

AVIATION SAFETY
VOLUNTARY SAFETY REPORTING PROGRAM
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION
AND THE
FEDERAL AVIATION ADMINISTRATION

1. GENERAL. This Agreement is made by and between the National Air Traffic Controllers Association, ("NATCA" or "the Union") and the Federal Aviation Administration ("FAA" or "the Agency"), collectively known as the Parties. This Memorandum of Understanding (MOU) applies to all Aviation Safety (AVS) employees represented by NATCA and represents the complete understanding of the Parties concerning the Aviation Safety Voluntary Safety Reporting Program (AVS VSRP). The administration of the AVS VSRP shall be in accordance with Order VS 8000.375 AVS Voluntary Safety Reporting Program.

2. PURPOSE. The FAA and NATCA are committed to improving aviation system safety. Each party has determined that safety would be enhanced if there were a systematic approach for FAA employees represented by NATCA to promptly identify, voluntarily report, and correct potential or actual aviation safety issues or concerns. The AVS VSRP provides a process for a documented review of safety issues or concerns raised by NATCA Multi-Unit Bargaining Unit Employees (BUEs). The purpose of the AVS VSRP is to identify and correct aviation safety issues or concerns.

3. BENEFITS. The AVS VSRP will foster a voluntary, cooperative, confidential, non-punitive environment for the open reporting of aviation safety issues or concerns. Through such reporting, all parties will have access to valuable aviation safety information that may not otherwise be available. This information will be analyzed in order to develop corrective actions to help mitigate identified aviation safety issues or concerns as well as systemic issues.

The FAA has determined that it will not use disciplinary or enforcement action, to include the removal or suspension of a pilot certificate, to address a reported aviation-safety-related issue or concern accepted into the AVS VSRP.

4. APPLICABILITY. The AVS VSRP applies to employees of AVS represented by NATCA.

5. PARTICIPATION. Participation in the AVS VSRP may be terminated at any time, and for any reason by the FAA or NATCA. 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 (i.e., 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 may result in termination of this agreement.

6. REPORTING PROCEDURES. When a covered employee has an aviation safety concern or observes an aviation safety-related issue, he or she should note the concern or issue and describe it in enough detail so that it can be evaluated by the Event Review Team (ERT).

- a. AVS VSRP Report Form. At an appropriate time during the duty day, the employee should complete the AVS VSRP Form online for each aviation safety issue or concern and submit it electronically. The employee should complete a separate form for each safety issue or concern as soon as practicable.
- b. Time Limit. Reports submitted under this VSRP will be accepted regardless of the time frame within which they are submitted, provided they otherwise meet the acceptance criteria of paragraphs 10a and b of this MOU.
- c. Non-reporting Employees Covered Under this AVS VSRP MOU. If an AVS VSRP report identifies another covered employee in a safety issue or concern involving a possible noncompliance and that employee has not submitted a separate report, the ERT will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible noncompliance. If the ERT determines that the employee did not know or could not have known about the apparent possible noncompliance, and the original report otherwise qualifies for inclusion under AVS VSRP, the ERT will offer the non-reporting employee the opportunity to submit his/her own AVS VSRP report. The ERT will consider acceptance by the same criteria as the original report and extend the same protections.

7. EVENT REVIEW TEAM. The ERT is made up of four primary management representatives and a primary representative of each participating Labor Union. NATCA may designate one (1) primary and one (1) alternate AVS VSRP ERT representative. Management may designate four primary and four alternate representatives.

- a. The ERT will review, analyze, and investigate de-identified reports submitted by the employees under the program, identify actual or potential safety issues or concerns from the information contained in the reports, and may propose solutions for those issues or concerns. The ERT will provide feedback to the individual who submitted the report in a timely manner. The ERT will meet as necessary to review, investigate, and analyze reports that will be listed on an agenda submitted by the VSRP Program Manager (PM). The ERT will determine the time and place of the meeting, which may be in person, via telephone or in any other manner the ERT deems appropriate. 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 ERT is solely responsible for any investigations resulting from a reported safety issue or concern accepted into the program. The ERT may request assistance from AVS at the national level to perform all or part of an investigation. In the event the ERT requests such assistance, NATCA may designate its ERT representative or another union representative, as a participant.

- c. The FAA has determined that it will not use an accepted AVS VSRP report nor the content of an accepted AVS VSRP report to initiate, support, or as evidence for any disciplinary action, except as described in paragraph 10b of this MOU.
 - d. It is anticipated that various types of reports will be submitted to the ERT, including aviation safety-related reports that appear to involve a possible noncompliance with applicable FAA directives, as well as reports that are of a general aviation safety concern, but do not appear to involve possible noncompliance. All aviation safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.
 - e. The ERT may forward, by consensus, reports not related to aviation safety to the appropriate FAA department head for his/her information and, if possible, internal FAA resolution.
 - f. For reports related to aviation safety, including reports involving possible noncompliance with applicable FAA directives, the ERT will analyze the report, conduct interviews of reporting employees if necessary, and gather additional information concerning the matter described in the report.
 - g. The ERT identifies actual or potential aviation safety issues or concerns and forwards to the appropriate FAA Office of Primary Responsibility (OPR) utilizing the AVS VSRP Corrective Action process. The FAA will work with NATCA to develop appropriate corrective action for systemic issues. The OPR will present the corrective action plan to the ERT for approval.
 - h. Corrective action(s) regarding systemic issues not completed to the satisfaction of the ERT will be elevated to the Executive Board for resolution.
 - i. Any individual corrective action recommended by the ERT for a report accepted under this MOU must be completed to the satisfaction of members of the ERT, or the AVS VSRP report may be excluded from the program.
 - j. When appropriate, the ERT may consult with subject matter experts (SMEs) to assist in their understanding of a reported issue or concern. SMEs are not voting members of the ERT.
 - k. If the Primary ERT members cannot reach consensus, having exhausted all resources and ability to reach compromise, the complete report, without ERT notes, will be forwarded, for review by their alternate ERT representatives. The report will be forwarded without interference or input from the Primary ERT members, and the alternate ERT members will coordinate independent of the Primary members in order to get new perspectives on the issue.
8. VSRP AND ELECTRONIC REPORTING SYSTEM. When the AVS VSRP reporting system receives a report, the date and time of any issue described in the report and the date and time the report was submitted will be recorded. The report will be placed, along with all

supporting data, on the agenda for the next ERT meeting. De-identified reports shall be provided to all ERT members prior to the scheduled ERT meeting. To confirm that a report has been received, the system will send an electronic receipt to each employee who submits a report.

- a. The FAA will designate one person who will serve as the AVS VSRP PM. The AVS VSRP PM will be responsible for program administration, and will not serve as a member of the ERT.
- b. The VSRP PM will serve as the focal point for information about inquiries concerning the status of AVS VSRP reports and for the coordination and tracking of ERT Corrective Actions. The VSRP PM will work collaboratively with NATCA.
- c. The VSRP PM will maintain a database that continually tracks each report and the analysis of those reports. The AVS VSRP manager will conduct a 12-month review of the AVS VSRP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety issues or concerns of a similar nature. This review will include recommendations for corrective action for recurring issues indicative of adverse safety trends. This review is in addition to any other reviews conducted by the FAA.
- d. The VSRP PM will track the status and implementation of corrective action(s) and report on associated progress as part of the regular ERT meetings. Any recommended corrective action that is not implemented, should be recorded and monitored along with the reason it was not implemented.

9. AVS VSRP EXECUTIVE BOARD.

- a. The AVS VSRP Executive Board (EB) is made up of members of the AVS Management Team (AVSMT) and participating Labor Unions. NATCA may designate a representative to serve on the AVS VSRP EB.
- b. The EB will make its decisions involving AVS VSRP issues by consensus.
- c. The EB shall not override the decisions of the ERT.
- d. AVS VSRP Corrective Actions. The EB will:
 1. Resolve issues where neither primary nor alternate ERT can reach a consensus decision regarding recommendation for corrective action for an AVS VSRP Report.
 2. Review and resolve issues where the OPR and ERT cannot agree on a corrective action plan or is not completed to the satisfaction of the ERT.
- e. The EB will review and respond to recommendations from audits of the AVS VSRP.

- f. If the EB is unable to reach consensus on issues elevated by the ERT, either Party may pursue whatever course of action is available in accordance with Article 7 of the Parties' Collective Bargaining Agreement, the Federal Service Labor-Management Relations Statute, and any other law, rule, or regulation.

10. REPORT ACCEPTANCE CRITERIA. The following criteria must be met in order for a report to be covered under this VSRP:

- a. Any possible noncompliance with FAA directives disclosed in the report must not appear to involve an intentional disregard for safety and must not involve gross negligence.
- b. The reported safety issues or concern must not appear to involve criminal activity, substance abuse, alcohol use or misuse, or intentional falsification. Reports involving those issues will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the issue did not involve any of the aforementioned activities, then the report will be referred back to the ERT for a determination of acceptability under this MOU. Such referred back reports will be accepted under this VSRP provided they otherwise meet the acceptance criteria contained herein.
- c. Reports of safety issues or concerns not related to aviation safety fall outside the purview of the AVS VSRP. The ERT may forward, by consensus, reports not related to aviation safety to the appropriate FAA department head for his or her information and, if possible, for internal FAA resolution.
- d. Reports of events that directly involve an employee but that occurred while he or she was acting outside the scope of his or her employment, such as the operation of aircraft for personal or recreational purposes, are excluded.
- e. Reports Involving Proficiency Issues. VSRP reports covered under the program that demonstrate a lack, or raise a question of a lack of proficiency of a covered employee may result in the assignment of training, if such action is appropriate and recommended by the ERT.
- f. Corrective Action. Employees initially covered under the AVS VSRP will be excluded from the program and not entitled to the protective provisions if they fail to complete the recommended corrective action in a manner satisfactory to the ERT. Failure of an employee to complete the ERT recommended corrective action may result in the reopening of the case and referral of the matter for appropriate action.
- g. 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 AVS VSRP may be accepted into the program, provided they otherwise satisfy the acceptance criteria in

paragraph 10 a and b. The ERT will consider on a case-by-case basis the corrective action appropriate for such reports.

- h. Closed Cases. A previously accepted VSRP 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 this section.

11. EMPLOYEE FEEDBACK. The VSRP PM will provide regular feedback to the employees in a manner acceptable to the ERT. A quarterly report will be published covering the number of reports received, the number of reports accepted and excluded, a list of the top issues raised, corrective action recommendations, and results. This report will be available on a designated page on the FAA employees website (<http://www.myfaa.gov>). Any employee who submitted a report may also contact the VSRP PM to inquire about the status of his/her report. In addition, each employee who submits a report accepted under AVS VSRP will receive individual feedback on the final disposition of the report.

12. CONFIDENTIALITY. The collection and analysis of safety data shall ensure the confidentiality of bargaining unit employees.

13. CONSENSUS. Consensus does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for the particular issue, and is in the best interest of safety. ERT representative shall be empowered to make decisions within the context of the ERT discussions on a given report and related activities.

- a. For matters related to the overall operation of the AVS VSRP, consensus means the voluntary agreement of all representatives on the ERT or EB.
- b. For matters submitted by Union represented employees consensus means the voluntary agreement of the appropriate union and management representative. These situations do not require the consensus of union representatives or management representatives that are not directly involved.
- c. For matters submitted by non-bargaining unit employees, to include managers and supervisors, where the employees of the organization is represented by a union, consensus means the voluntary agreement of the appropriate Union and management representative on the ERT.
- d. For associated corrective actions, consensus means the voluntary agreement of the appropriate Union and management representative(s) on the ERT.

14. INFORMATION AND TRAINING. AVS VSRP implementation and refresher training requirements and curriculum shall be jointly developed by the Parties at the national level. The details of the VSRP will be made available to all employees covered by this MOU in appropriate NATCA and FAA publications.

15. RECORDKEEPING. All documents and records regarding this program will be kept by the VSRP PM in a manner that ensures compliance with applicable directives and law, and will be made available to the other parties of this agreement at their request.

16. PROGRAM DURATION. This agreement shall remain in effect for the duration of the Parties' Collective Bargaining Agreement.

17. SIGNATORIES. All parties to this AVS VSRP MOU are entering into this agreement voluntarily.

Singed this 30th day of December 2020.

For NATCA:



Steve Hansen
National Safety Representative (Outgoing)



Christine Padgett
National Safety Representative (Incoming)



Nicole Vitale
Director Labor Relations

For the Agency:

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Ali Bahrami
Associate Administrator for Aviation
Safety, AVS-1



Michael Doss
Director, AHL-300

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Vanessa I. Marzán-Hernández
Labor Relations Specialist, AHL-300