- (22) Pre-Hearing Teleconference. The Panel will hold a pre-hearing teleconference with the parties after which the neutrals will determine the order and manner of presentations,

the number and scope of witness testimony, and any limitations on the length and scope of briefing papers.

- (23) Official Time. TSA will approve reasonable amounts of official time for BUEs to participate in hearing consistent with the Determination and TSA policy as applicable.
- (24) Authority of the Panel. The Panel will conduct a fair and impartial hearing and will take all necessary action to avoid delay in proceedings. The Panel will have all powers necessary to that end unless those powers are otherwise limited by law, regulation, or this handbook. The Panel must adhere to TSA policy, the Determination, and the CBA, as applicable. Specifically, the Panel may:
 - (a) Administer oaths and affirmations;
 - (b) Rule on offers of proof and receive relevant evidence:
 - i. To resolve an issue of credibility;
 - ii. To ensure that the record on significant issues is fully developed; or
 - iii. To otherwise ensure a fair and just adjudication of the case.
 - (c) Regulate the course of the hearing, maintain decorum, and exclude any disruptive persons from the hearing;
 - (d) Rule on all motions, witness lists, exhibit lists, and proposed findings;
 - (e) Require the parties to file memoranda of law and/or policy and to present oral argument with respect to any question of law and/or policy;
 - (f) Order the production of evidence and the appearance of witnesses whose testimony would be relevant, material and non-repetitious consistent with Subsection 26(j) and (b) below;
 - (g) Hold prehearing conferences for the settlement and simplification of issues; and
 - (h) Issue decisions and remedial orders consistent with Subsection 26(j) below.
- (25) The Panel also will abide by the following:
 - (a) The Panel should only allow evidence and testimony into the record that is relevant, material, and non-repetitious. The Panel may exclude any evidence of witness testimony that is not relevant or material, or is repetitive. Evidence, to include documents and testimony, must be properly authenticated under the Federal Rules of Evidence, otherwise credible, and the witness must be qualified to testify to the matter. Panel and parties should rely on the Federal Rules of Civil Procedure and

the Federal Rules of Evidence as guidance.

- (b) There will be no discovery.
- (c) Witnesses may not be present when other witnesses are testifying unless the parties agree in advance and inform the Panel.
- (d) Cross-examination of witnesses is allowed only if the questioning is relevant to the matter being reviewed. The Panel may limit or terminate cross-examination that is not respectful or relevant to the matter being reviewed. When considering relevance, cross-examination shall be limited only to the scope of direct examination of the witness.
- (e) The Panel may allow rebuttal testimony if requested by the parties. If the parties do not agree to rebuttal testimony, one party may request that the Panel allow rebuttal testimony and the Panel may grant the request at his/her discretion. Rebuttal testimony must only address evidence not reasonably foreseeable in the opposing party's case-in-chief and not already in the party's case in chief. Rebuttal is not allowed if it repeats testimony heard previously during the hearing.
- (f) Credibility. If the Panel must discern the credibility of a witness, at a minimum, the Panel must apply the following factors in assessing witness credibility as applicable: 1) the witness's opportunity and capacity to observe the event or act in question; 2) the witness's character; 3) any prior inconsistent statement by the witness; 4) a witness's bias, or lack of bias; 5) the contradiction of the witness's version of events by other evidence or its consistency with other evidence; 6) the improbability of the witness's version of events; and 7) the witness's demeanor. These factors must be addressed as relevant in the Panel's written decision when credibility is at issue.
- (g) Briefs. Opening and closing written briefs may be submitted at the discretion of the parties.
- (h) After both parties have presented their evidence and written and oral submissions and arguments, as permitted by this handbook and/or as directed by the Panel and the Panel has determined the matter is closed, the matter may only be reopened in the sole discretion of the Panel for good cause shown.
- (i) Decision and Remedies. When issuing a decision and determining a remedy (if any), the Panel will abide by the following:
 - i. In rendering a decision, the Panel must apply precedent from the Federal court system regarding the interpretation of the TSA's enabling statute (the Aviation and Transportation Security Act (ATSA)).

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- ii. The decision of the Panel must be consistent with ATSA, TSA policy, the Determination, and the CBA, as appropriate.
- iii. The burden of proof to be applied by the Panel in determining whether an alleged violation occurred is preponderant evidence. If the Panel determines that the filing party meets this burden and proves that a violation occurred, the burden of proof to be applied by the Panel in determining what, if any, remedies should be awarded is also preponderant evidence. The filing party carries both of these burdens. The Panel must make a finding as to the alleged violation(s) and a separate finding as to the remedy(ies) awarded. A finding of a violation does not automatically entitle the filing party to a remedy(ies); the filing party must prove to the Panel, by preponderant evidence, that the filing party is entitled to relief.
- iv. Any remedies awarded by the Panel, including make-whole remedies, must be consistent with TSA policy, including [TSA MD 1100.55-10, *Back Pay*](#), and any other applicable TSA policy.
- v. Remedies will not include:
 - a. Compensatory or punitive damages;
 - b. Payment of attorneys' fees or costs;
 - c. Changes or alterations to TSA policy or procedures (unless those policies are found to conflict with the Determination or the CBA);
 - d. Changes or alterations to the Determination;
 - e. Changes or alterations to the CBA; or
 - f. Disciplinary, adverse, or other action affecting a third party, including the employment or reassignment of another employee.
- vi. Decision:
 - a. Generally, the Panel will issue a written decision within thirty (30) days from the close of the record as determined by the Panel. Written or oral dissenting or concurring opinions will not be issued.
 - b. The Panel's decision is final.
 - c. The Panel's decision is not precedential.

Mediation

A. Principles:

- (1) Mediation is a dispute resolution process available to the parties to assist in resolving disputes.
- (2) Mediation is intended to improve communication between employees and management to resolve workplace disputes, including disciplinary actions.
- (3) Mediation can aid the parties in obtaining mutually beneficial outcomes to disputes without protracted, and often adversarial, proceedings.
- (4) Parties who participate in mediation do so voluntarily and can withdraw from the process at any time.
- (5) By participating in the mediation, a party agrees that any discussions that take place during mediation and any settlement proposals made in writing or orally during or in conjunction with mediation may not be used at any step of the UDRS or any proceeding and may not otherwise be considered by a DGO, SRO, or third party neutral. The parties also must sign a mediation agreement reiterating these confidentiality requirements prior to, and as a condition of, engaging in mediation.
- (6) Mediation sessions may not be recorded in any manner.

B. Roles and Responsibilities in the Mediation Process:

- (1) Mediators must:
 - (a) Ensure the parties sign the mediation agreement prior to engaging in mediation;
 - (b) Explain the role of the mediator and other relevant information regarding the mediation process;
 - (c) Assist the parties to try and reach a mutually agreeable resolution;
 - (d) Communicate promptly to the NRC whether the mediation resulted in an agreement and take any other required administrative actions with respect to the mediation, including but not limited to providing to the NRC, as applicable, the signed mediation agreement, the signed no agreement letter, and/or the signed proposed settlement agreement;
 - (e) Adhere to all applicable professional standards and codes of ethics; and

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- (f) Not disclose information obtained through the mediation process, except for disclosures agreed to by the parties to resolve a dispute or disclosures required by law and/or TSA policy (e.g., a threat to or breach of transportation security, allegations of discrimination, sexual harassment, a real or perceived threat of injury by an employee to others or himself/herself).

(2) Employees:

- (a) May request mediation by checking the appropriate block on [TSA Form 1115-1](#);

NOTE: It is the responsibility of the individual requesting mediation in conjunction with a grievance to timely file a written request using the appropriate TSA form.

- (b) May contact the NRC at (571) 227-5097 with questions about mediation and to obtain a general overview of the mediation process;
- (c) Must sign a mediation agreement prior to engaging in mediation; and
- (d) May have a personal representative present to assist him/her during mediation meetings in accordance with applicable TSA policy, including but not limited to [TSA MD 1100.63-3, *Employee Representation*](#).

NOTE: The employee must provide a completed [TSA Form 1163-1, *Personal Representative Designation*](#), to the NRC no later than seven (7) calendar days in advance of the scheduled mediation meeting. Management representation may also be present during the mediation.

(3) Personal Representatives:

- (a) May be union representatives if the BUEs they are representing designate them as their personal representatives consistent with TSA policy;
- (b) May, on behalf of a Grievant, request mediation by checking the appropriate block on [TSA Form 1115-1](#);

NOTE: It is the responsibility of the individual requesting mediation in conjunction with a grievance to timely file a written request using the appropriate TSA form.

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- (c) May contact the NRC at (571) 227-5097 with questions about mediation and to obtain a general overview of the mediation process; and
- (d) Must sign a mediation agreement prior to engaging in mediation.

(4) Union Representatives:

- (a) May serve as the representatives for AFGE in a grievance filed on behalf of AFGE;
- (b) May be personal representatives if the BUEs they are representing designate them as their personal representatives consistent with TSA policy;
- (c) May, on behalf of a BUE or AFGE, request mediation by checking the appropriate block on [TSA Form 1115-1](#);

NOTE: It is the responsibility of the individual requesting mediation in conjunction with a grievance to timely file a written request using the appropriate TSA form.

- (d) May contact the NRC at (571) 227-5097 with questions about mediation and to obtain a general overview of the mediation process; and
- (e) Must sign a mediation agreement prior to engaging in mediation.

(5) Management, when participating as a Non-Filing Party:

- (a) May contact the NRC at (571) 227-5097 with questions about mediation and to obtain a general overview of the mediation process;
- (b) May have representation present during the mediation; and
- (c) Must sign a mediation agreement prior to engaging in mediation (including management representatives).

C. Exceptions:

- (1) Since mediation is voluntary, any employment issue can be mediated if mediation is agreed to by the parties with the exception of the following:
 - (a) TSO offenses for which removal is required under the provisions of the [Handbook](#) to [TSA MD 1100.75-3, Addressing Performance and Conduct Problems](#), Appendix A;
 - (b) Indefinite suspensions;

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- (c) Termination of employment based on failure to meet reemployment requirements under the provisions of [TSA MD 1100.30-17, *Uniformed Services Employment and Reemployment*](#);
 - (d) Involuntary Workforce Reductions in accordance with [HCM 351-2, *Transportation Security Officer \(TSO\) Involuntary Workforce Reduction Procedures*](#), or [HCM 351-3, *Involuntary Workforce Reduction Procedures for Non-TSES, Non-TSO Positions*](#);
 - (e) An employee's physical/mental inability to perform the duties of his or her position;
 - (f) Removal actions involving suitability/security clearance determinations, felony arrests;
 - (g) Any issue previously mediated by either party;
 - (h) Any issue already formally adjudicated or in the process of being adjudicated through a UDRS rights-based process and decisions/dispositions rendered in these processes; and
 - (i) Any issue for which a decision was made by another agency or third party, such as courts, the Department of Homeland Security, the Equal Employment Opportunity Commission, the Office of Personnel Management, the Department of Labor's Office of Workers' Compensation Programs, the United States Merit Systems Protection Board, Office of Special Counsel, and any issue excluded from coverage under this HCM and handbook.
- (2) Under normal circumstances, relationship issues between employees will not be eligible for mediation. However, relationship issues may be addressed using a facilitator or conflict coaching as described in Appendix L, Other Alternative Dispute Resolution Processes.
- (3) If it is determined that a relationship issue between employees is having a detrimental effect on security operations and/or mission accomplishment, an FSD, Supervisory Air Marshal In-Charge, Area Director, Division Head, or Assistant Administrator or designee may request Neutral Assistance consideration, in accordance with Appendix L, Other Alternative Dispute Resolution Services, by calling the NRC at (571) 227-5097 or by email to the ResolutionCenter@tsa.dhs.gov.

D. Mediation Procedures:

- (1) A Grievant (or a personal representative on his/her behalf) may request mediation in conjunction with a grievance by checking the appropriate block on [TSA Form 1115-1](#).

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- (2) Mediation requests submitted via [TSA Form 1115-1](#) will be reviewed by the NRC for jurisdictional and procedural eligibility. Please see Section C of this Appendix for a list of exceptions. Not all issues may be appropriate for mediation.
- (3) Upon receipt of either: 1) a complete grievance (per filing requirements set forth in Section B. of this handbook) in which the mediation option is selected; or 2) an eligible request for “mediation only” via [TSA Form 1115-1](#), the NRC will provide to the applicable NRC POC a completed copy of [TSA Form 1115-1](#) and any supporting documentation submitted by the Grievant (or, as applicable, the affected employee who requested “mediation only”) and/or his/her personal representative.
- (4) The NRC POC will promptly forward the grievance (or, as applicable, the request for “mediation only”) to the Non-Filing Party to consider when determining whether to agree to mediation.
 - (a) Generally, within five (5) days of receiving notification of the mediation request from the NRC POC, the Non-Filing party will notify the NRC POC in writing as to whether the Non-Filing Party agrees to mediate.
 - (b) The NRC POC will generally then notify the NRC within three (3) days of the date the Non-Filing Party notified the NRC POC whether the Non-Filing Party agrees to mediate.
- (5) If the Non-Filing Party does not agree to mediate, the NRC will notify the Grievant and/or his/her personal representative. The NRC will then forward the grievance, via the NRC POC, to the next step of the UDRS.
- (6) If the Non-Filing Party agrees to mediate, the NRC will notify the Grievant or affected employee and/or his/her personal representative and make arrangements to obtain a mediator.
- (7) For grievances that are local in scope, the NRC POC will assist with mediation logistics, such as scheduling arrangements with the Grievant, the personal representative (if applicable), management, and other mediation details.
- (8) For grievances that are national in scope, the NRC will assist with mediation logistics.
- (9) Mediation scheduling should take into consideration the work schedules of the participants, including properly designated personal representatives, as feasible to avoid scheduling mediation meetings during non-work hours of TSA participants.
- (10) If the mediation results in a resolution of the issue(s), the settlement agreement will reflect that the grievance has been withdrawn and the NRC will close the case.
- (11) If the mediation does not result in resolution of the issue(s), the NRC will then, forward the grievance, via the NRC POC, to the next step of the UDRS.

- (12) If the Grievant and/or his/her personal representative withdraws from the process following mediation, the NRC will close the case.

E. Settlement Agreements:

- (1) If the parties resolve the issue during mediation, the settlement agreement must be prepared in accordance with [TSA MD 100.9, Settlement Agreements](#), and forwarded to the NRC for processing. As set forth in TSA MD 1100.55-9, the NRC will coordinate with OCC to ensure legal review of proposed settlement agreements reached through mediation.
- (2) Please see Appendix K, Enforcement, for how to address alleged breaches of settlement agreements.

Enforcement

The NRC will review allegations of breaches of settlement agreements reached under the UDRS and oversee the enforcement of final decisions issued under the UDRS.

A. Alleged Breaches of Settlement Agreements:

- (1) If either party to a settlement agreement reached under UDRS alleges that the settlement agreement has been breached, the party can request review of the breach allegation by the NRC. The party alleging the breach must provide a written detailed account of the alleged breach, including the date on which the alleged breach occurred, the date on which the party became aware of the alleged breach, the specific provision(s) of the agreement at issue, and how the settlement agreement was allegedly breached.
- (2) Written requests must be received no later than thirty (30) calendar days after the alleged breach occurred or when the party asserting the breach occurred knew or should have known of the alleged noncompliance. If determined necessary, the NRC Director or designee will arrange for investigation into the facts and circumstances of the alleged breach and will prepare a recommendation to the Assistant Administrator for OHC after coordination with OCC. The Assistant Administrator for OHC will determine what, if any, corrective action/remedy is appropriate. The decision of the Assistant Administrator for OHC is final.
- (3) Written requests must be emailed to ResolutionCenter@tsa.dhs.gov or faxed to (703) 603-4057.

B. Alleged Non-Compliance with a Final Decision Issued in the UDRS:

- (1) If either party to a final decision issued under UDRS alleges that the decision was not adhered to, the party can request review of the matter by the NRC. The party alleging the non-compliance must provide a written detailed account of the alleged non-compliance, including the date on which the party became aware of the alleged non-compliance, the specific provision(s) of the decision at issue, and how the decision was allegedly not complied with.
- (2) Written requests must be received no later than thirty (30) calendar days after the alleged non-compliance occurred or when the party knew or should have known of the alleged non-compliance. If determined necessary, the NRC Director or designee will arrange for investigation into the facts and circumstances of the matter and will prepare a recommendation to the AA/OHC after coordination with OCC. The Assistant Administrator for OHC will determine what, if any, corrective action/remedy is appropriate. The decision of the Assistant Administrator for OHC is final.

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- (3) Written requests must be emailed to ResolutionCenter@tsa.dhs.gov or faxed to (703) 603-4057.

Appendix L

Other Alternative Dispute Resolution Services

A. General:

- (1) Other Alternative Dispute Resolution (ADR) Services describes the informal processes that are available to employees wishing to address workplace issues and concerns early and as close to the origin as possible by the affected individuals or groups themselves. These services include the following:
 - (a) Interest-based conversations as set forth in Section B below;
 - (b) Conflict coaching as set forth in Section C below; and
 - (c) Neutral Assistance as set forth in Section D below.
- (2) Safeguards for employees seeking ADR services include, but are not limited to:
 - (a) Retaliation or threats of retaliation against employees for participating in such processes are prohibited.
 - (b) Confidentiality and the privacy of participants in ADR processes will be protected consistent with applicable law and TSA policy.
 - (c) TSA employees utilizing ADR services should be informed clearly of any applicable prohibitions against disclosure and any applicable exceptions with respect to the service in which they are participating.
 - (d) Internal and external mediators/facilitators providing ADR services for which confidentiality is required by law, TSA policy, or agreement among the parties, shall not voluntarily disclose any dispute resolution communication, and will not be asked by TSA management to disclose any dispute resolution communication, unless all parties and the mediator/facilitator agree to disclosure or the communication falls within an applicable exception provided in the Administrative Dispute Resolution Act or consistent with law or TSA policy.
 - (e) All individuals participating in ADR processes involving sensitive personally identifiable information (PII) and/or sensitive security information (SSI) must abide by applicable laws, policies, and agreements concerning confidentiality and non-disclosure of this information.
 - (f) Since ADR activities often involve issues of a sensitive and private nature, all individuals who are engaged in these activities should strictly limit disclosure of any information about an individual to TSA personnel who have a business need to know in the performance of their duties and consistent with applicable law and TSA policy.

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Limited disclosure may be necessary to obtain approval or implementation of a settlement agreement or, with appropriate safeguards, for research and evaluation.

(g) An employee who chooses to enter into an ADR process maintains all rights to access available formal rights-based processes, such as the EEO process, within the timeframes and requirements applicable to those rights-based processes.

(3) Employee use of ADR processes is voluntary.

(4) Employees and management are encouraged to engage in conversations which focus on individual interests and concerns.

B. Interest-Based Conversations:

(1) Interest-based conversations may assist employees and management in engaging constructively and in a non-adversarial manner when attempting to informally resolve workplace issues.

(2) Employees and management may opt to have interest-based conversations facilitated by an NRC-appointed individual not involved in the dispute who may assist in reaching a mutually acceptable resolution (Facilitated Interest-Based Conversations). The NRC is available to assist sites and offices by identifying a skilled facilitator to assist the parties.

C. Conflict Coaching:

(1) Conflict coaching is a voluntary and confidential one-on-one dialogue in which a TSA trained and NRC-approved conflict coach (Coach) helps the employee seeking assistance (Coachee) to:

(a) Take ownership of individual workplace conflicts;

(b) Develop increased competency in managing conflict;

(c) Prevent unnecessary conflict; and

(d) Resolve disputes more effectively and productively.

(2) Conflict coaching may be provided face-to-face at airports and at TSA Headquarters where there are approved Coaches or by telephone/video conference.

(3) Coaches help employees by helping them build skills that enable them to resolve specific and more general workplace issues. Coaches do not intervene as an advocate or spokesperson on behalf of an employee or TSA.

(4) Coaches are required to respect the confidentiality of the names of the employees being coached and the information they share, unless information received indicates a

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likelihood of criminal activity, a threat of harm to a person or persons, a breach of transportation security, or other serious issue, such as an offense listed in Appendix A of the [Handbook to TSA MD 1100.75-3](#), [TSA Handbook 1100.75-3](#), and/or disclosure is required by law or TSA policy. In this event, the Coach is required to report such information and refer the employee to the appropriate TSA authority or service.

- (5) Conflict coaching does not replace the responsibility, accountability, or authority of management. Coaches do not challenge or interfere with the roles of management.
- (6) Conflict coaching is not appropriate for all issues. For instance, employees raising personal issues may be referred to the Employee Assistance Program (EAP). Employees raising issues related to prohibited discrimination will be referred to the Civil Rights, Diversity & Inclusion Division (CRDI).
- (7) An employee's contact with a Coach or with an NRC-designated conflict coaching program coordinator (a TSA-trained coach who processes coaching requests on behalf of the NRC) does not constitute legal notice to TSA of an issue(s) for which TSA management has an obligation to take certain actions.
- (8) The Coachee must request approval from his/her supervisor to attend the coaching session(s) if the session falls within the Coachee's duty hours.

D. Neutral Assistance:

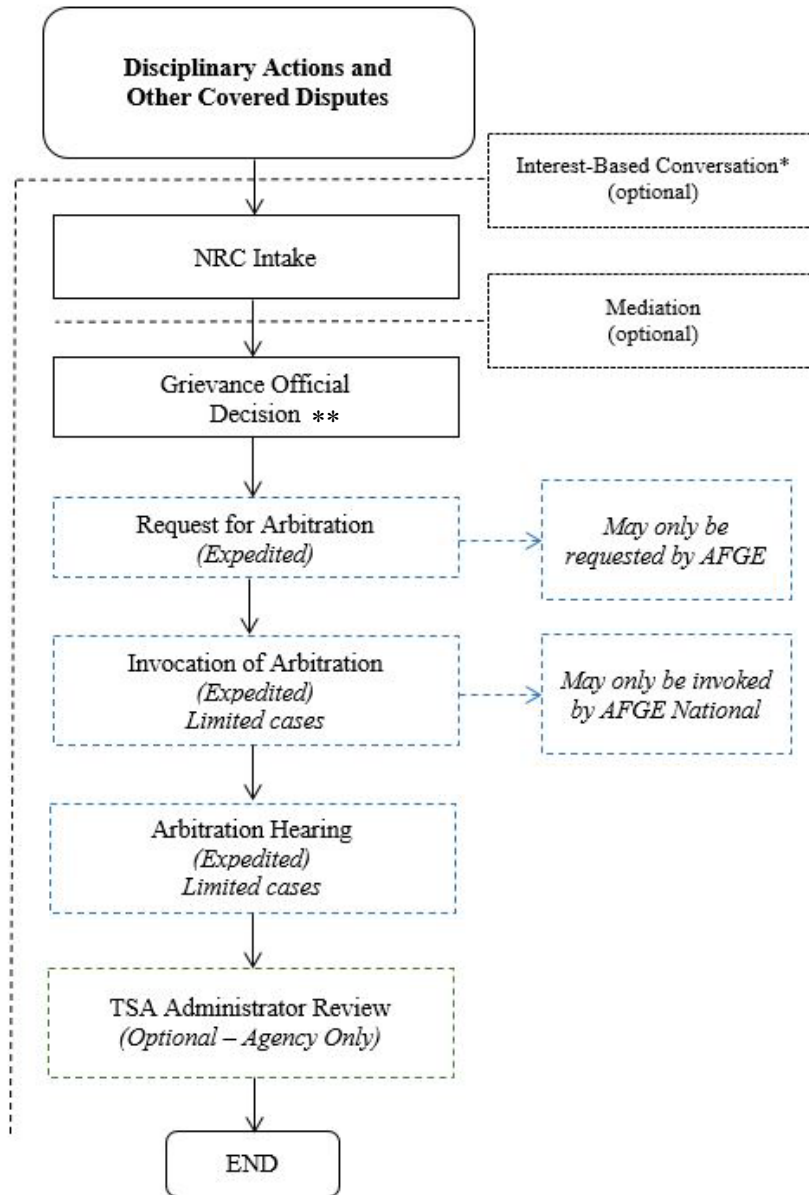
- (1) Neutral Assistance is an NRC-coordinated effort designed to assist Headquarters offices and field locations in effectively addressing organizational and communication issues that detract from organizational effectiveness and/or performance. Neutral Assistance helps to improve the workplace environment and helps prevent concerns from becoming disputes.
- (2) Requests for Neutral Assistance must be initiated by TSA senior leadership (e.g., Assistant Administrator, FSD, DFSD, AFSD, SAC, Regional Director, Division Director). The NRC will conduct intake and assessment discussions to gather information about the situation, ensure that Neutral Assistance is appropriate, and that the necessary conditions are in place for effective results.
- (3) Throughout the engagement, the NRC will ensure safeguards are established to protect confidentiality and encourage full participation by all stakeholders. Below are the terms and conditions that define the NRC's ability to engage in a Neutral Assistance request:
 - (a) The engagement must have the sponsorship of TSA senior leadership as specified in Subsection 2, above.
 - (b) The request must fall within the mission and services provided by the NRC.
 - (c) All affected parties are expected to engage in a good faith effort to resolve identified issue(s).

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- (d) There can be no other actions or investigations pending that involve other TSA offices.
- (e) Written assessment reports will not be provided.
- (4) If the NRC determines that Neutral Assistance is not appropriate or practicable, the NRC Director or designee will discuss other options with the requesting party.
- (5) If the case is accepted, additional assessment and planning will take place between the site and the NRC service provider. Services will be tailored on a case-by-case basis to provide for successful resolution.
- (6) In most cases, Neutral Assistance disputes will be confidential, unless information received indicates a likelihood of criminal activity, a threat of harm to a person or persons, a breach of transportation security, or other serious issue(s) such as an offense listed in Appendix A of the handbook to TSA MD 1100.75-3; and/or disclosure is required by law or policy.

Process Flow Charts

Chart: BUE Grievance Process for Disciplinary Actions and Other Covered Disputes

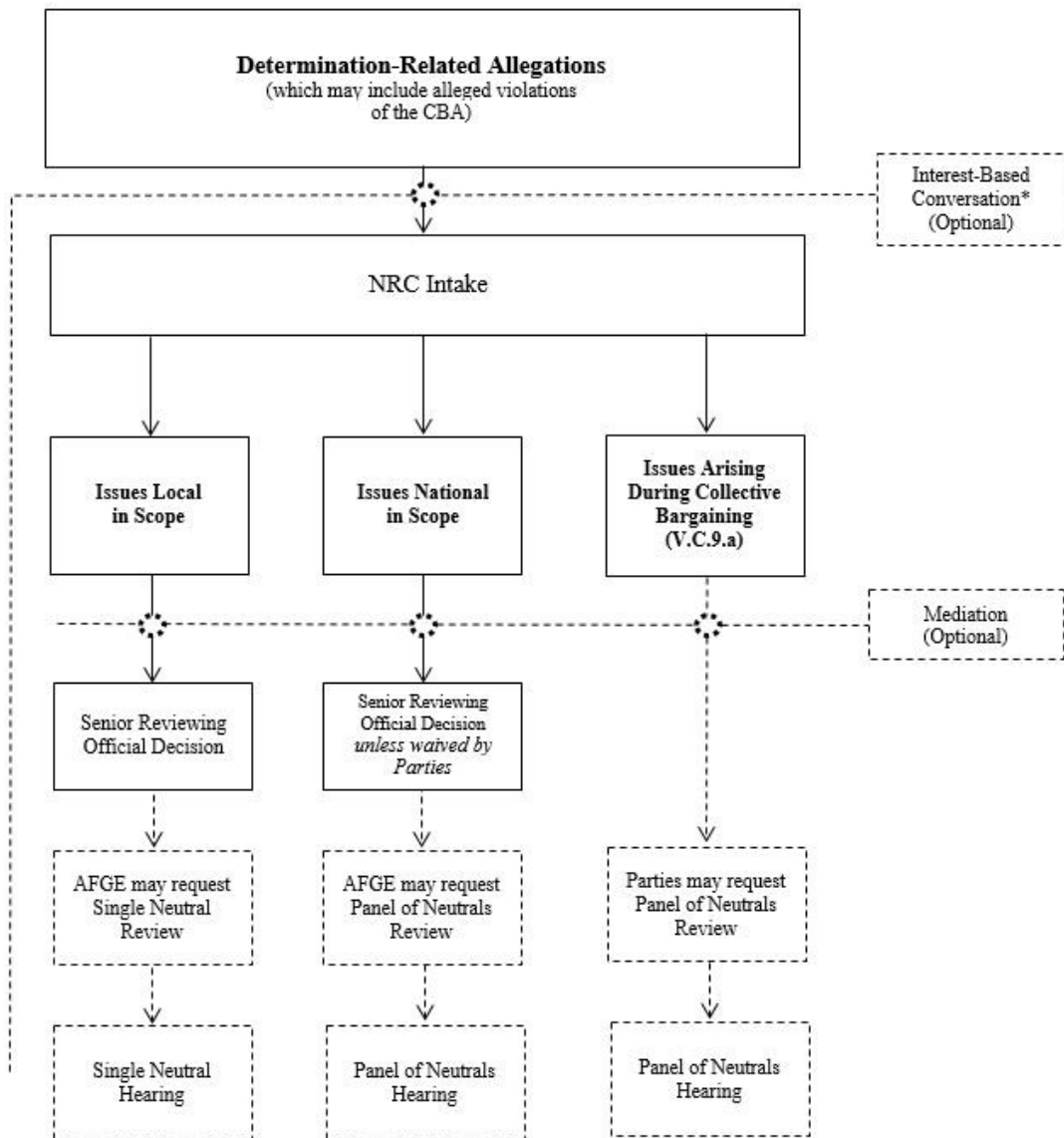


**Interest-based conversations are encouraged at any point of the resolution processes outlined in this handbook. The parties may resolve or settle the case at any time throughout the process.*

***If no decision is issued by a DGO within 30 days, the union can request expedited arbitration.*

NOTE: Flowcharts are intended for reference only. Please review complete process information as described in this handbook.

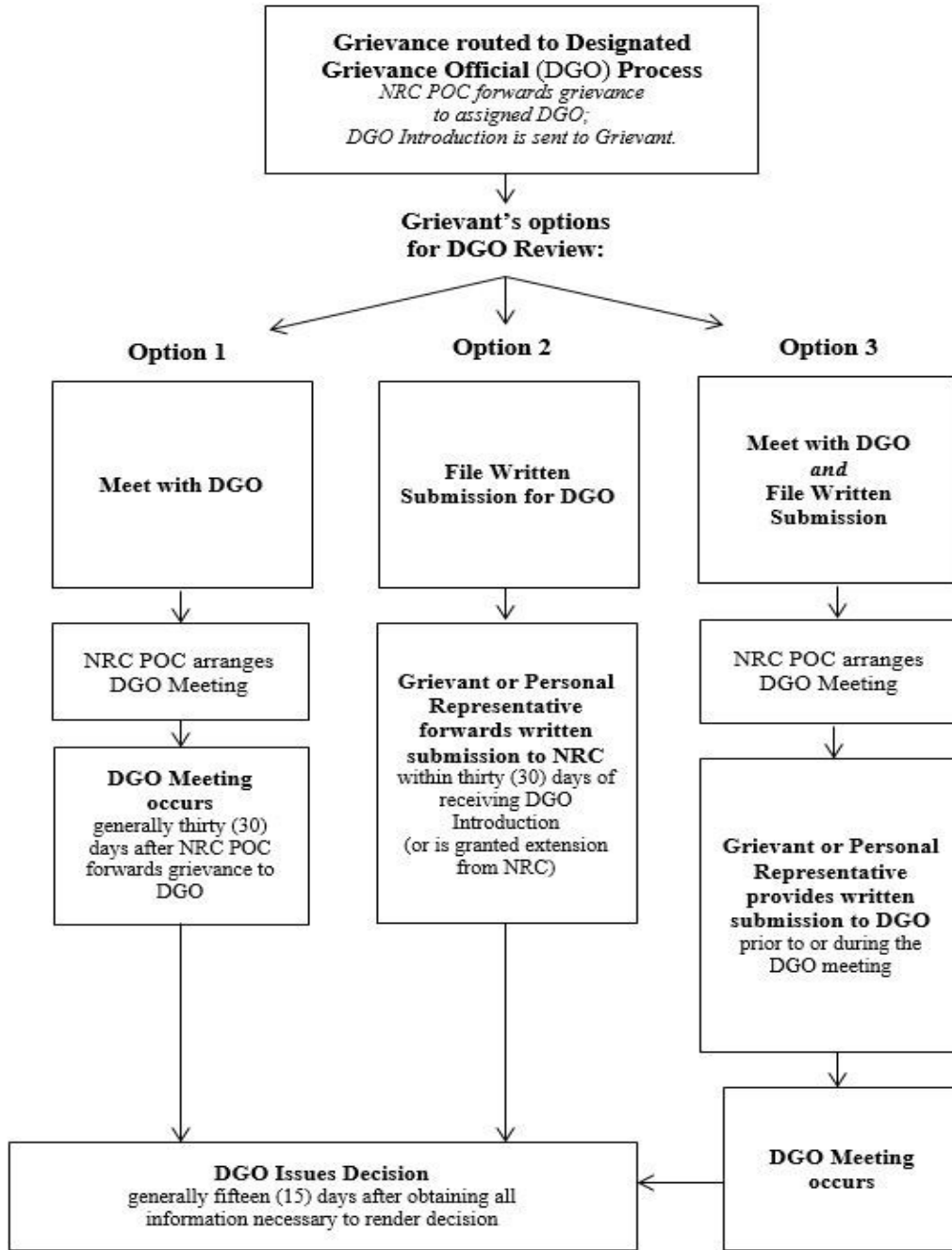
**Chart: BUE Grievance Process for Determination-Related Allegations
(which may include alleged CBA violations)**



**Interest-based conversations are encouraged at any point of the resolution processes outlined in this handbook. The parties may resolve or settle the case at any time throughout the process.*

NOTE: *Flowcharts are intended for reference only. Please review complete process information as described in this handbook.*

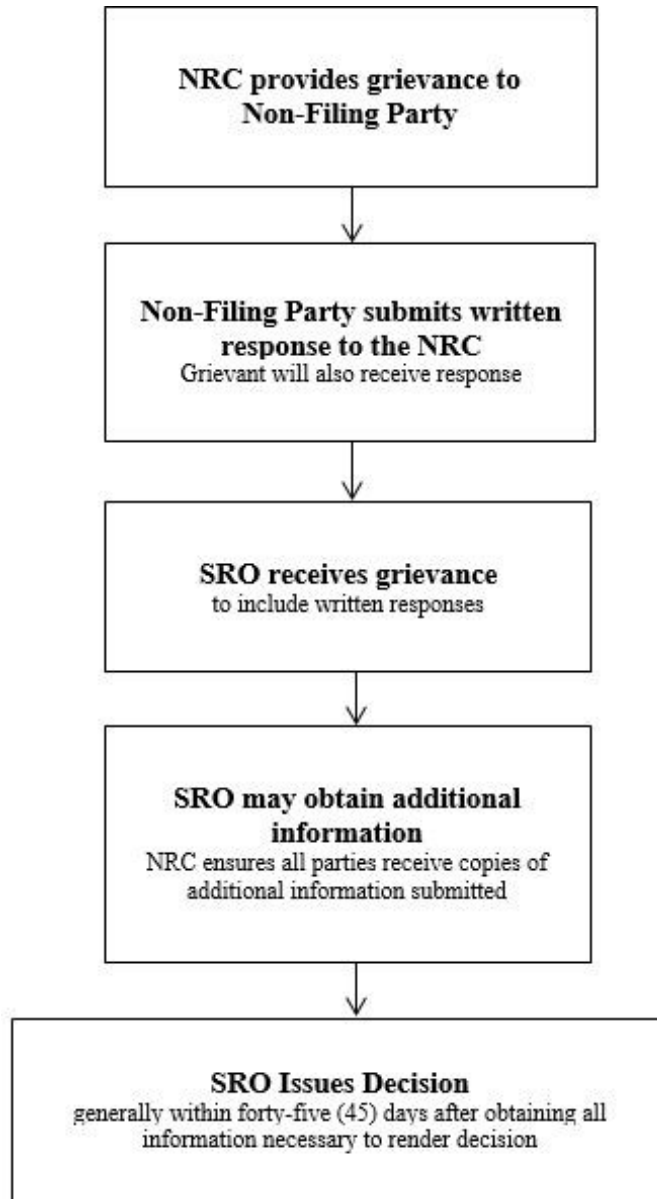
Chart: Designated Grievance Official Review Process



**Interest-based conversations are encouraged at any point of the resolution processes outlined in this handbook. The parties may resolve or settle the case at any time throughout the process.*

NOTE: *Flowcharts are intended for reference only. Please review complete process information as described in this handbook.*

Chart: Senior Official Review Process



NOTE: *Flowcharts are intended for reference only. Please review complete process information as described in this handbook.*