



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

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

1. **PURPOSE:** This directive provides TSA policy in administering the Employee Relations Program (ERP) and its scope of responsibility in addressing unacceptable performance and conduct. For further information on ERP's area of responsibility, refer to Section 6.A.
2. **SCOPE:** This directive applies to all TSA organizational elements and all TSA employees, except for cases that fall under the jurisdiction of the Law Enforcement/Federal Air Marshal Service (LE/FAMS) Medical Program.
3. **AUTHORITIES AND REFERENCES:**
  - A. Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA)
  - B. [Human Capital Advisory Memo 2018.75-7, Office of Professional Responsibility](#)
  - C. [TSA MD 1100.31-1, Trial Periods](#)
  - D. [TSA MD 1100.75-3, Addressing Unacceptable Performance and Conduct](#)
  - E. [TSA MD 1100.75-7, Office of Professional Responsibility](#)
4. **DEFINITIONS:**
  - A. Adverse Action: A suspension of more than 14 days, including an indefinite suspension, an involuntary demotion for performance or conduct, or a removal.
  - B. Corrective Action: An action taken by management in an effort to correct and clarify expectations for minor misconduct or performance deficiencies. This action is not made a matter of record in an employee's electronic Official Personnel Folder (eOPF). Corrective actions include:
    - (1) Verbal Discussion;
    - (2) Letter of Guidance and Direction;
    - (3) Letter of Counseling;
    - (4) Letter of Leave Restriction;

- (5) Performance Improvement Plan; and
- (6) Improvement Period Notice.
- C. Day: Calendar day.
- D. Deciding Official: A management official with the authority to impose adverse, disciplinary or corrective action.
- E. Demotion: The assignment of an employee to a position at a lower pay band, with or without a reduction in pay.
- F. Disciplinary Action: Actions ranging from a Letter of Reprimand to a suspension of 14 days or less.
- G. Employee Relations (ER) Liaison: An employee designated by his/her assigned TSA organizational element responsible for assisting management officials with addressing ER matters.
- H. Employee Relations Case Management System (ERCMS): A database used to manage and record ER casework, along with documenting time frames, processes and evidence to facilitate consistency in reporting ER activities.
- I. Fitness for Duty (FFD): 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).
- J. Human Capital Employee Relations ("HC-ER") Specialist: A Human Resources Specialist assigned to HC Headquarters, Employee Relations Program Division (ERPD), responsible for providing advice and recommendations to managers and supervisors on employee relations, and to assist Human Capital in the oversight and management of ER-related functions.
- K. Improvement Period Notice: A notice to an employee, covered by the Employee Performance Management Program (EPMP), whose performance has been determined to be unacceptable in one or more critical elements (individual performance goals and core competencies) during the appraisal period, that provides the employee with an opportunity to demonstrate acceptable performance in the critical element(s) at issue.
- L. Letter of Counseling (LOC): A non-disciplinary written notice which documents conduct and/or performance deficiencies that must be corrected or improved. LOCs are not placed in the employee's eOPF, but are retained in the supervisor's files for up to five years to show that the employee was on notice of the matters referenced in the letter.
- M. Letter of Guidance and Direction (LOGD): A non-disciplinary written notice which reiterates policy requirements and management expectations for acceptable conduct and/or

performance. LOGDs are not placed in the employee's eOPF, but are retained in the supervisor's files for up to five years to show that the employee was on notice of the matters referenced in the letter.

- N. Letter of Leave Restriction: A non-disciplinary written notice which advises an employee of demonstrated patterns of leave abuse, outlines specific procedures for requesting leave going forward, and defines the period of restriction. Leave restriction letters are not retained in the employee's eOPF.
- O. Letter of Reprimand (LOR): The least severe form of disciplinary action that may be issued to address unacceptable performance or conduct. A copy of the LOR will be placed in the employee's eOPF for up to two years, during which time it may be cited as a prior formal disciplinary action. Upon removal from the eOPF, it may be retained indefinitely as documentation that the employee was on notice regarding the performance or conduct issue referenced in the letter.
- P. Misconduct: On-duty or off-duty behavior that does not meet communicated and/or expected standards of conduct described in laws, rules, regulations, or other authoritative policies and guidance, both written and unwritten.
- Q. Non-Disciplinary Adverse Actions: An adverse action, such as reduction in pay band or removal, taken by management to address performance deficiencies, or a removal action based on inability to maintain a condition of employment (including but not limited to, removal actions based on medical or psychological disqualification, inability to maintain or loss of eligibility for a security clearance, or inability to maintain a government-issued travel card), and decertification of Law Enforcement Availability Pay.
- R. Performance-Based Action: An action taken at any time during the performance appraisal period to address an employee's failure to meet performance expectations at the Achieved Expectations level. This would include actions taken under the Federal Air Marshal Service (FAMS) Non-Disciplinary Performance Deficiencies system.
- S. Performance Improvement Plan (PIP): A notice to an employee, covered by a Collective Bargaining Agreement, whose performance has been determined to be unacceptable in one or more critical elements (individual performance goals and/or core competencies) during the appraisal period that provides the employee a reasonable opportunity to demonstrate acceptable performance in the critical element(s) at issue. A PIP is designed to assist bargaining unit employees in achieving performance expectations.
- T. Proposing Official: A management official, or an official from Professional Responsibility (PR), where applicable, with the authority to recommend an adverse or disciplinary action.
- U. Removal: Involuntary separation from TSA employment in order to promote the efficiency of the Federal service.

V. Suspension: Placement of an employee in a non-duty, non-pay status for conduct reasons or pending certain investigative, judicial, or law enforcement proceedings. A suspension may be imposed for a specified time or for an indefinite period.

## 5. RESPONSIBILITIES:

A. Human Capital (HC) is responsible for:

- (1) Developing and managing human capital policies, handbooks, and programs on ER-related matters; and
- (2) Providing direction and authority in the development, implementation, and management of the ERP.

B. ERPD is responsible for:

- (1) Advising on corrective and disciplinary actions, if requested by management officials and ER Liaisons, to include reviewing draft letters, prior to issuance to the affected employee, with the exception of cases under PR's jurisdiction;
- (2) Reviewing and advising on performance-based actions prior to issuance to the affected employee, if requested by management officials;
- (3) Reviewing trial period terminations and adverse action proposals and decisions before they are issued to the affected employee, with the exception of cases under PR's jurisdiction and fitness determination cases under the [Personnel Security Section \(PerSec\)](#) jurisdiction;
- (4) Reviewing and providing guidance on management-initiated FFD evaluation requests prior to submission to the Chief Medical Officer. Cases under the jurisdiction of Law Enforcement (LE)/FAMS Medical Program Branch are exempt from this requirement;
- (5) Assigning HC-ER Specialists to assist managers, supervisors, ER Liaisons and TSA organizational elements on ER-related matters;
- (6) Developing and maintaining the ERCMS, including adding or deleting users;
- (7) Using the ERCMS for trend analysis and statistical reporting;
- (8) Adhering to policy and procedures set forth in [TSA MD 1100.75-3, Addressing Unacceptable Performance and Conduct](#), and the accompanying [Handbook](#), when providing advice to management on performance and conduct issues; and
- (9) Providing ER training to managers, supervisors, human resource professionals and those designated by Federal Security Directors or program managers to perform ER-related work.

C. Management officials are responsible for:

- (1) Forwarding all adverse action proposals and decision drafts to the ERPD, prior to issuance for review, with the exception of cases that fall under PR's jurisdiction and fitness determination cases under the jurisdiction of PerSec;
- (2) Ensuring that all local inquiries regarding performance and conduct are completed and acted upon in a timely manner; and
- (3) Ensuring that ER Liaisons timely document misconduct and performance-based casework in the ERCMS.

D. ER Liaisons are responsible for:

- (1) Advising local management on proper processes and established procedures for all ER-related matters;
- (2) Ensuring that all documentation for ER cases (e.g. supporting documentation, proposal letters, written responses from employees, decision letters, SF-52/Request for Personnel Action) is uploaded into the ERCMS within 10 days of issuance of the action. A request for an exemption to this 10-day requirement must be submitted in writing to the ERPD and will be decided on a case-by-case basis; and
- (3) Consulting with an HC-ER Specialist for advice and guidance on potential corrective, disciplinary, performance-based, and adverse actions, to include trial period terminations.

E. PR is responsible for adjudicating all matters that fall within its area of jurisdiction as prescribed in TSA policies.

F. Investigations is responsible for:

- (1) Preparing Reports of Investigation (ROIs) or other administrative memoranda related to employee misconduct that fall within its authority and jurisdiction to investigate after consultation with the Department of Homeland Security, Office of the Inspector General, as appropriate, or referring matters back to management officials for local inquiry and adjudication; and
- (2) Routing ROIs to the proper management officials, PerSec, ERPD, and LE/FAMS, as appropriate, upon completion of the investigation.

G. PerSec is responsible for routing notification of all unfavorable notices and decisions regarding TSA employees, including but not limited to proposals and decisions regarding fitness determinations, suspensions and revocations of access to classified information, and Department of Homeland Security Appeals Board decisions to the ERPD and appropriate management officials for coordination and expeditious handling of any resulting ER-related issues.

H. Chief Counsel (CC) attorneys are responsible for providing legal sufficiency reviews of performance-based, adverse and disciplinary actions and providing legal advice regarding ER-related issues. CC may work directly with management and/or ER, when requested.

**6. POLICY:**

A. ERPD is responsible for providing guidance to management officials on:

- (1) Corrective, disciplinary, performance-based, or adverse actions;
- (2) Trial period terminations;
- (3) Non-disciplinary adverse actions;
- (4) Non-disciplinary removals pursuant to [TSA MD 1100.30-17, \*Uniformed Services Employment and Reemployment\*](#), and its associated [Handbook](#);
- (5) Administrative actions such as indefinite suspensions resulting from a PerSec determination to suspend and/or revoke access to classified information or eligibility to hold a sensitive position;
- (6) Leave administration, including administrative leave; and
- (7) Duty status determinations.

B. Management officials must collaborate with ERPD by forwarding all adverse action proposal and decision drafts, supporting documentation, and any other relevant information to an HC-ER Specialist for review prior to issuance. Cases under the jurisdiction of PR are exempt from this requirement. Management officials may seek consultation and/or documentation review from ERPD at any time on non-adverse action cases.

C. ERPD shall assess each case it reviews to determine whether it contains sufficient evidence to support any action and whether there is a nexus between a legitimate government interest and the misconduct/matter that is the basis for the action. ERPD will provide subject matter expertise regarding the appropriate charge(s), specification(s), and a reasonable and appropriate penalty, as necessary, and advise management regarding proper procedures for processing any action.

**7. PROCEDURES:** ERPD will assist with all cases in accordance with applicable TSA policies.

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

**APPROVAL**

*Signed*

August 29, 2018

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

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Date

**EFFECTIVE**

September 10, 2018

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Date

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