

**AIR TRAFFIC ORGANIZATION
AVIATION SAFETY ACTION PROGRAM
FOR PROFESSIONAL AVIATION SAFETY SPECIALISTS
MEMORANDUM OF AGREEMENT**

- 1. GENERAL.** This agreement is between the Federal Aviation Administration (FAA) and Technical Operations Services employees represented by the Professional Aviation Safety Specialists (PASS) and covered by the collective bargaining agreement between PASS and the FAA effective July 2, 2000, or its successor (the CBA).
- 2. PURPOSE.** The FAA and PASS are committed to improving flight safety. Each party has determined that safety would be enhanced if there were a systematic approach for specialists to promptly identify and correct potential safety hazards. The primary purpose of the Aviation Safety Action Program (ASAP) is to identify safety events, and to implement corrective measures that reduce the opportunity for safety to be compromised. In order to facilitate safety analysis and corrective action, FAA and PASS join in voluntarily implementing this ASAP, which is intended to improve safety through personnel self-reporting, cooperative follow-up, and appropriate corrective action. This Memorandum of Agreement (MOA) describes the provisions of the program.
- 3. BENEFITS.** The program will foster a voluntary, cooperative, non-punitive environment for the open reporting of safety concerns. Through such reporting, all parties will have access to valuable safety information that may not otherwise be obtainable. This information will be analyzed in order to develop corrective actions to help solve safety issues that previously may not have been discovered, thereby reducing the likelihood of errors, incidents or other safety related events. For a report accepted under this ASAP MOA, the FAA will not take punitive or credentialing action against the submitter with respect to the reported event. The Parties agree that training may be included in the recommended corrective action by the Event Review Committee (ERC).
- 4. APPLICABILITY.** The ASAP applies to all employees covered by the CBA and only to events that occur while acting in that capacity. Reports of events involving apparent noncompliance with directives that is not inadvertent or that appears to involve an intentional disregard for safety, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program. Any modifications of this MOA must be accepted by all parties to the agreement.
- 5. PROGRAM DURATION.** This is a Demonstration Program, the duration of which shall be 18 months from the date this MOA is signed. If the program is determined to be successful after a comprehensive review and evaluation, the parties intend for it to be a continuing program. This ASAP may be terminated at any time for any reason by PASS or the FAA. The termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action; e.g., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed.

Failure of any party to follow the terms of the program ordinarily will result in termination of the program.

6. REPORTING PROCEDURES. When an employee covered by the CBA observes a safety problem or experiences a safety-related event, s/he should note the problem or event and describe it in enough detail so that it can be evaluated by a third party.

a. ASAP Reporting. At an appropriate time during the workday, the employee should submit an ASAP report for each safety problem or event and submit it electronically.

b. Time Limit. Reports the ERC determines to be sole-source will be accepted under the ASAP, regardless of the timeframe within which they are submitted, provided they otherwise meet the acceptance criteria of paragraphs 11 a(2) and (3) of this MOA. Reports which the ERC determines to be non-sole-source must meet the same acceptance criteria, and must also be filed within one of the following two possible timeframes:

(1) Within 24 hours after the end of the duty shift, absent extraordinary circumstances. If the electronic system is not available to the employee at the time s/he needs to file a report, the employee may contact the ASAP hotline and file notice via telephone within 24 hours after the end of the duty shift that s/he intends to file a report. This notice within the prescribed time limit must be followed by a formal report submission within three working days thereafter.

(2) Within 24 hours of having become aware of a safety problem or safety-related event provided the following criteria are met: If a report is submitted later than the time period after the occurrence of an event stated in paragraph 6 b (1) above, the ERC will review all available information to determine whether the specialist knew or should have known about the possible problem or event within that time period. If the ERC determines the employee(s) did not know or could not have known about the possible problem or event until informed of it, then the report would be included in ASAP, provided the report is submitted, or telephone notification made, within 24 hours of having become aware of a possible problem or event, absent extraordinary circumstances, and provided the report otherwise meets the acceptance criteria of this MOA. Any telephone notification must be followed by a formal report submission within three working days thereafter. If the ERC determines the employee knew or should have known about the possible problem or event, then the report will not be included in ASAP.

c. Non-reporting employees covered under this ASAP MOA. If an ASAP report identifies another covered employee experiencing a safety problem or event, and that employee has not submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible problem or event. If the ERC determines the employee did not know or could not have known about the possible problem or event, and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own ASAP report within the established timeline outlined in 6 b(1). If the non-reporting employee submits his/her own report, that report will be afforded the same consideration under ASAP as that accorded the report from the original reporting employee, provided all other ASAP acceptance criteria are met. However, if the non-reporting employee fails to submit his/her own report within the established timeline in

6 b(1), the possible problem or event with that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

7. POINTS OF CONTACT. The ERC will be comprised of one representative from Air Traffic Organization (ATO) management, one representative from PASS, and one Air Traffic Safety Oversight Service (AOV) representative assigned as the ASAP representative; or designated alternates in their absence. The ATO will designate one person who will serve as the ASAP Program Manager. The ASAP Program Manager will be responsible for program administration and will not serve as a voting member of the ERC.

8. ASAP PROGRAM OFFICE. When the ASAP reporting system receives a report, the date and time of any event described in the report and the date and time the report was submitted will be recorded. The ASAP Program Office will enter the report, along with all supporting data, on the agenda for the next ERC meeting. The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded timely submission. Each employee who submits a report will receive an electronic receipt. The ASAP Program Office will serve as the focal point for information about, and inquiries concerning the status of, ASAP reports; and for the coordination and tracking of ERC recommendations.

9. EVENT REVIEW COMMITTEE (ERC). The ERC will review and analyze reports submitted by employees covered by the CBA, identify actual or potential safety problems from the information contained in the reports, and propose solutions for those problems. The ERC will provide feedback to the individual who submitted the report.

a. The ASAP Program Office will maintain a database that continually tracks each event and the analysis of those events. The ERC will conduct a 12-month review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events indicative of adverse safety trends.

b. The ERC review is in addition to any other review conducted by the ATO. The ERC will also be responsible for preparing a final report on the demonstration program at its conclusion. If an agreement for a continuing program is anticipated, a report will be prepared by the ERC or ASAP Program Office in advance of the termination date of the demonstration program.

10. ERC PROCESS.

a. The ERC will meet as necessary to review and analyze reports that will be listed on an agenda submitted by the ASAP Program Office. The ERC will determine the time and place of the meeting, which may be in person, via telephone or in any other manner the ERC deems appropriate. The ERC will meet at least twice a month. The frequency of meetings will be determined by the number of reports that have accumulated or the need to acquire time critical information.

b. The ERC will make its decisions involving ASAP issues based on consensus. Under the ASAP, 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 safety. In order for this concept to work effectively, each ERC representative shall be empowered to make decisions within the context of the ERC discussions on a given report. 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 safety issue(s) with the appropriate stakeholders that have the expertise and responsibility for the safety area of concern. After a report has been accepted, recognizing that AOV holds regulatory authority to enforce the necessary rules and regulations, it is understood that AOV retains all legal rights and responsibilities contained in FAA Order 1100.161, *Air Traffic Safety Oversight*, FAA Order 8000.90, *AOV Credentialing and Control Tower Operator Certification Programs* and FAA Order 8000.86, *Air Traffic Safety Oversight Compliance Process* in the event there is not a consensus of the ERC on decisions concerning that accepted report involving an apparent noncompliance or qualification issue. If a report is rejected by a consensus of the ERC, the report will be purged from the system after the reason for rejection has been captured.

c. It is anticipated various types of reports will be submitted to the ERC: safety-related reports that appear to involve possible noncompliance with directives; reports that are of a general safety concern, but do not appear to involve possible noncompliance with directives; and any other reports. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.

d. The ERC will forward non-safety reports to the appropriate Line of Business (LOB) for information and, if possible, internal resolution. For reports related to system 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 ATO for corrective action for systemic issues. For example, such corrective action might include changes to procedures, standard operating procedures, or modifications to the training curriculum. Any recommended changes that affect ATO will be forwarded through the ASAP Program Office to the appropriate LOB for consideration and comment, and if appropriate, implementation. The FAA will work with PASS to develop appropriate corrective actions for systemic issues. The ASAP Program Office will track the implementation of the recommended corrective actions and report on associated progress as part of the regular ERC meetings. Any recommended corrective action that is not implemented should be recorded along with the reason it was not implemented.

f. Any corrective action recommended by the ERC for a report accepted under ASAP must be completed to the satisfaction of all members of the ERC. If the LOB fails to complete the recommended corrective actions, the issue will be referred to AOV for further action, as appropriate. The AOV member of the ERC must report back on issue

resolution. If an individual fails to complete recommended corrective actions, that individual's ASAP report will be excluded from the program.

g. Use of the ASAP Report: Neither the written report nor the content of the written ASAP report will be used to initiate or support any disciplinary action, or as evidence for any purpose in an FAA enforcement action, except as provided in paragraph 11 a(3) of this MOA. The FAA may conduct an independent investigation of any issue.

11. ENFORCEMENT.

a. Criteria for Acceptance. The following criteria must be met in order for a report to be covered under ASAP:

(1) The employee must submit the report in accordance with the time limits specified under paragraph 6 of this MOA;

(2) Any possible safety issue disclosed in the report must be inadvertent and must not appear to involve an intentional disregard for safety; and,

(3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports involving any of these five actions will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports for any enforcement purposes and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such referred back reports will be accepted under ASAP provided they otherwise meet the acceptance criteria contained herein.

b. Sole-Source Reports. A report is considered a sole-source report when all evidence of the event is discovered by or otherwise predicated on the report. It is possible to have more than one sole-source report for the same event.

c. Reports Involving Qualification Issues. ASAP reports covered under the program that demonstrate a lack, or raise a question of a lack of qualification of a covered employee may result in the assignment of training, if such action is appropriate and recommended by the ERC.

d. Excluded from ASAP. Reported events involving possible noncompliance with directives that are excluded from ASAP due to the reasons outlined in 11 a(3), will be referred by the AOV ERC member to an appropriate office within the FAA for any additional investigation and re-examination and/or credential action, as appropriate.

e. Corrective Action. Employees initially covered under an ASAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC. Failure of an employee to complete the ERC recommended corrective action may result in the reopening of the case and referral of the matter for appropriate action.

f. Systemic Issues or Repeated Instances of Noncompliance with Directives. Reports involving systemic issues or the same or similar possible noncompliance with the directives that were previously addressed with no intervention under ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria in paragraph 6 above. The ERC will consider on a case-by-case basis the corrective action appropriate for such reports.

g. Closed Cases. A previously accepted ASAP report for which no action has been taken, may be reopened and appropriate action taken if evidence is later discovered that establishes the report should have been excluded from the program in accordance with 11 a(2) or (3).

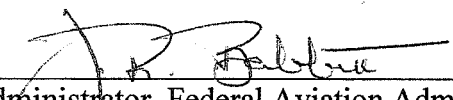
12. EMPLOYEE FEEDBACK. The ASAP Program Office will provide regular feedback to the employees in a manner acceptable to the ERC. A monthly report will be published covering the number of reports received, the number of reports accepted and rejected, a list of the top ten issues raised, and corrective action recommendations and results. This report will be published on a designated ASAP page of the FAA Employee website. Any employee who submitted a report may also contact the ASAP Program Office to inquire about the status of his/her report. In addition, each employee who submits a report accepted under ASAP will receive individual feedback on the final disposition of the report.

13. INFORMATION AND TRAINING. The details of the ASAP will be made available to all ATO employees and their supervisors in a manner acceptable to the ERC. Each covered employee and manager will receive written guidance outlining the details of the program in a timely manner but at least 2 weeks before the program begins. All new-hire specialists (employees) will receive training on the program during initial training.

14. REVISION CONTROL. Revisions to this MOA may be proposed by any party, and will require a voluntary agreement between the parties before any change can be affected.

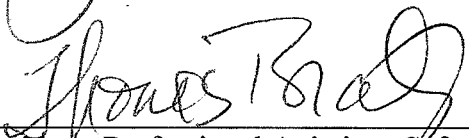
15. RECORDKEEPING. All documents and records regarding this program will be kept by the ASAP Program Office and made available to the other parties of this agreement at their request. All records and documents relating to this program will be appropriately kept in a manner that ensures compliance with directives and all applicable law. PASS and FAA will maintain whatever records they deem necessary to meet their needs.

16. SIGNATORIES. All parties to this ASAP are entering into this agreement voluntarily.



Administrator, Federal Aviation Administration (FAA)

12/17/10
Date



President, Professional Aviations Safety Specialists (PASS)

12/17/10
Date