



Transportation  
Security  
Administration

U.S. DEPARTMENT OF HOMELAND SECURITY  
TRANSPORTATION SECURITY ADMINISTRATION  
OFFICE OF HUMAN CAPITAL POLICY

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**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 document, and all related Handbooks, Attachments, and Appendices, establish Transportation Security Administration (TSA) policy and must be applied accordingly.*

**HCM LETTER NO. 771-3**

**DATE:** September 16, 2008

**SUBJECT:** PEER REVIEW

1. **PURPOSE:** This Human Capital Management (HCM) letter provides TSA guidance and procedures for implementing and operating the TSA Peer Review Program (PRP). It also provides guidance and procedures for employees seeking resolution of workplace issues and disciplinary actions under the PRP.
2. **SCOPE:** This HCM applies to permanent employees in the position of Transportation Security Officer (TSO), Master Transportation Security Officer (MTSO), Expert Transportation Security Officer (ETSO), Behavior Detection Officer (BDO), Security Training Instructor (STI), Ticket Document Checker (TDC), Lead Transportation Security Officer (LTSO), and Supervisory Transportation Security Officer (STSO). Trial period employees in these positions are eligible to seek Peer Review but may not bring termination actions effected prior to the expiration of their trial period.

Note: Bomb Appraisal Officers (BAOs) and Transportation Security Managers (TSMs) who are in the positions of BDOs are not covered under this HCM.

3. **AUTHORITIES:** The Aviation and Transportation Security Act, Pub L.107-71 (ATSA).

**4. DEFINITIONS:**

- A. Affected Employee: For purposes of this HCM, an Affected Employee is an individual requesting or bringing a case to Peer Review in accordance with this HCM.
- B. Covered Employee: Transportation Security Officer (TSO), Master Transportation Security Officer (MTSO), Expert Transportation Security Officer (ETSO), Behavior Detection Officer (BDO), Security Training Instructor (STI), Ticket Document Checker (TDC), Lead Transportation Security Officer (LTSO), and Supervisory Transportation Security Officer (STSO).

- C. Day: Calendar day. When a calendar day falls for any period of time ending on a Saturday, Sunday or Federal Holiday it will be extended to the next calendar (work) day.
- D. Deciding Official: The Deciding Official is a manager with the authority to render a disciplinary or adverse action decision.
- E. Disciplinary Action: A letter of reprimand, a suspension (of any length), including an indefinite suspension, a removal, or a reduction in pay band or rate of pay.
- F. Grievance: A request by an employee for personal relief in a matter of concern or dissatisfaction relating to his/her employment with TSA that is subject to the control of management.
- G. Headquarters Program Manager: The Headquarters (HQ) Program Manager is a TSA employee assigned to direct the operations of the Peer Review Support Office and coordinate the activities, as needed, of Case Manager(s), Facilitator(s), Mediator(s) and Peer Review Panel members in accordance with this HCM.
- H. Managers: TSA officials who are in officially designated managerial or supervisory positions at an airport or its spokes. Generally, TSMs, STSOs, and managerial staff at the G band or above outside the chain of command of the affected employee shall be in the pool of managers available for Peer Panels, subject to their eligibility. When an STSO is seeking review of an issue by the Peer Review Panel, other STSOs will make up the peer portion of the panel. Managers above the level of STSO will serve as the management members of the panel.
- I. Mediation: A structured process in which a trained neutral person facilitates a meeting of two or more parties concerning a conflict or dispute. It is a confidential process that is voluntary for both management and the affected employee.
- J. Peer: A Peer is a covered employee in the same position as the affected employee.
- K. Peer Panel Facilitator (PPF): A non-covered TSA employee designated by the Federal Security Director (FSD) to facilitate Peer Panels at his/her airport. The PPF manages a clearly defined process designed to guide the panelists in reaching an informed and impartial decision in each matter reviewed. He or she does not give opinions on the matter before the Panel or vote on its outcome. The PPF may or may not be the same person as the Peer Review Point of Contact (POC).
- L. Peer Review: An alternative to the current grievance and appeals processes at TSA providing covered employees with the opportunity to seek redress for a broad range of concerns in which a specific remedy is requested. The PRP is intended to support appropriate and consistent application of TSA policies and procedures.
- M. Peer Review Panel: A Peer Review Panel generally consists of five (5) TSA employees. Three members are randomly selected from among eligible volunteer peer employees.

Two members are randomly selected from eligible managers. The members as a group are called Panelists or Panel Members. In rare situations, with prior approval and agreement of the parties, a panel may consist of three (3) members, i.e., two (2) peers and one management official.

- N. Peer Review Point of Contact (POC): A non-covered TSA employee designated by the FSD to administer the PRP at his/her airport. The Peer Review POC may or may not be the same person as the PPF.
- O. Peer Review Support Office (PRSO): A TSA Headquarters office established to administer the PRP.
- P. PRSO Case Manager (CM): A Headquarters individual knowledgeable of TSA Employee Relations policies and procedures who provides guidance and information to employees about Peer Review, including eligibility of their case for review. The CM assists covered employees through the process of requesting Peer Review. The PRSO CM may also identify other options for review and redirect employees to those options when appropriate.

## **5. RESPONSIBILITIES:**

- A. The Assistant Administrator for the Office of Human Capital (AA/OHC) or his/her designee is responsible for:
  - (1) Establishing and evaluating the PRP.
  - (2) Appointing and directing a Headquarters Program Manager for the PRP.
- B. The Headquarters Program Manager is responsible for:
  - (1) Providing guidance for and managing the PRP and the PRSO.
  - (2) Providing for the selection, training, and deployment of Peer Review Case Managers, PPFs and panel members in accordance with this HCM.
  - (3) Providing guidance to airports to ensure consistent and effective implementation and operation of the PRP.
  - (4) Preparing periodic reports on the operation of the PRP and conducting program evaluation on a regular basis.
- C. PRSO CMs are responsible for:

- (1) Receiving and responding to questions about Peer Review under this program; discussing with the employee his or her options, including whether he or she is interested in the possibility of engaging in mediation with airport management.
- (2) Receiving requests for Peer Review under this program; assigning case numbers to those requests; and confirming eligibility of matters brought to the PRSO and/or the airport Peer Review POC.
- (3) Coordinating with TSA's mediation service provider and Peer Review POCs at airports with regard to requests for mediation.
- (4) Providing the employee with the name and contact information for the PPF at his or her airport and coordinating with the PPF to arrange for a Peer Review meeting.
- (5) Providing on-site co-facilitation of panel meetings and "on-the-job-training" to newly trained PPFs for their first case.
- (6) Providing guidance to local Peer Review POCs and PPFs to help ensure they have the tools to operate the PRP in accordance with this HCM and applicable TSA policy.
- (7) Maintaining the official records for all peer review requests and cases processed under this program.
- (8) Providing guidance and information. The PRSO CM is not an advocate/representative for either affected employees or airport management and must remain neutral on the issues raised in a particular peer review matter.

D. Peer Review POCs are responsible for:

- (1) Soliciting volunteers to serve as panel members, including ensuring that they meet the eligibility requirements for participation.
- (2) Managing the selection of the panel members for each peer review panel convened.
- (3) Providing procedural assistance to affected employees, panel members, FSDs and others, as appropriate.
- (4) Making necessary administrative and logistics arrangements for the Panels. This includes scheduling the panel training and meeting, making arrangements for the space, collecting policies, guidance and other materials relevant to the matter being reviewed for use by the Panels, and assisting the PPF in administering and collecting signed commitment forms and surveys from each panel member.

E. Peer Panel Facilitators (PPFs) are responsible for:

- (1) Communicating with the PRSO a minimum of 24 hours prior to each of his/her scheduled peer panel meetings in order to review the case file and to ensure he/she has a thorough understanding of the case. This discussion should include a review of the case facts, issues, remedy requested, scope of the Panel's authority, parties involved and potential subject matter experts needed.
  - (2) Training all panel members.
  - (3) Facilitating the panel meetings, assisting the Panel in staying focused during the meeting, ensuring that the Panel acts within the scope of its authority, and creating a record of the Peer Review Panel decision in each case.
  - (4) Coordinating the availability of subject matter experts before and during the peer panel meeting.
  - (5) Providing the affected employee, the FSD, the official who took the action being challenged, the local Human Resource/Employee Relations specialist, the PRSO CM and the Headquarters Program Manager with a copy of the Peer Review Panel decision in each case.
  - (6) Administering and collecting panel member surveys, affected employee surveys, management surveys and Panelist Commitment forms.
  - (7) Soliciting recommendations from panelists at the conclusion of a panel and forwarding a copy of the recommendations to the FSD and Headquarters Program Manager.
- F. Mediators are responsible for assisting employees and managers in their attempt to reach a resolution of matters subject to this HCM, including but not limited to withdrawal of grievances, settlement agreements or SMART agreements, as appropriate. The mediator is additionally responsible for adhering at all times to the standards of mediation practice.
- G. Peer Review Panel Members are responsible for hearing and deciding matters that come before them under the PRP, in accordance with TSA policy, and adhering to the requirements of the signed Panelist Commitment form.
- H. FSDs are responsible for:
- (1) Cooperating fully with PPFs, PRSO CMs, Mediators and the Headquarters Program Manager to ensure successful implementation of the PRP.
  - (2) Ensuring that participants in the Peer Review process, including affected employees, panelists, witnesses, or PPFs, are free from retaliation.
  - (3) Timely implementation of Peer Panel decisions.

I. Affected Employees are responsible for:

- (1) Following the procedures established by this HCM, including furnishing sufficient detail to clearly identify the matter being brought to Peer Review, specifying the remedy being sought, and presenting an oral statement to the panel. When an affected employee is called before the panel, they may have a representative present to assist them at the meeting; however, any oral statement must be given by the affected employee, not the representative.

J. Airport Management is responsible for:

- (1) Following the procedures in this HCM upon notification of a peer review request at their airport, including furnishing evidence relevant to the management decision or action being reviewed by Peer Panel, and presenting oral statements to the panel. When a member of management is called before the panel to present management's side of the case, they may have a representative present to assist them at the meeting; however, any oral statement must be given by the member of management, not the representative.
- (2) Releasing participating employees from their normal duties at the time of the panel meeting, including the affected employee, randomly selected panel members, the PPF(s), and any other employees whose oral statements are necessary for the panel to reach an informed decision.

K. Human Resources/Employee Relations Managers at airports are responsible for:

- (1) Informing employees of their options for filing grievances, submitting appeals or requesting Peer Review.
- (2) Furnishing all case file material relevant to the matter being brought to Peer Review by the affected employee upon notification and request by PRSO.
- (3) Providing assistance to the Peer Panel POC/Facilitator to certify eligibility of panelists.
- (4) Serving as subject matter experts on applicable policy for the peer panel when appropriate as requested.
- (5) Processing the outcome of the Panel decision and entering relevant information into the appropriate personnel file(s) and existing tracking systems.

**6. POLICY:**

- A. Matters Covered: Employees may request Peer Review of matters that may be grieved under the provisions of [TSA Management Directive \(MD\) 1100.77-2, Grievance](#)

Procedures and, with limited exceptions, matter that may be appealed under the provisions of [TSA MD 1100.77-1, Disciplinary Review Board](#). The following matters are **excluded** from the Peer Review Process:

- (1) TSO offenses for which removal is required under the provisions of [TSA MD 1100.75-3, Addressing Performance and Conduct Problems](#). These are terminations involving the use of drugs, alcohol and theft;
- (2) Any action involving a charge of intentionally violating security procedures;
- (3) Indefinite suspensions; and
- (4) Removal actions involving suitability determinations, felony arrests, and medical issues.

Note: Cases involving matters of a sensitive nature (e.g., sexual and/or threatening misconduct) can be excluded at the discretion of the TSA HQ Program Manager.

B. Available Remedies that can be provided to an affected employee under Peer Review:

- (1) Peer Review Panels hearing covered matters under this policy have the authority to review and decide these matters. They do not have the authority to set or change policy; set or change work rules; set or change rates of pay, job levels (classification), or benefits, with the exception that the Panel could review the matter to determine if the policy was applied properly and consistently.
- (2) Peer Review Panels do not have the authority to increase the severity of a disciplinary action or award the affected employee more than required to “make the employee whole.” Making the employee “whole” means putting the affected employee back in the position he or she would have occupied prior to the decision by management staff that impacts the employee. This may include an award of back pay or re-credit of leave used. The Panel cannot compensate the affected employee for other costs that happened as a result of the action being challenged, even if those consequences might have been foreseen. For example, the Panel cannot award attorneys fees, medical costs or costs of babysitters. Further, the Panel may not retaliate or impose a penalty on the person or people who took the action brought to Peer Review for the purpose of deterring them from taking similar actions in the future.
- (3) Peer Panels may provide only remedies that are personal to the affected employee. For example, they cannot award remedies for employees who are not party to the matter, or require that disciplinary action be taken against other employees, supervisors or managers.
- (4) The PRP does not limit an employee’s right to pursue an allegation of discrimination through the discrimination process if the employee believes he or she has been the subject of unlawful discrimination, harassment or retaliation on

the basis of race, color, national origin, gender, age (40 and over), religion, sexual orientation, parental status, genetic information or disability. Peer Panels will not review matters alleging discrimination for which the discrimination complaints procedure would be the appropriate forum, unless the issues can be separately adjudicated, as determined by the Peer Review Support Office in consultation with the Office of Civil Rights and Liberties (OCRL).

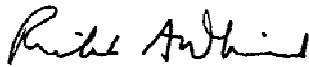
L. Limitations: This HCM does not change, modify or alter existing TSA policy or directives, which must continue to be followed. However, it does authorize an additional process and procedures for covered employees.

M. Covered matters that arise on or after September 1, 2008 may be addressed through the Peer Review Process.

**7. PROCEDURES:** See TSA Handbook on Peer Review.

**8. EFFECTIVE DATE AND IMPLEMENTATION:** This policy is effective immediately upon signature.

APPROVAL



9-16-08

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Richard A. Whitford  
Assistant Administrator for Human Capital

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Date

Filing Instructions: File with HCM Letters and Guidance

Effective Date: 9-16-08

Review Date: 9-16-10

Distribution: Assistant Secretary, Deputy Assistant Secretary, Assistant Administrators, Area Directors, Senior Field Executives, and Federal Security Directors.

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