



Transportation Security Administration

Office of Human Capital

HCM 771-3, Handbook

Peer Review

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Transportation
Security
Administration

This Handbook and all related Attachments and/or Appendices contain stipulations to implement the provisions of TSA HCM 771-3, Peer Review. Until TSA HCM 771-3 is rescinded, the HCM letter, Handbook, and any Attachments or Appendices are considered TSA policy, and must be applied accordingly.

SUMMARY OF CHANGES:

The scope of Peer Review and the definition of covered employee have been clarified to include all positions in the 1802 classification series. Time limits, scope of panel authority, panel composition, HQ Program Manager and Peer Review Support Office responsibilities, and sexual misconduct have all been revised or clarified. Section O (Handbook), *Reconsideration*, has also been added.

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A. DEFINITIONS:

1. Affected Employee: For purposes of this Handbook and HCM Letter 771-3, an affected employee is an individual requesting or bringing a case to Peer Review.
2. Covered Employee: All employees in the 1802 job classification series as defined in HCM Letter 771-3, Section 2, i.e., permanent employees in the positions within the 1802 occupational classification group. This includes, but is not limited to, Transportation Security Officer (TSO), Master Transportation Security Officer (MTSO), Expert Transportation Security Officer (ETSO), Behavior Detection Officer¹ (BDO), Security Training Instructor (STI), Lead Transportation Security Officer (LTSO), and Supervisory Transportation Security Officer (STSO). Trial period employees in these positions are eligible to seek Peer Review for any covered matter, with the exception of termination actions effected prior to the expiration of their trial period.
3. 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.
4. Deciding Official: A manager with the authority to render a disciplinary action.
5. Disciplinary Action: A letter of reprimand (LOR), a suspension (of any length), a demotion (reduction in pay band or rate of pay), or a removal. Note: Mandatory Removals and Indefinite Suspensions are not covered by Peer Review.
6. 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.
7. Headquarters Program Manager (HQ PM): 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.
8. 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.
9. 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.
10. Peer: A covered employee in the same position as the affected employee as shown in B2 above. When an STSO is seeking review of an issue by the Peer Review Panel, other

¹ Bomb Appraisal Officers (BAO) and Transportation Security Managers (TSM) who are in the position of BDO are not covered.

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.

11. Peer Review Point of Contact (POC): A non-covered TSA employee designated by the Federal Security Director (FSD) to coordinate Peer Panels at his or her airport. This role may be combined with the role of the PPF.
12. Peer Panel Facilitator (PPF): A non-covered TSA employee designated by the Federal Security Director to manage a clearly defined Peer Review process, consistent with this Handbook and HCM 771-3, designed to guide the panelists in reaching an informed and impartial decision in each matter reviewed. The PPF does not give opinions on the matter before the Panel or vote on its outcome. This role may be combined with the role of the POC.
13. Peer Review: An alternative method for a covered employee to seek resolution of workplace issues and disciplinary actions personal to that employee. The PRP is intended to support appropriate and consistent application of TSA policies and procedures.
14. Peer Review Panel (or Panel): A group generally consisting of five TSA employees. Three members are randomly selected from among eligible volunteer peer employees and 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 of the PRSO and agreement of the parties, a panel may consist of three members, i.e., two peers and one manager.
15. Peer Review Support Office (PRSO): The TSA Headquarters office established to administer the PRP. The PRSO is a neutral party.
16. PRSO Case Manager (or CM): A Headquarters individual knowledgeable of TSA Employee Relations policies and procedures who provides guidance and information to employees about Peer Review, including eligibility and/or timeliness of their case for review. The CM assists covered employees through the process of requesting Peer Review. The CM may also identify other options for review and redirect employees to those options when appropriate. The CM will be responsible for reviewing peer review cases and notifying airport management if a significant procedural error is found.
17. Ready Pools: Pools comprised of volunteers who have served on previous panels and/or have received the peer panelist training within the last 180 days.

B. GENERAL PRINCIPLES:

1. Peer Review builds on model workplace principles and practices. TSA is interested in fostering a participatory approach to decision-making that encourages employee involvement in resolving workplace issues.
2. Employees are encouraged to contact appropriate individuals in their chain of supervision if they have a concern or complaint about how the application of an agency policy or local practice affects them. This can be a very effective way to solve problems. However, when an employee is faced with a situation that has not been satisfactorily resolved by these means, he or she may be able to file a grievance or submit an appeal. Alternatively, the affected, covered employee may seek resolution through the PRP which provides employees with a rights-based option for conflict resolution.
3. Under the current grievance and appeals system at TSA, employees may seek review of a wide array of workplace issues and disciplinary actions. Peer Review provides an alternative option for covered employees to have these matters decided by a panel made up of a majority of their peers. Panels are empowered to review covered management actions and grant relief requested by the affected employee provided the requested relief is within a panel's scope of authority.

Example:

An affected employee challenges a LOR based on the charge of Absent Without Leave (AWOL) and requests that the LOR be rescinded. If a panel finds the AWOL charge was not proven and/ or the LOR was not taken in accordance with the applicable management directive, the requested relief could be granted. *However*, if the evidence presented to the panel shows that the employee was properly charged as AWOL and that the LOR was issued in accordance with TSA MD 1100.75-3, Addressing Unacceptable Performance and Conduct, then it is not within the panel's scope of authority to grant the affected employee's requested relief. To do so would amount to the panel failing to base its decision on case facts and merely substituting its judgment for that of management.

NOTE: It should be emphasized that panels are authorized to review covered management actions but may not substitute their judgment for that of management. Panels are encouraged to make recommendations to management to address areas of concern which arise from their review of covered actions.

4. Other areas where panel authority is limited include: annual recertification, disciplinary actions based on DUI charges and situations where local management's discretion is limited by this and other TSA policies. If the PRSO determines that a remedy requested by an affected employee is not within a panel's scope of authority, the affected employee will be notified by the PRSO and given the opportunity to clarify/modify his or her requested relief. If the affected employee does not identify an issue/action or remedy which is within the scope of panel authority, the case will be closed.

5. Peer Review is a problem-solving process designed to ensure that the affected employee's workplace issue or disciplinary action is given careful consideration and prompt resolution. This approach is designed to improve communication between TSA management and the TSO workforce. Peer review is intended to be an informal, non-legalistic procedure.
6. The TSA also provides the opportunity for management and covered employees to enter voluntarily into mediation to resolve workplace issues. Mediation is facilitated by an impartial mediator. If an employee requests mediation in connection with filing a request for Peer Review and management agrees to mediation, processing of the employee's case will be suspended pending results of the mediation. If mediation does not resolve the matter, processing of the Peer Review Request will be continued unless the employee decides not to pursue the matter.

C. PEER REVIEW AS AN ALTERNATIVE TO GRIEVANCES:

1. Under the provisions of TSA MD1100.77-2, *Grievance Procedures*, an employee may request personal relief through a two-step process, in a matter of concern or dissatisfaction relating to his or her employment with TSA that is subject to the control of TSA management.
2. As an *alternative* to following the grievance procedure, covered employees may seek Peer Review of any matter that may be grieved pursuant to TSA MD 1100.77-2. By seeking Peer Review, the affected employee is precluded from using TSA's grievance process to address the same disciplinary action, matter of concern, or dissatisfaction related to his or her TSA employment as was addressed by the PRP, whether by mediation or panel proceedings.
3. Matters excluded from coverage under the grievance procedures, as listed in TSA MD 1100.77-2, are also excluded from coverage under the PRP.
4. Cases involving matters of a sensitive nature can be excluded at the discretion of the TSA HQ PM. These cases could include, but are not limited to, those involving hostile work environment, workplace violence, threatening behavior, or sexual misconduct, i.e., misconduct involving inappropriate sexual contact, comments/innuendo and or other sexual behavior which if disclosed to a panel could further victimize the person affected/targeted by the misconduct. If an employee's request for peer review is denied due to sensitivity, the PRSO will advise the employee and TSA management of his or her right to pursue the matter through the grievance procedure. The decision to exclude a matter from peer review is not grievable.
5. A covered employee in receipt of a management decision or disciplinary action that would be covered by TSA MD 1100.77-2 may choose between filing a grievance or requesting peer review, but not both. Once the choice is made, the matter may not be pursued through any other process.

D. PEER REVIEW AS AN ALTERNATIVE TO THE DISCIPLINARY REVIEW BOARD (DRB):

1. Under the provisions of TSA MD 1100.77-1, *Disciplinary Review Board*, an eligible employee may appeal suspensions of 15 days or more, including indefinite suspensions, reductions in pay band or rate of pay, and removals, to the DRB for resolution.
2. As an *alternative* to the DRB, an employee may bring those same matters to Peer Review with the following exclusions listed below. By seeking Peer Review, the affected employee is precluded from filing with the DRB to address the same disciplinary action, matter of concern, or dissatisfaction relating to his or her TSA employment as was addressed by the PRP, whether by mediation or panel proceedings. However, the following are excluded from Peer Review:
 - (a) TSO offenses for which removal is required under the provisions of TSA MD 1100.75-3 and related Handbook;
 - (b) Any action based on a charge of intentionally violating security procedures;
 - (c) Indefinite suspensions; and
 - (d) Removal actions based on:
 - (i) Suitability determinations;
 - (ii) Felony arrests;
 - (iii) Medical issues (to include physical and/or mental inability to perform duties of the position); and
 - (iv) Driving Under the Influence/Driving While Intoxicated.

NOTE: Cases involving matters of a sensitive nature as defined in C4 above may be excluded at the discretion of the HQ PM.

3. A covered employee in receipt of a decision that may be appealed to the DRB or to the PRP may choose one process or the other, but not both. Once the choice is made, the matter may not be pursued through the other process.

E. FUNCTION OF THE PEER REVIEW PANEL:

1. Panels cannot change policy; rather, they will hear matters involving the *application* of policies and procedures affecting the employee seeking review. Panels may review management decisions or actions to ensure that a policy or practice was applied properly and consistently. If a panel finds otherwise, it has the authority to make appropriate corrections or remedies consistent with TSA practices and policies. Panels must base

their decisions on case facts; they cannot merely substitute their judgment for that of management.

2. For non-disciplinary matters within the scope of the program, panels have the authority to grant-in-full, grant-in-part, or deny the requested relief. For disciplinary matters, panels have the authority to sustain, mitigate, or overturn management decisions. A panel may not increase the severity of the penalty under review nor may it recommend disciplinary action be taken against any individual.
3. A panel's decision is final and binding on the employee and TSA management. Prior to finalizing a written decision, the PPF, in consultation with the PRSO and the HQ PM, will verify that the decision is within the panel's authority and suitable for implementation under TSA policies and procedures. The PPF/POC should contact the PRSO for guidance at any point before, during or after the panel meeting if he or she has any questions or concerns.
4. Panel members are encouraged to record their ideas regarding ways the policies applicable to the case before them may be better communicated or more consistently applied. These recommendations will not be included as part of the decision letter. The PPF/POC will refer any non-binding recommendations to the airport FSD, taking care to avoid violating panel confidentiality.

F. BASIC PEER REVIEW PROCEDURES:

1. Matters Covered by the TSA Grievance Procedure:
 - (a) As noted above, Peer Review is available as an alternative method for covered employees to address certain workplace issues and disciplinary actions. These are generally issues that the individual believes has affected his/her work environment, such as the receipt of a management decision placing him or her under leave restriction. The affected employee may can seek resolution in accordance with TSA MD 1100.77-2 or seek resolution through Peer Review, but not both.
 - (b) If a covered employee seeks to resolve an eligible matter through Peer Review, the employee should call the PRSO at (571) 227-5065 and **must** submit a written request expressing interest in Peer Review and/or mediation via email at PeerReview@tsa.dhs.gov or facsimile at (571) 227-2591:
 - (i) Within 15 calendar days of the management decision or action being challenged, or when the affected employee first learned or may reasonably have been expected to learn of the decision or action; or
 - (ii) Within 15 calendar days of receipt of a disciplinary decision letter, including a LOR.
 - (c) Upon receipt of a timely submitted written request for peer review, the PRSO will send the affected employee the official TSA Form 1177-2aa, Peer Review Request, if

the affected employee has not already submitted it. It will be the employee's responsibility to complete the form and return it to the PRSO within the specified time limit. Receipt of a written request or completed TSA Form 1177-2aa submitted within the prescribed 15 calendar days will constitute a timely submission. However, an oral inquiry or request, without a written request or completed TSA Form 1177-2a submitted within the prescribed 15 calendar days, will not be considered timely.

- (d) Upon receipt of the affected employee's TSA Form 1177-2aa, the PRSO will advise the local PPF/POC and/or the appropriate local management official of the request for Peer Review and/or the affected employee's request for mediation. TSA management may file a written response to the request for peer review no later than seven calendar days following written notification by the PRSO. TSA management may address any issue presented in or by the request including but not limited to peer review eligibility and/or timeliness. Nothing in this directive precludes local TSA management from resolving the matter before the panel meets. If resolution is reached, the PRSO will close the peer review case upon receipt of:
 - (i) A written cancellation/withdrawal from the affected employee of his or her request for peer review with the PRSO and/or;
 - (ii) Documentation from TSA management that the employee's requested relief has been granted.
- (e) As outlined in this directive, TSA management will be responsible for providing the PRSO with all the documents and information relied upon concerning the matter being challenged. The PRSO will be responsible for reviewing the information submitted and assembling the case file which will be used by the panel. The PRSO will identify the issues raised and will prepare a written case overview which will be provided to the affected employee and the management official presenting management's case prior to the scheduled date of the panel. This document will also be provided to the panel but it should not be considered as evidence. If any procedural errors are raised by the affected employee or otherwise identified by the PRSO, the PRSO will notify local TSA management at the airport and attempt to resolve them.
- (f) The PRSO may decline an affected employee's request for peer review for any of the following:
 - (i) The matter presented is not covered by the PRP;
 - (ii) The requested remedy is not personal to the employee and/or not within the scope of authority of a panel;
 - (iii) The untimely filing without good cause shown and without extension by mutual consent between the parties; or

- (iv) The affected employee fails to provide information requested by the PRSO and/or fails to otherwise diligently pursue his or her case.

2. Disciplinary Actions Otherwise Appealable to the DRB:

An employee in receipt of a disciplinary action that may be appealed to the DRB under the provisions of TSA MD 1100.77-1 may, except as provided above, alternatively seek review of that action under the Peer Review process. The employee may choose one or the other, but not both.

3. Mediation:

- (a) An affected employee must contact the PRSO, at (571) 227-5065, if he or she would like to explore the possibility of engaging in mediation with management in connection with a request for peer review. The CM will discuss the mediation process with the affected employee so that the employee can decide if they would like to pursue mediation. An employee's request for mediation must be submitted using TSA Form 1177-3, *Mediation Request*, within the timeframe defined in F1(b) above, as appropriate.
- (b) Mediation is voluntary on the part of both the employee and local TSA management. The PPF/POC will ascertain whether airport management agrees to the mediation request. Management will have seven days to decide whether it will participate in mediation. If local management agrees to mediate the PPF/POC will contact the PRSO who will then request a mediator.
- (c) The PPF/POC will be responsible for logistical support of the mediation and will ensure both management and the affected employee are notified of the time, date and place of the mediation. The PPF/POC will also notify the PRSO of the scheduled date of the mediation and the outcome when the mediation has been completed. Documentation of this notification will be forwarded to the PRSO.
- (d) As stated in C6, above, processing of the affected employee's case will be suspended during the mediation process. If management declines mediation or does not otherwise respond, processing of the employee's case will continue.
- (e) Resolutions of matters subject to this HCM letter that are achieved through mediation must adhere to TSA policies and procedures.

4. Extension of Time Limits:

Filing deadlines under this Handbook and HCM Letter may be extended by mutual consent between the parties and for good cause shown, provided the affected employee submits a written request for an extension to local TSA management prior to the expiration of the 15 calendar day time limit. Any extension of the 15 calendar day time period will require the approval of local TSA management. TSA management will inform the employee PPF/POC of its decision on the requested extension. The denial of a

requested extension and/or the rejection of an employee's request for peer review for any reason is not grievable and therefore is ineligible for peer review.

G. PANEL COMPOSITION:

1. The PPF/POC solicits and maintains three volunteer panelist pools at their airport as follows:
 - (a) FSD staff (at pay band G and above) including TSMs;
 - (b) STSOs; and
 - (c) All non-supervisory TSOs in the 1802 series as outlined in Section A2 above.
2. Smaller airports may combine volunteer pools with other airports to ensure impartiality and that individual panelists are not required to serve so frequently, that panel service unduly interferes with their other responsibilities. Guidance should be obtained from the PRSO in these matters. All panel members serve on a voluntary basis.
3. Panels are generally comprised of five members. Based on the totality of circumstances and depending on the nature of the case being reviewed, a modified three-member panel may be used with approval of the PRSO. A modified panel must be comprised of two peer members and one management member.
4. Panels reviewing covered actions greater than a LOR including suspensions, demotions and removals, must include at a minimum, a manager at the TSM level or equivalent, provided that the person has been delegated disciplinary authority for the subject airport. PPF/POCs will develop a random selection method to meet this requirement which could include establishing a separate pool.

H. PANEL SELECTION

1. Panel members are randomly selected by the affected employee. Normally, the panel members should be selected no earlier than 14 days prior to the panel meeting. For scheduling and coordination purposes, the PPF/POC will notify the appropriate management staff at the airport of an individual's selection to serve on a panel. If a panelist declines to serve because of a conflict of interest, or other appropriate reason, or is otherwise disqualified, an alternate from the appropriate pool will serve on the panel in his or her place.
2. On the day designated for panel selection, the PPF/POC will oversee the selection process while the affected employee randomly draws names as follows:
 - (a) Random selection from Peer Pool: At minimum, as determined by PPF/POC, the affected employee will randomly draw six names from the pool of peer volunteers. The affected employee will then choose one name to strike, two to be alternates, and three to serve on the panel. The PPF/POC will then confirm the eligibility and

availability of the chosen panelists. In the event that a chosen panelist is not eligible due to a conflict of interest or other reason, is unavailable, or declines to serve, one of the designated alternates will serve in his or her place.

- (b) Random selection from Management Pool: The affected employee will randomly draw five names from the pool of management volunteers. The affected employee will then choose one name to strike, two to be alternates, and two to serve on the panel. The PPF/POC will then confirm the eligibility and availability of the chosen panelists. In the event that a chosen management panelist is not eligible due to a conflict of interest or other reason, is unavailable, or declines to serve, one of the designated alternates will serve in his or her place.
3. If a modified three-member panel is convened, as described in section G3 above, the random selection process of panel members must still be followed. In these cases, the process described in H2(a) and (b) above would be used, with the following modifications:
 - (a) The affected employee will randomly choose five names from the peer pool, strike one, choose two to be alternates, and choose two to be on the panel.
 - (b) The affected employee will choose four names from the management pool, strike one, choose two to be alternates, and choose one to be on the panel.
 4. Prior to modifying the size of a panel, approval must be obtained from the PRSO.
 5. PPF/POCs are authorized to use/develop local selection methods consistent with the minimum requirements set forth in this Handbook. Any alternative method used must ensure random selection.
 6. Ready Pools:
 - (a) In order to ensure the availability of eligible panel participants on the day of a panel hearing, PPF/POCs are authorized to establish Ready Pools. These pools are comprised of volunteers who have served on or were scheduled to serve on previous panels and who have received the peer panelist training within the last 180 days.
 - (b) PPF/POCs should ensure alternates designated by the affected employee are available on the day of the panel hearing. However, if the alternates are not available, the PPF/POC may draw from the ready pool. PPF/POCs should advise affected employees and management of this possibility at the time of panel selection. Selection from the ready pool must be done randomly.

I. PANELIST ELIGIBILITY

1. Covered employees, TSMs, and FSD Staff at G band and above who meet the following criteria are eligible to volunteer to be a panelist:

- (a) The employee must have successfully completed their basic trial period². If the employee is serving in a supervisory position, he or she must have completed the supervisory trial period. If transferred from another airport or agency, the supervisor and/or manager must have completed six months of continuous service before serving on a panel.
 - (b) The employee must have received no disciplinary actions (including LOR) in the previous 12 months.
 - (c) Employee must not be under a Leave Restriction at the time of selection to serve on a panel or when the panel convenes.
 - (d) A PASS covered employee must have a current performance rating of Level 2 or higher. Employees not covered by PASS must meet the Achieved Expectations level or higher.
 - (e) No individual will be eligible to serve on a panel if a direct or indirect conflict of interest exists with either the affected employee or the involved member of management. Current or past personal relationships with the affected employee (such as financial, business, romantic, etc.) may present a conflict of interest. This also includes but is not limited to relatives or close friends that could be called in by the panel as witnesses, or employees that might be affected by the outcome of the proceedings.
- 2. The PPF/POC is responsible for communicating with panelists at least seven days in advance of the panel hearing to ensure that no panel member has an actual or apparent conflict. The PPF/POC must also ensure each panelist signs the TSA Form 1177-2b, Peer Panelist Commitment and Confidentiality Agreement before the panel hearing can begin.
 - 3. Panelists must complete a just-in-time training that the PPF/POC will conduct just prior to the meeting. If a panelist has completed the training within the previous 180 days, he or she will not be required to repeat the training but instead will receive refresher training.
 - 4. In order to facilitate the peer review process and to minimize time off the job for panels, PPF/POCs are authorized to conduct the just-in-time training prior to the day of the panel meeting. Should this occur, panelists need only receive refresher training on the day of the panel hearing.

J. EMPLOYEE AND MANAGEMENT REPRESENTATION:

- 1. The Peer Review process is intended to improve direct communication between affected employees and management in order to resolve workplace issues and disciplinary actions.

² With concurrence of the PRSO, FSDs may waive this requirement.

For this reason, employees and management are encouraged to prepare and present their cases directly to the panel.

2. The affected employee may have a representative present to assist him or her at the panel meeting in accordance with TSA MD 1100.63-3, *Employee Representation*. Management may also have a representative present to assist them.
3. While representatives are permitted to address/speak to the panel, the affected employee and the management official will be expected to respond directly to panelist questions and otherwise present their case in all regards. The affected employee must comply with TSA MD 1100.63-3 in all its particulars; that is, identify their representative in writing and in a timely manner. The affected employee and management must provide the name of their representative to the PPF/POC in writing prior to the scheduled panel meeting.
4. Where the affected individual has a physical or mental disability that significantly impairs their ability to present their case to the panel, the individual may have an appropriate representative or other assistant for the purpose of presenting their case. Similarly, a witness having such a disability may have an assistant to help them provide information at the panel meeting.
5. It is the affected employee's responsibility to ensure notification of and coordination with his or her representative concerning the representative's participation in all peer review activity including peer panel selection, the panel meeting and/or mediation.

K. CONFIDENTIALITY:

1. All Panelists must sign TSA Form 1177-2b, *Peer Panelist Commitment and Confidentiality Agreement* and maintain complete confidentiality, except as provided by law, at all times regarding matters brought before a panel including the panel's deliberations/voting and any presentations made by the parties or by witnesses/subject matter experts.
2. By signing the agreement, the panel member certifies that he or she is not aware of any conflict of interest or any other reason(s) he or she should not serve. If there is a conflict or other reason why the panelist cannot serve, he or she must withdraw. Additionally, each panelist agrees in advance to sign the final panel majority-based decision, regardless of his or her personal feelings about the case or how he or she voted.
3. A panelist's violation of the conditions of TSA Form 1177-2b, will result in disqualification from serving as a panelist in the future, and may result in appropriate action to address the situation. And, if appropriate, as determined by the HQ PM, this situation may justify overturning the decision of the panel and the convening of a new panel to consider the issues again to provide a fair and equitable decision for all parties.

L. TERMINATION OF THE PEER REVIEW CASE DURING THE PEER REVIEW PROCESS:

1. In order to maintain the integrity and credibility of the PRP, neither the affected employee nor anyone acting on his or her behalf, or any member of TSA management not involved with the administration of the subject panel, including the management official who made the decision being reviewed, is allowed to contact any of the selected panelists about the matter under consideration prior to the panel meeting. Any TSA employee who engages in this behavior will be subject to appropriate action to address the situation.
2. If a member of TSA management inappropriately contacts any of the selected panelists, the PPF/POC will report the nature of the contact and forward it to the PRSO. The HQ PM will determine whether a new panel should be selected and will forward the reported misconduct to the appropriate level of management for investigation and corrective action, if deemed warranted.
3. If the affected employee, or someone acting on his or her behalf, contacts any of the selected panelists before the panel meeting about the matter being reviewed, the HQ PM will cancel the peer review meeting and close the case with no right to re-file the peer review request.

M. PEER REVIEW HEARING PROCESS:

1. Following completion of panelist training, the panel reviews the case facts and documents including those submitted by the affected employee and/or management. The panel then interviews the individual seeking resolution, the involved management official, and any other employees whose direct oral statement is relevant to the case, as determined by the panel. The panel, however, should seek testimony or input from an appropriate subject matter expert before reaching its decision.
2. Except where the affected employee or the involved member of management is accompanied by a representative, only one individual will meet with the panel at any given time, including the affected employee, the involved member of management, the subject matter expert(s) and the witness. In other words, except for the PPF/POC and the panelists, the affected employee and management official will not have the opportunity to question each other and will not be in the panel meeting at the same time. Similarly, no witness requested by and/or approved by the panel will meet with the panel in the presence of the affected employee and/or management official.
3. In the interest of transparency and to avoid surprise evidence, both the affected employee and the management official presenting management's case must provide a list of proposed witnesses, including a short description of the relevant information expected from each witness, to the PPF/POC at least three days before the scheduled panel meeting. Similarly, any documentary evidence either party intends to submit must be presented to the PPF/POC within the same time period. In the event that either party presents new documentation at the hearing, the other party should be given the opportunity to review the documentation and address it with the panel prior to the panel rendering its decision.

4. If the PPF/POC has questions concerning the relevance and/or validity of documentary/witness information, he or she should contact the PRSO at (571) 227-5065.
5. Witnesses requested and/or approved by the panel are not entitled to representation.
6. The panel should request a subject matter expert regarding any applicable TSA policy or procedure and any similar applications of those policies and procedures at that airport, along with any other relevant information necessary to conduct a complete and thorough review of the matter brought before the panel. The PPF/POC will provide all available information to the panel and will recommend and/or arrange for subject matter experts to address and answer the panel's questions. Witness/subject matter expert testimony may be taken/received in person; in the event the witness is unable to appear in person, his or her testimony may be taken/received telephonically.
7. Interpretation of TSA policy will be provided by TSA HQ subject matter experts when deemed necessary by the PRSO.
8. After all evidence has been reviewed and discussed, the panel will vote by secret ballot.

- (a) Non-Disciplinary Cases: When voting, the panelists will answer the following question:

"Was TSA policy or practice applied properly and consistently in this case?"

If the majority votes "yes," management's decision is upheld. If the majority votes "no," further discussion and voting must be conducted to determine the remedy based on the affected employee's request.

- (b) Disciplinary Cases: In cases involving a disciplinary action, the panel's deliberations will include a thorough discussion of the following points:

- (i) If there is an allegation of procedural error, did such an error occur, and if it did occur was it harmful to the employee?

- (ii) If there was no error or it was not harmful to the employee, was there proof that the employee engaged in the conduct he or she was charged with?

- (iii) Was the conduct against the rules?

- (iv) Was the disciplinary action taken appropriate? That is, were the appropriate factors adequately considered; was the discipline taken progressively or is it required based on the case facts; and overall, was the employee treated fairly?

Following discussion of these points, the panel will vote to answer the following question:

"Was TSA policy or practice applied properly and consistently in this case?"

If the majority votes “yes,” management’s decision is upheld. If the majority votes “no,” further discussion and voting must be conducted to determine whether the management action should be mitigated or overturned.

9. The PPF/POC will ensure the panel has access to the applicable policy documents, and the panel should hear testimony from subject matter experts as to how the policy is applied.
10. For non-disciplinary matters within the scope of the program, peer panels have the authority to grant-in-full, grant-in-part or deny the requested relief. For disciplinary matters, panels have the authority to sustain, mitigate, or overturn management decisions. The PPF/POC, in consultation with the PRSO, will ensure that any decision reached by the panel is based on the case facts and is not merely a substitution of their judgment for that of management.
11. Each time a vote is taken, ballots are counted only until a majority is found. Once counted, the ballots must be destroyed by the PPF/POC.
12. Upon completion of the voting process, panelists will work with the PPF/POC to draft a panel decision letter based on templates available from the PRSO. The decision letter should adequately set forth the basis/rationale for the panel decision and should contain sufficient specificity so the parties understand how the decision was reached. As noted above in K.2., each panelist must sign the final decision letter, regardless of his or her personal feelings about the case or how they voted. Panelists must treat all information, including how each panelist voted as confidential.
13. All notes concerning the case will be destroyed by the PPF/POC before the panelists depart at the close of the meeting.
14. Following verification of the decision in consultation with the PRSO, as noted in F3 above, the PPF/POC will deliver the decision letter to the affected employee, the deciding official, the FSD and the official responsible for implementing the panel’s decision, e.g., HR/ER representative or Administrative Officer, as soon as practicable after the panel meeting, usually no later than one day after the meeting. Whenever possible, the PPF/POC will deliver the decision letter in person.
15. Employees who participate in the PRP as PPF/POCs, panelists, and witnesses will be in paid duty status. If the affected employee is a current employee, he or she will be in a duty status while presenting his or her case. After presenting his or her case, the affected employee will return to and/or notify his or her direct supervisor. The same requirement applies to the management representative, witnesses, or representatives for either party. There is no need for any of these individuals to remain at or near the site of the panel proceedings after the conclusion of their presentation. However, this duty status does not apply to individuals who are no longer employed by TSA or otherwise not in an approved duty status. TSA employees serving as the affected employee’s representative will also be in a paid duty status or an approved leave status if requested while participating in the

panel meeting. A representative who travels from a different airport will not be in a duty status during travel and will not be reimbursed for travel expenses. No payment of costs, fees or expenses will be provided for any representative of the affected employee whether or not the representative is a TSA employee.

16. Using a template provided by the PRSO, the PPF/POC will provide a Case Summary to the CM within 24 hours of the conclusion of the panel.

N. EVALUATION:

1. At the end of each panel, the PPF/POC will give the affected employee, the involved member of management, and each panel member a survey to complete. The PPF/POC will then forward the completed survey to the PRSO who will report the results to the HQ PM.
2. In addition, panel members are encouraged to record their ideas regarding ways the policies applicable to the case before them may be better communicated or more consistently applied. These recommendations will not be included as part of the decision letter. The PPF/POC will refer any non-binding recommendations to the FSD, taking care to avoid violating panel confidentiality.

O. RECONSIDERATION:

1. The decision of a peer review panel is final and binding for both the affected employee and TSA.
2. However, if there is a demonstrated violation of law or egregious misconduct on the part of the affected employee, panel participants, management/supervisory officials including the FSD and his or her staff, witnesses, or representatives which causes a significant injustice to a party to the process, the affected employee or management can petition the HQ PM, within 15 days of the peer panel decision, for a new panel proceeding. Any petition must be accompanied with all documentation that demonstrates the violation of law or misconduct.
3. Upon review, the HQ PM will determine whether to convene a new panel proceeding and what other steps will be taken to ensure the violation or misconduct is not repeated. The decision by the HQ PM to grant or deny the petition is final and not subject to further appeal or reconsideration.