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Via Email
John.Schaal@tsa.dhs.gov

Mr. John Schaal
Supervisory Air Marshal in Charge
Philadelphia Field Office
Federal Air Marshal Service

Re: Philadelphia Field Office Federal Air Marshals' Performance Evaluations

Dear Mr. Schaal:

This law firm is the legal representative of the majority of the Federal Air Marshals ("FAM") in the Federal Air Marshal Service's ("FAMS") Philadelphia Field Office ("PFO"). By way of this correspondence, we are requesting information regarding PFO's recent changes to its methods of conducting performance evaluations.

For the first time ever, **and without any prior notice**, PFO management decided to use the Headquarters-derived mission fly days of 161.5 as a metric for conducting performance evaluations. The mission fly days metric of 161.5 has been reduced several times over the years out of concerns for safety and quality of life. The lowered number was intended to increase safety and quality of life and to allow for less air travel with increases in rest and recovery. Thus, the metric is to be used as a **maximum** number of days to schedule each FAM. Notably, the metric does not account for individual circumstances, such as leave category, seniority, assignment personal preferences, etc.

During the most recent rating period, those FAMs who achieved 161.5 mission fly days in the rating period received the highest recognition for awards and salary increases. Quite frankly, such action is unfair, vindictive and retaliatory to the higher seniority FAMs. Moreover,

giving employees who missed work for medical reasons a poorer rating because they did not meet the flying day quota is tantamount to age and disability discrimination. PFO must cease this new discriminatory employment practice.

During all previous years at PFO, the minimum duty was to fly and FAMs were rated on increasing their overall knowledge of the agency, gaining selection to specialized positions, and anything else done to go above and beyond sitting in the seat of an aircraft. However, during the recent evaluations FAMs were told that low mission fly days would lower their performance rating. In addition to the fact that it is a discriminatory employment practice, there are significant issues with the new policy (this is not to be meant as a comprehensive list detailing every issue):

- PFO redefined what it means to be a good or excellent employee **at the conclusion of the rating period.**
- The new metric is based on mission fly days, but it is inconsistent with lauding employees who are selected for ground-based assignments.
- The new metric conflicts with Assistant Administrator Scott McShaffery's recent posts about "taking care of family first" and his labeling of the agency as a family caring agency.
- One FAM explained to his supervisor that his use of leave during the rating period, which reduced his mission fly days, was due to medical issues, including several surgeries, with family members. There was no adjustment to the FAM's score.
- Senior employees have accumulated more leave due to longer employment. Such leave must be utilized during the calendar year, which lowers senior employees' mission fly days during a rating cycle. Thus, older FAMs are penalized under the new performance evaluation method.
- Management explained to FAMs that any mission recovery ("REC") assigned day where the FAM was not prescheduled or called to fly will count against their total mission fly days. As you know, FAMs do not choose their schedules and they cannot opt to fly on REC if not called upon to do so.
- PFO ASACs and several SFAMs have advised that any FAM without 13 or more mission fly days per roster is not a "high flyer" and was, and will be, penalized in their evaluations. Thirteen mission fly days per roster period over 12 roster periods equates to 156 mission fly days.
- The agency recently asked for volunteers to deploy to the border for a 90-day rotation period. The duty involves operating in unfamiliar and unsafe environments, enforcing unfamiliar federal statutes, and extended time away from family. Many of the PFO FAM volunteers were told that their evaluation scores were lowered because they volunteered, *i.e.*, their mission fly days were reduced by 90 days.

- Senior FAMs have flown triple and quad-leg mission flights and have five to eight million flight miles. Those FAMs are aging and are more likely to have medical issues that medically dictate fewer mission fly days.

There is currently an unfriendly and hostile tone set by senior PFO management and this new performance evaluation method is further evidence of the poor work environment. Recent reports undeniably demonstrate that PFO has sharply declined in the FEVS survey results under this current leadership team. FAMs who are outspoken about current issues, such as the discriminatory performance evaluation process, fear retaliation if they choose to raise their concerns. It is impossible for FAMs to have a positive outlook at work if they are being treated unfairly by sour and unprofessional management decision-making.

We are requesting: (1) a formal description of the methodology used by PFO management for the most recent rating period; (2) an explanation of why it is acceptable to penalize FAMs for using earned, accrued leave, for medical reasons or for any reason whatsoever; and (3) a redo of all PFO evaluations, inclusive of a comparison of those FAMs who received pay incentives and those that did not, for the most recent rating period by someone outside of PFO. FAMs want a fair performance review conducted with metrics **that were expected during the rating period.**

It is necessary to your Field Office stability that illegal discrimination and retaliation against the workforce must be immediately eliminated. We look forward to receiving your response, which of course we will share with affected PFO FAMs.

Very truly yours,

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