



*To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.*

*NOTE: Pursuant to Section 101 of the Aviation and Transportation Security Act (49 U.S.C. 114(n)), this directive and all related Handbooks, Attachments, and Appendices, establish Transportation Security Administration (TSA) policy and must be applied accordingly.*

1. **PURPOSE:** This directive provides the TSA policy and procedures regarding Management-Initiated Fitness-for-Duty evaluations.
2. **SCOPE:** This directive applies to TSA employees occupying positions with medical requirements.
3. **AUTHORITIES:** The Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA)
4. **DEFINITIONS:**
  - A. Covered Employee: An employee occupying a position with medical requirements.
  - B. Essential Functions: For purposes of this directive, the fundamental job duties of the employee's official position of record.
  - C. Fitness for Duty<sup>1</sup>: An employee's physical and psychological ability to safely and effectively perform the essential functions of his/her position, as determined based on the medical requirements of the employee's official position of record (e.g., Medical and Psychological Guidelines for Transportation Security Officers, Medical Guidelines for Federal Air Marshals).
  - D. Management-Initiated Fitness-for-Duty Evaluation: Management initiated medical assessment and/or examination used to assess an employee's physical and psychological ability to safely and effectively perform the essential functions of his/her position. A Management-Initiated Fitness-for-Duty evaluation may include medical inquiries, requests for and review of medical documentation, consultation with the employee's health care provider, and/or medical examination, as appropriate.
  - E. Independent Medical Examination: Medical examination of an employee by a healthcare provider who has not previously been involved in the employee's care.
  - F. Management Official: A higher-level official in an employee's chain of supervision (e.g., supervisor, manager).

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<sup>1</sup> For the purpose of this directive, the term 'fitness for duty' describes an employee's ability to maintain the medical requirements of his/her position, which is different from the use of the term in the TSA MD 1100.33-1, TSO Daily Fitness for Duty. In the TSA MD 1100.33-1, the term 'fitness for duty' describes the Transportation Security Officers' ability to meet the statutory requirement under ATSA that mandates that a Transportation Security Officer cannot be impaired while on duty due to illegal drugs, sleep deprivation, medication, or alcohol.

**5. RESPONSIBILITIES:**

- A. The Assistant Administrator for Human Capital (AA/OHC) is responsible for establishing the policy and procedures regarding the Management-Initiated Fitness-for-Duty evaluations.
- B. The Office of Chief Medical Officer (OCMO) within the Office of Human Capital (OHC) is responsible for conducting Management-Initiated Fitness-for-Duty evaluations and making fitness-for-duty determinations for all covered employees with the exception of the Office of Law Enforcement/Federal Air Marshal Service (OLE/FAMS) employees.
- C. The Medical Programs Section (MPS) within OLE/FAMS is responsible for conducting Management-Initiated Fitness-for-Duty evaluations and making fitness-for-duty determinations for covered OLE/FAMS employees.
- D. The Employee Relations branch within OHC is responsible for providing management officials with employment-related advice and guidance regarding matters covered by this directive.
- E. The Office of Chief Counsel (OCC) is responsible for providing legal advice and guidance to management officials regarding matters covered by this directive.
- F. Management officials are responsible for complying with the requirements of this directive when requiring covered employees to undergo a Management-Initiated Fitness-for-Duty Evaluation.
- G. Covered employees are responsible for:
  - (1) Meeting the medical requirements of their position; and
  - (2) Complying with the Management-Initiated Fitness-for-Duty evaluation requirements and procedures, including providing sufficient and relevant medical documentation within the required timeframe.

**6. POLICY:**

- A. Management officials may require a covered employee to undergo a Management-Initiated Fitness-for-Duty evaluation, subject to the concurrence of the appropriate medical office (i.e., OCMO or MPS), when they:
  - (1) Directly observe and/or have credible information that a medical condition, known or reasonably suspected, may be affecting an employee's ability to safely and effectively perform one or more essential functions of his/her position;
  - (2) Have a reasonable belief that an employee will pose a significant risk of substantial harm to the health or safety of self, others in the workplace, or the traveling public due to a medical condition;
  - (3) Learn of an employee's medical condition through self-report or through a credible third party and additional medical information is needed to assess the employee's ability to

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safely and effectively perform the essential functions of his/her position. For example, management officials may learn of an employee's medical condition through employee requests for leave, to include leave under the Family and Medical Leave Act, or employee requests for a change in duty status, assignment, or working condition due to a medical condition (e.g., requests for light duty, reasonable accommodation); or

- (4) Are notified by the TSA Drug- and Alcohol-Free Workplace Program (DAFWP) that the results of an employee's drug test show use of a legally prescribed medication that may adversely impact performance of safety/security sensitive functions.

**NOTE:** Covered employees are responsible for maintaining and demonstrating their fitness for duty and may be subject to fitness-for-duty evaluations as a routine part of maintaining their medical certification (e.g., periodic medical evaluation program), not limited to Management-Initiated Fitness-for-Duty evaluations permitted under this directive.

- B. An employee with an open claim accepted by the Department of Labor, Office of Workers' Compensation Program (DOL OWCP) may not be subjected to a Management-Initiated Fitness-for-Duty evaluation of the same condition as the injury or illness accepted by the DOL OWCP, unless the employee has been returned to full and unrestricted duty.
- C. The OCMO or MPS will conduct Management-Initiated Fitness-for-Duty evaluations for their respective areas of responsibility, at the request of referring management officials. The OCMO and MPS will decline requests that do not meet the requirements of this directive, or are in violation of any applicable laws, policies or regulations. In the event a request is declined, the OCMO or MPS will inform the requesting official of the basis for the declination.
- D. Management-Initiated Fitness-for-Duty evaluations will result in one of the following fitness-for-duty determinations:
  - (1) Medically Qualified: The employee is medically qualified to return to full and unrestricted duty.
  - (2) Temporarily Not Medically Qualified: The employee is temporarily not medically qualified to return to full and unrestricted duty. A medical condition has been identified which temporarily restricts the employee's ability to perform essential functions. This condition has an expectation of resolution within a reasonable time period without permanent restrictions (e.g., bone fracture or hernia requiring surgical repair).
  - (3) Not Medically Qualified for Full and Unrestricted Duty: The employee is not medically qualified to return to full and unrestricted duty. A medical condition has been identified which restricts the employee's ability to perform essential functions for longer than a reasonable time period.
- E. Employees must cooperate with TSA's efforts to obtain the medical information (e.g., documentation requests or TSA-ordered examinations, if applicable) necessary for rendering a fitness-for-duty determination.
  - (1) Employees must provide the requested medical documentation within 30 calendar days of the request by the OCMO or MPS. If an employee is unable to comply with the request

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within the required timeframe, the employee must submit a written request for an extension to the OCMO or MPS. The extension request must include the reasons for the delay and must be submitted prior to the expiration of the 30 calendar day deadline. The approval of extension requests is not guaranteed. The OCMO and MPS may grant extensions on a case-by-case basis, based on their review of the reasons for the delay provided in the request.

- (2) If the OCMO or MPS determines that an independent medical examination is necessary prior to rendering a fitness-for-duty determination, the employee will be required to undergo a medical examination by a TSA-designated healthcare provider.
  - (3) If an employee fails to provide the requested medical documentation within the required timeframe or to comply with a TSA-ordered medical examination (e.g., not showing for the scheduled medical examination), he/she may be determined to be Not Medically Qualified for Full and Unrestricted Duty and/or be subject to discipline for non-compliance, up to and including removal from Federal service.
- F. When an employee is found “Temporarily Not Medically Qualified” or “Not Medically Qualified for Full and Unrestricted Duty,” the appropriate management official should consult with Employee Relations and/or the OCC, as appropriate, for additional guidance.

**NOTE:** Employees found “Temporarily Not Medically Qualified” or “Not Medically Qualified for Full and Unrestricted Duty” may be eligible for light duty, reasonable accommodation or reassignment, if applicable. See [HCM 820-2, Light Duty](#), [TSA MD 1100.73-4, Reasonable Accommodation Program](#), and [HCM 339-2, Job Search Program for Medically Disqualified Transportation Security Officers Eligible for Reassignment](#) for eligibility requirements and the applicable policies and procedures.

G. Confidentiality of Medical Information

- (1) All medical information, including an employee’s diagnosis and supporting medical information, must be protected in compliance with the Privacy Act of 1974, as amended (5 U.S.C. § 552a). Medical information must be handled as Sensitive Personally Identifiable Information (SPII) and shared on a need-to-know basis only. See [TSA MD 3700.4, Handling Sensitive Personally Identifiable Information](#). See Section B.7, Safe Guarding Medical Documentation of the [Handbook to TSA MD 1100.63-1, Absence and Leave for Non-Bargaining Unit Employees](#), or the [Handbook to TSA MD 1100.63-1, Absence and Leave](#), and applicable collective bargaining agreement provisions, if any, for additional guidance on handling medical documentation.
- (2) All medical information related to Management-Initiated Fitness-for-Duty evaluations must be forwarded to the OCMO or MPS (for OLE/FAMS employees).

H. Costs Associated with Management-Initiated Fitness-for-Duty Evaluations

- (1) Employees are responsible for any and all costs associated with providing the medical documentation requested by the OCMO or MPS. Employees must obtain the requested medical documentation during non-duty hours (i.e., off-duty hours or request appropriate personal leave).

- (2) If the OCMO or MPS determines that an independent medical examination is necessary, TSA will be responsible for the cost of the TSA-ordered medical examination. TSA-ordered medical examinations will occur during the employee's duty hours. Participation in a TSA-ordered medical examination is considered part of the employee's work assignment and the employee will be on duty status for the duration of the medical examination appointment, including the travel time to and from the appointment.
- I. If TSA has reason to believe that an employee poses a threat to the workplace, TSA may take appropriate action to mitigate the threat, in accordance with all applicable policies in addition to this directive, to protect the safety of the workplace and the public. In addition, any threat of or an actual workplace violence incident must be reported to the workplace violence program coordinator. See [TSA MD 2800.12, Workplace Violence Program](#).

## **7. PROCEDURES:**

- A. Prior to referring an employee for a Management-Initiated Fitness-for-Duty evaluation, management officials should consult with Employee Relations to assess whether a Management-Initiated Fitness-for-Duty evaluation is appropriate and to seek guidance on the relevant employment-related actions (e.g., duty status).
- B. The OCMO is the servicing medical office for all TSA offices with the exception of OLE/FAMS. Referrals for Management-Initiated Fitness-for-Duty evaluations of covered employees with the exception of OLE/FAMS employees must be submitted to, and all related processes coordinated with, the OCMO.
- C. The MPS is the servicing medical office for OLE/FAMS. Referrals for Management-Initiated Fitness-for-Duty evaluations of covered OLE/FAMS employees must be submitted to, and all related processes coordinated with, the MPS.
- D. To request the OCMO to conduct a Management-Initiated Fitness-for-Duty evaluation of a covered employee, the referring management official must complete the TSA Form 1133-2, *Management-Initiated Fitness-for-Duty Evaluation Request*. The completed form and supporting documents, if any, must be password protected and emailed to the OCMO at [OCMOmedical@tsa.dhs.gov](mailto:OCMOmedical@tsa.dhs.gov).
- E. To request the MPS to conduct a Management-Initiated Fitness-for-Duty evaluation of a covered OLE/FAMS employee, the referring management official must contact the MPS via phone at (609) 813-3050 for instructions.
- F. Any employee medical information (e.g., TSA Form 1133-2, medical documentation or other medical information) transmitted via email must be password protected prior to sending. Employee medical information must be handled as Sensitive Personally Identifiable Information. See [TSA MD 3700.4, Handling Sensitive Personally Identifiable Information](#).
- G. Upon receipt of the request, the OCMO or MPS will determine whether the request for a Management-Initiated Fitness-for-Duty evaluation will be accepted. If the request is declined, the OCMO or MPS will explain the basis of the declination.

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- H. Once the OCMO or MPS accepts the request, the referring management official should inform the employee that he/she has been referred for a Management-Initiated Fitness-for-Duty evaluation and the reason for referring the employee.
- I. At the discretion of the OCMO or MPS, the Management-Initiated Fitness-for-Duty evaluation process may include medical inquiries, requests for and review of medical documentation, consultation with the employee's health care provider, and/or medical examination, as appropriate. Where necessary, the OCMO and MPS will obtain the required medical release authorization (i.e., [TSA Form 1134, Medical Information Release Authorization](#)).
- J. Employees requesting an extension of time to comply with the OCMO or MPS's requests for medical documentation must submit a written request to the OCMO via email to [OCMOmedical@tsa.dhs.gov](mailto:OCMOmedical@tsa.dhs.gov) or to the MPS (for instructions for submitting written requests for an extension, OLE/FAMS employees must contact MPS via phone at (609) 813-3050). Requests for extension are granted on a case-by-case basis. See Section 6.E.(1) above.
- K. After completing the Management-Initiated Fitness-for-Duty evaluation, the OCMO or MPS will provide the requesting management official with an official determination of Medically Qualified, Temporarily Not Medically Qualified, or Not Medically Qualified for Full and Unrestricted Duty.
- L. Upon notification by the OCMO or MPS, the referring management official or an appropriate management official must inform the employee of his/her fitness-for-duty determination.
- M. For guidance on the appropriate administrative actions based on the medical determination of an employee's fitness for duty, management officials should consult with Employee Relations and/or the OCC.

8. **EFFECTIVE DATE AND IMPLEMENTATION:** This policy is approved and effective the date of signature unless otherwise specified.

**APPROVAL**

*Signed*

*12/9/2016*

\_\_\_\_\_  
Karen Shelton Waters  
Assistant Administrator for Human Capital

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Date

**EFFECTIVE**

\_\_\_\_\_  
Date

Distribution: Administrator, Deputy Administrator, Assistant Administrators, Regional Directors, Federal Security Directors, Supervisory Air Marshals in Charge, Business Management Division Directors, Administrative Officers, and Human Resources Specialists

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