

**Memorandum of Agreement
between the
Federal Aviation Administration
and the
Professional Aviation Safety Specialists (AFL-CIO)**

Re: Aviation Safety Action Program for Professional Aviation Safety Specialists (AFL-CIO)

The Federal Aviation Administration (“FAA” or “Agency”) and the Professional Aviation Safety Specialists (AFL-CIO) (“PASS” or “Union”), hereinafter referred to as the Parties, voluntarily and without coercion enter into the following memorandum of agreement (“Agreement” or “MOA”) pertaining to the parties’ participation in an Aviation Safety Action Program (ASAP) in the FAA’s Technical Operations Service. This ASAP program will be known as the Technical Operations Safety Action Program (T-SAP), and will operate in accordance with ICAO Safety Management Manual (Doc 9859-AN/474).

Section 1. PURPOSE. The FAA and the PASS are committed to improving aviation safety. Each party has determined that safety would be enhanced if there were a systematic approach for ATO employees represented by PASS and covered by this MOA to promptly identify and voluntarily report potential aviation safety hazards. The purpose of T-SAP is to foster a voluntary, non-punitive and cooperative environment where employees may report aviation safety events, problems and/or concerns and/or non-compliance with FAA Directives (hereinafter referred to “aviation safety” concerns) observed while acting in their official capacity as an employee, without fear of discipline or Air Traffic Safety Oversight Service (AOV) credentialing action. The components of T-SAP include the collection, analysis, and retention of aviation safety data reviewed and acted upon by ATO, AOV and PASS. This program applies to the collection of documents, personnel, procedures, systems and services that the ATO uses in providing aviation safety services.

Section 2. BENEFITS. This program will foster a voluntary, cooperative, non-punitive environment for the open reporting of aviation safety concerns. Through such reporting, all parties will have access to valuable safety information that may not be otherwise available. This information will be used to identify and address aviation safety concerns.

Section 3. APPLICABILITY. This T-SAP MOA applies to ATO employees covered by the CBA engaged in and/or supporting Air Traffic Services with the exception of Flight Inspection Services and Mission Support as described in Appendix I of the CBA.

Section 4. REPORTING PROCEDURES. When an employee observes or experiences an aviation safety concern, the employee should document the observation/experience in a T-SAP report, through a website, presently www.T-SAP.org. The Agency will monitor access to ensure only individuals assigned to T-SAP and with a need to know are granted privileged access to the

system. The PASS representative(s) will continue to have the ability to monitor who has privileged access to www.T-SAP.org. Voluntary Safety Reporting Program (VSRP) data is protected under 14 CFR, Part 193. The employee should complete a separate report for each aviation safety concern in sufficient detail so that it can be evaluated by the Event Review Committee (ERC), including but not limited to a detailed description of the issue, relevant background material, past efforts and forums used to resolve the aviation safety concern and any other relevant considerations. Failure by an employee to initially describe an event or concern in adequate detail shall not be the basis to exclude a report.

a. An employee has the right to file a T-SAP report on duty time, if otherwise in a duty status.

b. Time Limits.

i. When the aviation safety concern could not have been learned by the Agency but for the report submitted by the employee, and all evidence of the event is predicated on the report, that report is determined to be ‘Sole Source.’ If the ERC through consensus agrees that a report is ‘Sole Source’ it will be accepted regardless of the time frame within which it was submitted, provided it meets all other acceptance criteria of this MOA. It is possible to have more than one ‘Sole Source’ report for the same aviation safety concern.

ii. For a report that is not ‘Sole Source’, as defined above, the employee must report the aviation safety concern within one working day, absent extraordinary circumstances. When a covered employee submits a report that is not ‘Sole Source’, the ERC will review all available information to determine through consensus whether the individual was aware or should have been aware of the possible aviation safety concern. If it is determined that the employee was not aware nor could reasonably have been aware of the aviation safety concern, the report will be accepted by the ERC, provided it meets all other acceptance criteria of this MOA. Through consensus the ERC can determine to accept “untimely” reports if in their opinion acceptance of the report would or could improve aviation safety.

c. **Non-reporting employees covered under this MOA.** If a T-SAP report identifies another covered employee experiencing an aviation safety concern, and that employee has not submitted a separate report, the ERC will determine through consensus on a case-by-case basis whether that employee knew or reasonably should have known about the possible aviation safety concern. If the ERC determines the employee did not know or could not have known about the possible aviation safety concern, and the original report otherwise qualifies for inclusion under T-SAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own T-SAP report within one working day. If the non-reporting employee submits his/her own report, that report will be afforded the same consideration under TSAP as the report from the original reporting employee, provided all other T-SAP acceptance criteria are met.

Section 5. T-SAP STRUCTURE & RESPONSIBILITIES. T-SAP is structured as follows:

- a. T-SAP Program Office (T-SAPO)/Program Manager (T-SAPM).** The T-SAP Program Office will provide oversight of the program and serve as the focal point for information and inquiries.

The T-SAPO will:

- i. Receive initial reports and provide an electronic receipt to the employee.
 - ii. Notify the ERC of receipt of a T-SAP report.
 - iii. Maintain a database that continually tracks each report and the recommendation for correcting or remedying aviation safety concerns.
 - iv. Submit quarterly reports disclosing the number of reports received, accepted and excluded. This report will also include the five most common aviation safety concerns raised with the associated corrective recommendation. This will be published on a designated T-SAP web page.
 - v. Ensure proper implementation of the program in the Service Areas, and regularly communicate program requirements to affected and eligible employees and/or appropriate groups in collaboration with PASS.
 - vi. Develop and maintain annual program budgets and ensure the program accomplishes established program goals.
 - vii. Ensure proper maintenance and availability of the T-SAP database for the purpose of tracking submitted reports, including but not limited to ERC-recommended training, Technical Information Requests (TIRs), Corrective Action Requests (CARs).
 - viii. Monitor program risks including but not limited to changes in program funding, program requirements, and cost estimates through established processes.
 - ix. Coordinate with other VSRPs, as needed, to promote data sharing and resolution of identified aviation safety concern in collaboration with PASS.
- b. TechOps Event Review Committee (ERC).** The ERC is a three-member group comprised of one (1) AJW primary representative and one alternate, one (1) PASS primary representative and one alternate, and one (1) AOV primary representative and one alternate. An alternate representative may serve as primary in the absence of the primary ERC member. Each party will select their own representatives.
- i. The ERC will review and analyze reports submitted by employees covered by this MOA, identify actual or potential aviation safety concerns from the information contained in the reports, and propose solutions for those concerns in accordance with FAA Order 8040.4A, Safety Risk Management Policy, dated 4/30/12, and Air Traffic Organization Order 1000.37A, Air Traffic Organization Safety Management System, dated 5/30/14.

- ii. The ERC will conduct a 12-month review of the T-SAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of aviation safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events indicative of adverse safety trends. The specific methodology of this review will be outlined in the administrative manual referenced in Section 12 of this MOA.
 - iii. Provide input to a variety of reports or briefings for management and other groups outside the ATO in collaboration with the TSAPO.
 - iv. Within fourteen (14) days subsequent to the implementation of this MOA, PASS will designate in writing a primary and alternate ERC representative. The primary and alternate PASS ERC representative shall be granted eighty (80) hours of official time per pay period.
- c. Analysts.** The T-SAP Program Office will maintain a complement of T-SAP analysts, to include at a minimum two (2) analysts from the PASS bargaining unit. The PASS analysts will be responsible for redacting and preparing new T-SAP reports for ERC review. Additional tasks include subsequent requests for additional information and/or fact finding on submitted reports as directed by the T-SAPO and/or by ERC consensus. The assignment of such analysts will be as follows:
- i. The Agency will notify PASS of its intent to select and fill a T-SAP analyst from the PASS bargaining unit. PASS will determine if it will solicit for volunteers to support the Agency's action. If PASS determines it will solicit for volunteers PASS will issue a call for volunteers and receive responses. A list of recommendations will be submitted to the T-SAPO for consideration.
 - ii. Employees recommended by PASS must meet the technical requirements, if any, identified by the T-SAPO.
 - iii. The Agency will consider the list of recommendation(s) submitted by PASS. If the Agency does not intend to select an employee from the initial list, PASS will be provided an opportunity to submit an additional list of recommendations to the T-SAPO. The Agency will notify PASS of its final selection(s). The Agency will coordinate the release of the analyst(s) with the appropriate Service Area(s).
 - iv. If the Agency decides to remove a bargaining unit employee from an analyst position it will provide notice to PASS and the employee as to the reasons for the decision. PASS will be given a reasonable opportunity to respond to that notice. If the employee is removed, the position will be filled in accordance with this Section.
 - v. Upon implementation of this MOA, the PASS bargaining unit employees

currently designated as analysts will continue serving in this capacity.

d. T-SAP Steering Committee. The Steering Committee is a three-member group comprised of an executive representative from ATO and AOV and a representative from PASS, tasked with oversight of T-SAP. A Steering Committee member is excluded from also being an ERC member. Within fourteen (14) days subsequent to the implementation of this MOA, the Parties will designate in writing their T-SAP Steering Committee representative. The PASS representative shall be granted official time, if otherwise in a duty status, for all T-SAP Steering Committee activities. The Committee will meet at least quarterly unless mutually agreed upon otherwise. The Committee will operate as follows:

- i. The Committee will conduct a periodic review of the progress of T-SAP, examining significant trends and resolution of any outstanding T-SAP aviation safety concerns.
- ii. Upon request of an ERC member, the Committee will review and by consensus reconcile a report when the ERC is unable to reach consensus. The review will be limited to an assessment of the ERC's overall effort to reach consensus on the report. The Committee will either 1) remand a report back to the ERC for further discussion and effort; 2) conclude that the ERC exhausted all reasonable efforts to reach consensus and the report will be excluded; or 3) any other action deemed appropriate by the Committee.

Section 6. ERC PROCESS.

- a. The ERC will convene not less than twice per month, as scheduled by the ERC with the approval of the T-SAPO. If the ERC determines additional meetings are required to satisfy the work requirements of the program, including need to acquire time-critical information, additional meeting(s) may be scheduled by the ERC with the approval of the T-SAPO.
- b. The ERC will determine the location and date(s) of each meeting, in consultation with, and the budgetary approval of, the T-SAPO, prior to the commencement of the meeting. The T-SAPO will provide an up to date list of new reports and open reports. ERC representatives are expected to attend in person or by any other means the ERC deems appropriate, with the approval of the T-SAPO. T-SAP meetings may be held in person, via telephone or video teleconference (VTC/GTM) or any combination of these options dependent on report volume and budgetary requirements.
- c. The ERC will review and analyze the list of new and open reports and will make its decisions involving T-SAP aviation safety concerns by consensus. ERC representatives are expected to review all new and open reports prior to the commencement of the meeting. Under T-SAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC. It does not require that all members believe a particular decision or recommendation is the most desirable

solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of aviation safety. In order for this concept to work effectively, each ERC representative shall be empowered to make independent decisions within the context of the ERC discussions on a given report, in conformance with this MOA. The ERC representatives will strive to reach consensus on whether a reported event is covered under the program, how that event should be addressed, and the corrective action that should be taken as a result of the report. The corrective action process would include working the aviation safety concerns with the appropriate stakeholders that have the expertise and responsibility for the safety area of concern. The consensus decision-making process relies on the ability of each ERC member to represent their organization to the best of their ability without any outside interference. In the event there is not a consensus of the ERC on decisions concerning a report and upon request from one ERC member, the ERC will utilize a facilitator to assist in gaining consensus. If the ERC remains unable to reach consensus, the report will be forwarded to the Steering Committee if requested by at least one ERC member.

- d.** For reports related to aviation safety, including reports involving possible noncompliance with directives, the ERC will analyze the report, conduct interviews of reporting specialists, and gather additional information concerning the matter described in the report, as necessary.
- e.** The ERC should make recommendations to AJW and other Lines of Business (LOBs) for corrective action for systemic aviation safety concerns. For example, such corrective action might include changes to procedures, standard operating procedures, or modifications to the training curriculum. Any recommended changes that affect AJW or other LOBs will be forwarded through the T-SAPO to the appropriate LOB for consideration and comment, and if appropriate, implementation. The FAA will work with PASS in its development of appropriate corrective action(s) for systemic aviation safety concerns. If such actions are subject to bargaining, the Parties will negotiate in accordance with Article 70 of the CBA. Any recommended corrective action that is not implemented should be recorded along with the reason it was not implemented.
- f.** While all reports will not warrant a corrective action, the data contained within an accepted report will be included in the T-SAP database to support future trend analysis. For those reports that do warrant a corrective action, the corrective action process would include identifying the aviation safety concern with the appropriate stakeholders that have the expertise and responsibility for the safety area of concern. If a report is excluded, the report will be purged from the system after the reason for exclusion has been captured.
- g.** All reports shall be fully evaluated and, to the extent appropriate, investigated. The ERC shall not be restricted from requesting specific remedies or corrective actions within the terms of this MOA.

- h.** Investigations by the ERC may include, but are not limited to, interviews of reporting specialists, supervisors, management officials and other efforts to gather additional information concerning the matter described in the report, as necessary.
- i.** The ERC may utilize T-SAP Information Request (TIR) to obtain information. This is a written document sent by the ERC soliciting information relating to an identified potential safety concern. It is intended to allow direct communication at the appropriate levels and provide the ERC with critical data from various parties. A TIR is delivered electronically via the T-SAP Program Office, and are directed to the appropriate Office of Primary Responsibility (OPR).
- j.** The ERC may issue a corrective action request (CAR). This is a formal request initiating action to resolve an identified safety concern. A CAR informs the recipient of an identified aviation safety concern providing specific information to the responsible organization, and may provide specific recommendations. For example, recommendations may include changes to directives, adjustment of timelines, formation of a workgroup, changes to the national/local training curriculum.
- k.** Any corrective action recommended by the ERC for a report accepted under T-SAP must be completed to the satisfaction of all members of the ERC. If the LOB fails to complete the recommended corrective actions, the aviation safety concern will be referred to AOV and/or the T-SAPO for further action, as appropriate. The ERC will be updated as to the status of the aviation safety concern. If the LOB fails to complete the recommended corrective action to the satisfaction of all members of the ERC, the aviation safety concern will be elevated to the next level within the applicable LOB for resolution.

Section 7. JURISDICTION.

- a. Acceptance of a T-SAP Report.** An employee's T-SAP report is considered accepted after a consensus decision by the ERC is reached in conformance with this MOA identifying that a report meets program criteria. Each ERC member has a duty to apply the acceptance and exclusion criteria in conformance with this Agreement.
- b. Categories of T-SAP Report Handling.** A report submitted by a covered employee will either be accepted or excluded, based upon the criteria contained within this Section. Any report that is excluded, the Report ID will be retained and the synopsis of the risk and reason for exclusion will be captured within the system for the report.
 - i. Criteria for Exclusion.**
 1. Reported aviation safety concern involving criminal activity, substance abuse, controlled substances, alcohol, or falsification. The FAA may use the content of such reports for enforcement purposes and will refer such reports to an appropriate FAA office

and/or law enforcement agency;

2. Reports that are not actually or potentially connected to aviation safety;
3. Reports of any unsafe/unhealthful working condition, including reports of injury, that are not connected to aviation safety;
4. Reports initially accepted that are either open or closed where it is determined after investigation and/or evidence obtained outside of an investigation reveals the report should have been excluded for one of the reasons described in this subsection;
5. Reports not submitted within the timeframes set forth in Section 4c of this MOA, unless the ERC reaches a consensus to accept. These reports will be reviewed on a case-by-case basis of facts;
6. A report that was initially accepted where the submitter subsequently failed to successfully complete a corrective action requested or recommended by the ERC, unless the ERC reaches a consensus to the contrary; or
7. A report for which the ERC and, in turn, the Steering Committee fails to reach consensus on a decision based on a proper application of this MOA.

- ii. If upon completion of subsequent investigation, it is determined that a report was not validly excluded, the report will be referred back to the ERC for a determination of acceptance under T-SAP.

- c. Referral of Excluded Reports Related to Occupational Safety and Health (OSH).** A report filed in T-SAP that discloses an unsafe/unhealthful working condition that is not connected to aviation safety will be administered through the agency's OSH program. This type of report will be forwarded to the appropriate agency official with a copy to the PASS National Safety Representative.

The submitter will be notified that the ERC concluded that the unsafe/unhealthful working condition identified was excluded and T-SAP will not be processing the report. The communication will notify the submitter that his/her OSH issue was reported to the proper agency official for appropriate consideration and resolution. Upon completing this notification, the report and related information will be excluded from T-SAP.

- d. Reports Related to Physical Security and/or Cyber-Security Concerns.** The Agency retains its internal security rights related to a report filed in T-SAP that

discloses an aviation safety concern with a connection to security. This right may impact the processing of reports including responding to TIRs and formulating CARs.

e. Compound Report.

- i. The Parties recognize that certain reports may include an unsafe/unhealthful working condition and an observation/experience that has potential impact on aviation safety. In these cases, the aviation safety component of the compound report will be accepted, provided the report otherwise meets the acceptance criteria of this MOA. The OSH component of the compound report will be forwarded to the appropriate agency official with a copy to the PASS National Safety Representative.

The T-SAP intake portal will allow an employee submitting a T-SAP report to indicate whether the filed report contains information regarding an unsafe/unhealthful working condition, and whether or not the employee desires the report to be filed anonymously.

The T-SAPO will forward the contents of excluded reports of unsafe/unhealthful working conditions to the appropriate Agency officials in accordance with Agency policy and government wide regulations regardless if the submitter identifies that the report concerns an unsafe or unhealthful working condition upon submission.

- f. Notwithstanding the release of data described within this MOA, the data from excluded reports will be expunged from T-SAP.

Section 8. USE OF THE T-SAP REPORT. No part of the submitted report, in part or in whole, will be used to initiate or support any disciplinary action, or as evidence for any purpose or to support any credentialing or punitive action, except as provided in this Agreement. The agency will not retaliate against employees for utilizing the processes under this Agreement. The protections in this subsection go into effect upon the employee submitting their report, unless and until excluded under the terms of this Agreement.

Section 9. EMPLOYEE FEEDBACK. The ERC by consensus will provide regular feedback to the employees in collaboration with the TSAPO. A quarterly report will be published covering the number of reports received, the number of reports accepted and rejected, a list of the cumulative top five aviation safety concern raised, and corrective action recommendations and Corrective Action Plan results. This report may be published on a designated T-SAP page of the FAA Employee Website. Any employee who submitted a report may also contact the T-SAPO to inquire about the status of his/her report. In addition, each employee who submits a report accepted under T-SAP will receive individual feedback on the final disposition of the report.

Section 10. CONFIDENTIALITY. The intent of the T-SAP is to protect the identity of the employee reporting an aviation safety concern. Every effort will be made to maintain

the employee's confidentiality for reports within the terms of this MOA. Employee names and other identifying information will be redacted prior to review by the ERC, or posting it on the T-SAP website.

Section 11. INFORMATION AND TRAINING. The details of T-SAP will be made available to all employees and their supervisors in a collaborative manner amongst the Parties. Each covered employee and manager will receive written guidance developed by the Parties outlining the details of the program in a timely manner but no less than 2 weeks before the program is reinstated. All new-hire employees will receive training on the program during initial training.

Within forty-five (45) days subsequent to the implementation of this MOA, the Parties will meet to discuss training needs and to formulate a plan to deliver training to employees covered by this MOA, subject to the Agency's budgetary requirements.

Section 12. RECORDKEEPING. All documents and records regarding this program will be kept by the T-SAP Program Office in a manner that ensures compliance with applicable directives and law and made available to the Parties of this Agreement at their request.

Section 13. ADMINISTRATIVE MANUAL. Within ninety (90) days from the signing of this MOA the Parties shall meet to continue collaborating on the development of an Administrative Manual. This manual should be completed within ninety (90) days from the first meeting.

Section 14. REVIEW PROCESS. T-SAP is subject to review and renewal by the Parties twelve (12) months from the signature to this Agreement. Thereafter, T-SAP will be subject to review and renewal every twenty-four (24) months.


Revisions to this MOA shall be made by mutual agreement of the Parties. In the event of termination or modification of T-SAP, no employee will be adversely affected who acted in reliance on the terms of the program in effect at the time of report submission.

Section 15. IMPLEMENTATION. Upon implementation of this MOA, the T-SAP intake will be operational for the purpose of T-SAP reporting. The T-SAPO will make all necessary software changes to ensure compliance with Agency Directives, ICAO guidance, and this MOA. Future software changes and adaptations of the software will be through a collaborative effort between the Agency and PASS.

Section 16. DURATION. This MOA shall be effective upon completion of Agency Head Review or thirty (30) days after it has been signed by the Parties, whichever comes first, and shall remain in effect for the full term of the Parties' successor collective bargaining agreement.

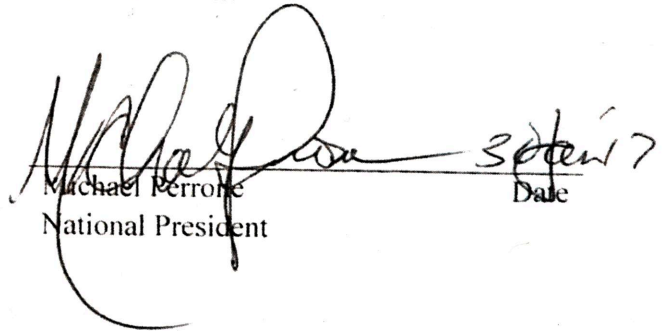
For the Agency:

For the Union:




Scott A. Malon
Eastern Service Area Manager
Office of LER Regional Operations

Date




Michael Perrone
National President

Date




Vaughn A. Turner
Vice President, Technical Operations
Air Traffic Organization

Date



Terry L. Biggio
Vice President, Safety & Technical
Training
Air Traffic Organization

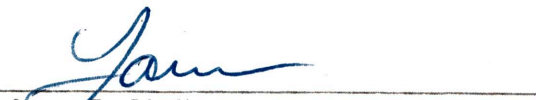
Date



Anthony S. Ferrante
Director, Air Traffic Safety Oversight
Office
Aviation Safety

Date

Agency Head Review:



Laura R. Glading
Director, Office of Labor and Employee
Relations
Human Resource Management

2-1-17
Date