ORDER

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

1110.125A

6/30/00

SUBJ: **ACCOUNTABILITY BOARD**

1. PURPOSE. This order expands the scope of the Accountability Board to include allegations or incidents of verbal, written, graphic, or physical harassment and other misconduct that creates or that may reasonably be expected to create an intimidating, hostile, or offensive work environment based on race, color, religion, gender, sexual orientation, national origin, age, or disability. This order also prescribes procedures for reporting, investigating, and processing such allegations.

2. DISTRIBUTION. This order is distributed to the division level in Washington, regions, and centers, with a limited distribution to all field offices and facilities.

3. CANCELLATION. This revision cancels Order 1110.125, Accountability Board, dated June 30, 1998.

4. EFFECTIVE DATE. This order is effective July 1, 2000.

5. BACKGROUND. Increases in the number of allegations of sexual harassment and misconduct of a sexual nature, as well as a perceived lack of accountability in dealing with such allegations, led the Administrator to establish the Accountability Board in July 1998 to improve the manner in which the FAA responds to such allegations. The scope of the Accountability Board was initially limited to sexual harassment, misconduct of a sexual nature, and related reprisal, with a commitment to expand the Accountability Board's scope after evaluation of the first year.

6. EXPLANATION OF CHANGES. This revision:

a. Expands the scope of the Accountability Board from sexual harassment, misconduct of a sexual nature, and related reprisal to include harassment and other misconduct that creates or may create an intimidating, hostile, or offensive work environment, as defined in paragraph 8a.

b. Extends the timeframe for management to respond to allegations/incidents by means of an internal inquiry from 10 to 15 days.

c. Limits the time for Reporting Parties to report allegations or incidents of harassment or misconduct within the scope of this order to as soon as possible after the incident occurs, but not later than 60 days after the date the incident is alleged to have occurred.

d. Emphasizes that all incidents of misconduct within the scope of this order that come to management's attention MUST be reported to the Accountability Board, even if there is no specific complaint or the individual reporting the misconduct does not find the behavior personally offensive.

e. Provides new and revised appendices to assist managers in the Accountability Board process.

f. Clarifies the role of the Human Resource (HR) point of contact (POC) and emphasizes that coordination with HR is required during all phases of the Accountability Board process, including decisions on proposed disciplinary actions as well as appeals, decisions concerning grievances, and settlements.

g. Changes "Complaining Party" to "Reporting Party."

h. Defines the role and responsibilities of the Accountability Board Director (AHA-1).

i. Defines the role and responsibilities of the Accountability Board Investigations Program Manager (ACS-3) in the Office of the Associate Administrator for Civil Aviation Security.

j. Requires that investigators provide a copy of the Report of Investigation (ROI) to the Accountable Official, the HR POC, and ACS-3 upon completion of the investigation.

k. Revises procedures for processing allegations within the scope of this order that are reported to the Administrator's hotline.

l. Requires that managers and supervisors ensure that new employees are briefed on the functions of the Accountability Board. In addition, this revision requires that Human Resource (HR) Management Divisions provide a copy of the Accountability Board brochure to all new employees.

m. Requires that organizations ensure that a copy of this order is made available to all managers and supervisors and that all managers and supervisors are trained in the Accountability Board process commensurate with their responsibilities.

n. Requires that organizations brief managers and supervisors not less than annually as to their roles and responsibilities in the Accountability Board process. In addition, this revision requires organizations to disseminate information on the activities and status of the Accountability Board, as provided for in quarterly reports.

7. POLICY.

a. This order does not create new policy but provides for oversight of the implementation of existing agency policy. Specifically, in accordance with the Administrator's Policy Statements on Model Work Environment, Civil Rights, and Prevention of Sexual Harassment, as well as policy prescribed in the area of conduct and discipline, FAA is committed to providing a work environment free from harassment or other

misconduct that creates or that may reasonably be expected to create an intimidating, hostile, or offensive work environment, as defined in paragraph 8a, sexual harassment, and other misconduct of a sexual nature. Accordingly, no individual in the FAA shall:

(1) Engage in harassment or other misconduct that creates or may create an intimidating, hostile, or offensive work environment, as defined by this order.

(2) Engage in sexual harassment or misconduct of a sexual nature.

(3) Take reprisal action against any person who provides information concerning incidents or allegations within the scope of this order.

(4) Knowingly make a false accusation of misconduct within the scope of this order.

(5) Condone or ignore, while in a supervisory position, misconduct within the scope of this order of which the supervisor has knowledge.

b. Strong leadership is the key to eliminating all forms of harassment or misconduct, as defined by this order. Accordingly, FAA managers and supervisors shall not tolerate such misconduct in any form and must take whatever action is necessary to maintain an appropriate work environment. Harassment and misconduct within the scope of this order are subject to disciplinary action and will not be tolerated at any level.

8. SCOPE.

a. The Accountability Board reviews management's responses to all allegations or incidents of verbal, written, graphic, or physical harassment and other misconduct that creates or that may reasonably be expected to create an intimidating, hostile, or offensive work environment based on race, color, religion, gender, sexual orientation, national origin, age, or disability. Examples of such harassment or misconduct in the workplace may include, but are not limited to:

(1) Insulting words or phrases, slurs, stereotyping, intimidating or hostile acts; or

(2) Material placed on walls or bulletin boards or circulated in the workplace that insults, denigrates, or offends; or

(3) Actions that threaten or result in physical contact such as hitting, shoving, pushing, and/or other acts of aggression.

b. The Accountability Board reviews management's responses to all allegations of sexual harassment and other misconduct of a sexual nature.

(1) Allegations of sexual harassment may include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such advances or requests is explicitly or implicitly made a term of employment;

(b) Submission to or rejection of such conduct is the basis for employment decisions; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2) Allegations or incidents of misconduct of a sexual nature include behavior that falls short of the legal definition of sexual harassment but nonetheless impacts job performance or is not conducive to a professional work environment. Actions that may not meet the legal definition of sexual harassment, depending on the specific circumstances, but may be considered misconduct of a sexual nature include a sexual joke, remark, or question or an unwelcome letter or telephone call.

c. Allegations of reprisal for reporting or for cooperating in any official inquiry or investigation of allegations set forth in paragraphs 8a and 8b shall also be reported to the Accountability Board, and the procedures prescribed in this order shall apply. Reprisal is the wrongful threatening or taking of unfavorable action against, or withholding favorable action from, an employee as the result of, or as a contributory factor of, that employee's reporting or cooperating in the inquiry or investigation of such allegations.

d. The scope of this order does not include allegations of discrimination involving non-selections, disciplinary actions, promotions, performance management, or other personnel actions.

e. The Accountability Board Director will resolve issues concerning the scope of this order.

9. OBJECTIVES.

a. The Accountability Board provides standardized procedures to ensure the uniform and effective handling of allegations described in paragraphs 8a, 8b, and 8c. The Accountability Board oversees the processing of all such allegations to ensure that they are responded to in a manner that is fair to all parties, timely and consistent with agency policy.

b. The Accountability Board process ensures that managers and supervisors have the necessary resources available to assist them in dealing with allegations and incidents of harassment and misconduct within the scope of this order. Resources include the HR Management Division, the Office of Civil Rights, the Office of the Chief Counsel, and the Office of Civil Aviation Security Operations. Coordination with their appropriate representatives from these offices by management officials is encouraged as early in the process as possible and throughout the processing of allegations pursuant to this order.

c. The Accountability Board's oversight provides the agency with an assessment of the processing of allegations covered by this order, independent of the officials responsible for such processing. The Accountability Board reviews actions taken for timeliness, consistency, and appropriateness, but does not recommend or take disciplinary action. The function of the Accountability Board is oversight; it does not usurp managerial or supervisory authority or responsibility.

d. Benefits resulting from a process emphasizing accountability, timeliness, consistency, and appropriateness include:

(1) Ensuring that all allegations and incidents of misconduct within the scope of this order are handled properly.

(2) Ensuring a uniform and consistent approach to address and track all such allegations or incidents.

(3) Creating and maintaining a model work environment to enhance mission accomplishment.

(4) Demonstrating the agency's commitment to eliminating harassment or misconduct within the scope of this order from the workplace.

(5) Reducing potential expenditures of resources required by more formal procedures, such as the Equal Employment Opportunity (EEO) and negotiated grievance processes, as well as potentially reducing the agency's financial liability.

10. TIMELINESS STANDARDS.

a. The Reporting Party should report each allegation or incident of harassment or misconduct within the scope of this order as soon as possible after the incident occurs but not later than 60 days after the date the incident is alleged to have occurred. Employees are encouraged to report such incidents promptly, as the agency's ability to deal with such incidents appropriately and effectively, particularly when disciplinary action is warranted, is greatly diminished if the allegations are not reported in timely fashion.

b. The activities of the Accountability Board do not extend or limit the timeframes for filing or processing a complaint in the Equal Employment Opportunity (EEO) discrimination complaint process or a grievance in the grievance process. Both the EEO and grievance processes have specific timeframes for filing that must be followed in order for a complaint or grievance to be considered timely. Appendix 1, Employee Notification of the Relationship between the Accountability Board Process and the EEO and Grievance Processes, explains the relationship of the Accountability Board process to the EEO and grievance processes.

c. The procedures in this order apply only to incidents alleged to have occurred on or after July 1, 2000.

d. The goal is that allegations or incidents within the scope of this order will be reported to the Accountability Board and an inquiry or investigation conducted and appropriate action initiated within a total of 55 workdays from the date the allegation or incident was reported. Specific timeframes for various stages of the process are set forth in paragraph 15.

e. The Accountability Board Director may grant extensions of timeframes when justified.

11. RELATIONSHIP TO THE EQUAL EMPLOYMENT OPPORTUNITY, GRIEVANCE, AND ALTERNATIVE DISPUTE RESOLUTION PROCESSES.

a. The procedures outlined in paragraph 15 are separate from the EEO discrimination complaint process and the negotiated grievance process and do not extend or limit the timeframes in those processes. The procedures in this order are not intended to remedy or redress the interests of individual employees. Rather, this order emphasizes management's response to acts of misconduct subject to corrective or disciplinary action. Employees may file EEO discrimination complaints or grievances to remedy or redress individual interests, as appropriate.

b. In cases in which there is a subsequent EEO complaint, information and/or reports of investigation and other materials generated by these procedures may be made available to the Office of Civil Rights and/or EEO investigators.

c. As a general rule, information concerning misconduct within the scope of this order that comes to light during the course of alternative dispute resolution is confidential. Such information should not be reported to the Accountability Board except under conditions specified in the Administrative Dispute Resolution Act of 1996, 5 U.S.C. section 571.

12. ACCOUNTABILITY BOARD MEMBERSHIP.

a. Permanent members of the Accountability Board are:

(1) The Accountability Board Director.

(2) The Associate Administrator for Civil Aviation Security.

(3) The Assistant Administrator for Civil Rights.

(4) The Assistant Administrator for Human Resource Management.

(5) The Departmental Director, Office of Human Resource Management, or his or her designee.

b. For each allegation tracked by the Accountability Board, one member will be appointed to serve on the Accountability Board from the organization employing the individual against whom the allegation is made or, in some instances, the organization in which the incident allegedly occurred. This member will be an Associate or Assistant Administrator or the Chief Counsel.

c. Membership on the Accountability Board may not be delegated below the deputy level.

d. A representative from the Office of the Chief Counsel will serve in an advisory capacity, providing legal advice and guidance.

13. DEFINITIONS.

a. Reporting Party. The Reporting Party is any individual reporting or alleging misconduct covered by this order, whether as the person against whom such conduct is directed or simply someone who becomes aware of such conduct, for example, as a manager or witness. Paragraph 15b(11) covers allegations reported by contractors or other non-FAA employees.

b. Respondent. The Respondent is an individual against whom an allegation is made.

c. Day. Day refers to "administrative workdays."

d. Center. Center refers to the Mike Monroney Aeronautical Center and the William J. Hughes Technical Center.

14. RESPONSIBILITIES.

a. Accountability Board. The Accountability Board members oversee the processing of all allegations described in paragraphs 8a, 8b, and 8c to ensure that agency officials are accountable for properly responding to such allegations. The Accountability Board ensures that such allegations are resolved in timely fashion, handled consistently throughout the agency, and appropriately resolved. The Office of the Accountability Board tracks and monitors all reported allegations or incidents covered by this order and their outcomes and seeks to identify trends in such allegations and the manner in which they are resolved. Based on analyses of data collected, the Accountability Board Director recommends policies and procedures to correct identified systemic problems in agency policies or practices. The Accountability Board will continually evaluate the effectiveness of the procedures of the Accountability Board (see paragraph 16). Individual Accountability Board members are responsible for ensuring the neutrality of Accountable Officials and resolving any conflicts that may arise, including designating an alternate to perform the functions of the Accountable Official when appropriate.

b. Accountability Board Director. The Accountability Board Director chairs the proceedings of the Accountability Board and provides the Administrator with a report of the Accountability Board's activities on a quarterly basis. The Accountability Board Director resolves any conflicts of interest involving members of the Accountability Board and makes decisions concerning issues of scope and timeliness raised during the processing of allegations. The Accountability Board Director may issue changes to this order that do not involve policy or assignment of responsibility (see paragraph 18). The Accountability Board Director (AHA-1) reports to the Assistant Administrator for Human Resources (AHR-1) but has direct access to the Administrator for matters related to the Accountability Board that warrant the Administrator's attention.

c. Accountability Board Coordinator. The Accountability Board Coordinator organizes the administrative activities of the Accountability Board. The coordinator tracks the progress of individual cases, schedules Accountability Board meetings, and dockets reported cases for review by the Accountability Board. The coordinator notifies affected personnel to ensure their attendance at Accountability Board meetings. The coordinator consults with Accountable Officials involved in the process. The Accountability Board Coordinator reports directly to the Accountability Board Director.

d. Accountability Board Investigations Program Manager. The Accountability Board Investigations Program Manager (ACS-3) is a senior investigator who coordinates and oversees all investigative functions related to Accountability Board cases referred for investigation. The investigations program manager is responsible for assigning the allegations to the Office of Civil Aviation Security Operations in the Washington headquarters or the appropriate regional or center Civil Aviation Security Division. The investigations program manager tracks the progress of on-going investigations and provides technical direction and oversight to ensure investigations are sufficient and that they are completed in a consistent and timely manner. The investigations program manager reports directly to the Associate Administrator for Civil Aviation Security.

e. Accountable Official. The Accountable Official is responsible for ensuring appropriate and timely processing of allegations within his or her organization in accordance with these procedures. The Accountable Official may designate subordinate manager(s) to interview the Reporting Party, advise the Respondent in accordance with paragraph 15c, and perform supervisory duties relative to any appropriate action required. Depending on the position of the Respondent, there may be instances in which the Accountable Official himself or herself must perform the supervisory duties relative to appropriate action.

(1) In Washington headquarters, the Accountable Official is one level below the Accountability Board member representing the organization employing the Respondent, except in the Air Traffic Services organization where the Accountable Official is at the Program Director level and the Regulation and Certification organization where the Accountable Official is at the office or service director level.

(2) In the regions, the Accountable Official is the Division or Directorate Manager for those organizations reporting directly to headquarters, or the Regional Counsel or Regional Administrator employing the Respondent. In the centers, the Accountable Official is the Division Manager, Center Counsel, or Center Director employing the Respondent.

(3) The responsibilities of an Accountable Official may not be delegated below the deputy level, but may be performed by a person "acting" in the position occupied by the Accountable Official.

f. Human Resource Point of Contact. The HR POC designated for Accountability Board matters advises supervisors and management officials on policies and procedures applicable to allegations covered by this order. In particular, the HR POC reviews the case file to ensure that the evidence of record is sufficient to support the disposition of the allegation or incident. Each office under the Assistant Administrator for Human Resource Management, each region, and each center will designate an HR POC for matters related to the Accountability Board. The HR POC will receive specialized training in these matters.

g. Investigator.

(1) Generally, the investigator is a Special Agent from the Office of Civil Aviation Security Operations. The investigator conducts a formal investigation to determine facts relevant to allegations of harassment or other misconduct of a discriminatory nature, sexual harassment, or misconduct of a sexual nature and, on completion, provides an ROI. Investigators will receive specialized training in these matters.

(2) In unique circumstances, or if a case is particularly sensitive, an investigator may be assigned from outside the agency, as determined by the Accountability Board Director and the Associate Administrator for Civil Aviation Security.

15. PROCEDURES.

a. Introduction.

(1) These procedures apply to all allegations or incidents of misconduct within the scope of this order, regardless of where they originate within the agency. In some cases, the Reporting Party may report allegations to a manager or supervisor. While employees are encouraged to report incidents of such misconduct to their managers or supervisors, this may not always be feasible. Accordingly, allegations may come to light through the Administrator's Hotline, the Office of Civil Rights, the Civil Aviation Security Division, the Human Resource Management Division, or an EEO counselor. Allegations that become known through these sources will be reported to the Accountability Board. (See paragraph 15b(3) for reporting procedures under the EEO process when anonymity has been requested during the informal phase.) The Office of Inspector General of the Department of Transportation may also refer allegations to the agency.

(2) All allegations or incidents of misconduct within the scope of this order that come to management's attention MUST be reported to the Accountability Board even if there is no specific complaint. For example, if a manager or supervisor finds pornographic material on a common use computer or an inappropriate poster on a workplace bulletin board that relates to misconduct within the scope of this order, the incident must be reported to the Accountability Board even though there is no individual who complained. Similarly, in cases in which the Reporting Party has said, "I am not complaining" or "I did not find the behavior personally offensive," the misconduct must be reported if it meets the definition set forth in paragraph 8.

(3) Allegations of misconduct within the scope of this order, regardless of where they originate, must be reported to the Accountability Board Coordinator within 2 work days of the date the allegation is first reported or the date the incident otherwise becomes known to management. Specific reporting requirements are set forth in paragraph 15b.

(4) Coordination with HR POC's is required in all phases of the Accountability Board process. "Coordination" means informing the HR POC as soon as possible after the alleged incident comes to light of sufficient facts of the incident to make an informed assessment of appropriate action to be taken and with sufficient timeliness to make meaningful input into the determination of appropriate courses of action throughout the process. For example, in interviewing a Reporting Party, coordination with the HR POC is required to ensure appropriate questions are asked and in notifying a Respondent to ensure that any unique circumstances are taken into account. Coordination with the HR POC is also required when reviewing the facts of the case and determining whether to take corrective or disciplinary action. In particular, the HR POC shall review the case file to ensure that the evidence of record is sufficient to support the disposition of the allegation or incident. In addition, coordination with the HR POC is required prior to providing feedback to a Respondent or Reporting Party. Finally, the Accountable Official must also ensure coordination with the HR POC on decisions in cases in which the actions are subsequently appealed, grieved or settled.

(5) Appendix 2, Accountability Board Procedures, provides a flow chart of the Accountability Board process.

b. Phase I -- Report of Allegation(s).

(1) Whenever management becomes aware of misconduct within the scope of this order, the Accountable Official must report the allegation to the Accountability Board Coordinator within 2 workdays of the date the allegation is first made. When an allegation is reported to a supervisor or manager, or he or she otherwise becomes aware of an incident of misconduct within the scope of this order, that manager or supervisor must immediately notify the appropriate Accountable Official to ensure

the 2-day time requirement is met. When reporting to the Accountability Board Coordinator, the Accountable Official shall provide as much pertinent information as is known at that time, without taking time for additional inquiry. The identities of the Respondent and the Reporting Party, if known, and their employing organizations should be provided. However, it is important that all incidents within the scope of this order be reported to the Accountability Board as soon as possible, even in instances in which there is no Reporting Party or Respondent and even if the identities of the persons involved are not known. It is not necessary for the manager or supervisor to attempt to determine whether or not the allegation is true before reporting to the Accountable Official. This is done during the inquiry or investigation. Generally, reporting is done by telephone.

(2) When a manager or supervisor receives an allegation from a Reporting Party who is employed in a different organization (e.g., other lines of business or staff offices that report to a different Accountable Official) than the Respondent, the allegation must be reported to the Accountability Board Coordinator within 2 workdays of the date the allegation is first made. The Accountability Board Coordinator will notify the appropriate Accountable Official employing the Respondent. That manager or supervisor is also encouraged to notify the Accountable Official employing the Respondent, if known.

(3) When an allegation or complaint of misconduct within the scope of this order is made to an EEO counselor, the EEO Counselor or the Civil Rights Staff is responsible for reporting the allegation to the Accountability Board Coordinator within 2 workdays. If anonymity is requested by the aggrieved party during the informal counseling period, the facts of the allegation(s) will be referred to the Accountability Board in a manner that does not reveal the Reporting Party's identity.

(4) If an allegation brought to the Accountability Board's attention by means of an EEO Counselor is specific enough to allow management action, the Accountability Board Coordinator shall notify the Accountable Official. If an allegation(s) received from an anonymous or confidential source is too vague to support continued inquiry, the Accountability Board Coordinator will document the allegation and report it to the Accountable Official, but the Accountability Board will not continue oversight functions with regard to disposition of the allegation. The agency will not initiate an investigation for vague or undefined allegations. In addition, the agency's ability to investigate and take appropriate action may be limited when allegations are anonymous and/or confidential.

(5) Reporting the allegation to the Accountability Board in no way impacts the processing of an EEO complaint concerning the same matter. As noted earlier, the procedures in this order are separate from the discrimination complaint process. The Accountability Board process does not extend or limit the timeframes in the EEO or negotiated grievance processes. Allegations pursued through the EEO process will be handled in accordance with the provisions of 29 Code of Federal Regulations, Part 1614, Federal Sector Equal Employment Opportunity.

(6) When an allegation of misconduct within the scope of this order is reported to the Administrator's Hotline, the Hotline Program Coordinator will refer the allegation to the appropriate organization in accordance with normal Hotline procedures. The Hotline Coordinator will also report the allegation to the Accountability Board Coordinator within 2 workdays. This includes allegations from all sources, whether anonymous, confidential, or known. The responding organization will coordinate the Hotline response with the Accountability Board Director prior to sending to the Hotline caller. When any person requests confidentiality from the Hotline, the allegation will be referred to the Accountability Board in a sanitized manner that will protect the identity of that person. If an allegation(s) received from an anonymous or confidential source is too vague to support continued inquiry, the Accountability Board Coordinator will document the allegation and report it to the Accountable Official, but the Accountability Board will not continue oversight functions with regard to disposition of the allegation. The agency will not initiate an investigation for vague or undefined allegations.

(7) Allegations reported to other sources (e.g., the Security Division or Human Resource Management Division) must be reported to the Accountability Board Coordinator within 2 workdays.

(8) In those cases reported to the Accountability Board Coordinator by sources other than the Accountable Official, the Coordinator will ensure that the Accountable Official is notified of the allegation.

(9) Upon receipt of an allegation or incident determined to be within the scope of this order, the Accountability Board Coordinator shall ensure the allegation and all pertinent facts are brought to the Accountability Board's attention.

(10) It is reiterated that the objective of the Accountability Board is to provide oversight in ensuring that FAA managers and supervisors respond appropriately to allegations. Reporting an incident to the Accountability Board should in no way interfere with other appropriate courses of action. For example, where there appears to be criminal behavior or a threat of violence that requires notification to security, local law enforcement, or a Threat Assessment Team, such coordination must take place immediately.

(11) Allegations Involving Non-FAA Personnel.

(a) Whenever management becomes aware of alleged misconduct within the scope of this order that involves a contractor (either as the Reporting Party or the Respondent), the management official within that organization must report the allegation to the Accountability Board Coordinator within 2 workdays. If the Respondent is an FAA employee, the Accountability Board Coordinator will notify the appropriate Accountable Official, and the procedures set forth in this section shall apply. If the Respondent is a contractor, the Accountability Board Coordinator will notify the appropriate contracting officer, who shall, in turn, notify the contractor in writing of the allegation. The Accountability Board will monitor and track these allegations to ensure timely and appropriate action.

(b) Whenever management becomes aware of alleged misconduct within the scope of this order that involves an employee from an outside entity (e.g. airline, foreign government, another federal agency) either as the Reporting Party or the Respondent, the management official receiving the allegation shall report it to the Accountable Official, who will, in turn, ensure the allegation is reported to the Accountability Board Coordinator within 2 workdays. If the Respondent is an FAA employee, the Accountability Board Coordinator will notify the appropriate Accountable Official, and the procedures set forth in this section shall apply. If the Respondent is not an FAA employee, the Director, or his/her designee, will refer the allegation to the appropriate agency/entity for a response. The Accountability Board will monitor these allegations to help ensure timely and appropriate action.

c. Phase II – Initial Interview and Notifying the Respondent. After reporting the allegation to the Accountability Board, or receiving the allegation from the Accountability Board Coordinator, the Accountable Official has several responsibilities that must be accomplished virtually simultaneously or in rapid sequence.

(1) Initial Interview. The Accountable Official shall ensure coordination with the HR POC in determining the appropriate person in his or her organization to conduct the initial interview of the Reporting Party. Normally, this will be a manager or supervisor in the Reporting Party's organization who has not been personally involved in any way in the alleged misconduct. Under unusual circumstances, such as a case of particular sensitivity, or a Reporting Party who requires special assistance, the Accountable Official may determine that someone from outside the Reporting Party's organization should conduct the interview.

(a) The purpose of the initial interview is to determine, to the extent possible, the nature of the conduct leading to the allegation and to identify the parties involved.

(b) The person designated to conduct the interview shall coordinate with the HR POC for guidance as to how to conduct the interview. Responding to the person designated to conduct the initial interview shall be a priority for the HR POC and shall be accomplished within 1 workday of contact. Appendix 3, Checklist for Conducting Initial Interview, provides examples of questions to ask during the initial interview.

(c) The person conducting the initial interview shall request that the Reporting Party provide a written statement that describes in his or her own words as many details of the alleged behavior/incident as possible. Whenever possible, this statement should be obtained at the time the initial interview is conducted. If that is not possible, the individual conducting the interview should ask the Reporting Party to submit a statement not later than the following day.

(d) The individual designated to conduct the initial interview shall advise the Reporting Party that management will conduct an inquiry and/or investigate any allegation of misconduct within the scope of this order. The Reporting Party should also be informed that anonymity is not guaranteed.

(See paragraph 15b(3) for reporting procedures under the EEO process when anonymity has been requested during the informal phase.) All information related to matters alleged will be handled with due regard for the emotional context in which such cases arise. In addition, information concerning such allegations may be disseminated only as permitted by applicable law and regulation, such as the Privacy Act, 5 U.S.C. § 552a.

(e) Reporting Parties shall also be advised in writing of available avenues of redress, as appropriate (e.g., EEO complaint or grievance processes). Appendix 1, Employee Notification of the Relationship between the Accountability Board Process and the EEO and Grievance Processes, is the standard notification that will be given to parties during the initial interview. In addition, such parties shall be informed that contact with a management official or the Accountability Board does not extend or otherwise affect any statutory or regulatory timeframes for pursuing such avenues.

(2) Notifying the Respondent. The Accountable Official shall ensure that the Respondent is advised of the nature of the allegation against him or her and that at an appropriate time he or she will be given an opportunity to respond to the allegation(s). The HR POC shall provide guidance as to how meetings with the Respondent should be conducted and what information can be disclosed to the Respondent. In any case in which criminal conduct is alleged, the HR POC and the Office of Civil Aviation Security Operations must be informed of the allegation before notifying the Respondent.

(a) It is essential that managers and supervisors maintain neutrality in all contacts with Respondents before a decision is made as to what action, if any, needs to be taken. Supervisors must avoid making statements that imply judgment or culpability or that an assessment of the merits of the allegation(s) has been made. No determination may be made about an employee's conduct until the conclusion of the appropriate inquiry or investigation.

(b) The management official designated by the Accountable Official to notify the Respondent shall counsel him or her on appropriate policy and behavior, without reference to the merits of the allegations. It is generally advisable to direct the Respondent to limit contact, to the maximum extent possible, with the Reporting Party, pending resolution of the allegation. Depending on the nature of the allegation, it may be necessary to direct the Respondent to avoid all contact with the Reporting Party.

(c) Notification to the Respondent is intended solely to advise the Respondent that an allegation has been made against him or her. Managers and supervisors of Respondents must be careful not to allow the notification to become investigatory in nature by either asking questions or allowing the Respondent to provide details in his or her defense at that time. If at any time during the notification of an employee who is a member of a bargaining unit the employee starts to respond to the allegation, the manager must ensure that the employee is accorded the opportunity to obtain union representation.

(d) Appendix 4, Checklist for Notifying the Respondent, provides specific information to be provided to the Respondent during this session. In addition, to ensure the Respondent understands his or her rights and responsibilities in this regard, Appendix 5, Notice to Respondent, shall be given to him or her and signed by the Respondent to acknowledge receipt.

d. Phase III -- Managerial Options: Internal Inquiry or Referral for Security Investigation.

(1) Based on the preliminary assessment of the seriousness or sensitivity of the allegation, the complexity of the case and the likelihood of determining the relevant facts in a short period of time, the Accountable Official may either:

(a) Address the matter by conducting an internal inquiry without requesting a formal investigation; or

(b) Refer the matter to the Accountability Board Coordinator and request a formal security investigation.

e. Phase IIIa -- Internal Inquiry.

(1) If the Accountable Official determines that a formal investigation is not necessary, he or she has 15 workdays from the date the allegation was first reported in which to address the allegation (i.e., determine the facts and decide what, if any, action is appropriate, and where action is appropriate, initiate that action). In most cases, such action will be accomplished by the subordinate supervisor who normally would have responsibility for dealing with any issue of misconduct pertaining to the Respondent.

(2) If within 15 workdays of the date the allegation was first reported, or the date the incident otherwise became known to management, it is determined that the facts of the case are sufficiently known to make a determination as to the appropriate course of action (including a determination that no further action is needed), the management official may initiate action, after coordination with the HR POC. The Accountable Official shall notify the Accountability Board Coordinator AFTER the action has been initiated, with the following exceptions:

(a) If a case is particularly sensitive, the Accountability Board, in its discretion, may direct that the Accountable Official advise the Accountability Board of the proposed action PRIOR to initiating that action. In these instances, the Accountable Official will be notified of the Accountability Board's intent to review the proposed action as soon as possible, but not later than 5 workdays of the report of the allegation to the Accountability Board; or

(b) If the Accountable Official and the responsible HR organization do not agree as to what action is appropriate, the Accountability Board shall be consulted PRIOR to initiating any action. Even in this instance, the Accountable Official's organization, after consultation with the Accountability Board, will be responsible for determining the appropriate disposition.

(3) If the Accountable Official and the HR POC agree on the proposed action, the Accountable Official or his or her designee may initiate such action and report that action to the Accountability Board, stating the allegation and the facts relevant to a determination of the appropriateness of the action taken, if any. The Accountability Board will review such actions to ensure consistency with agency policy and practice in similar cases FAA-wide.

(4) In cases in which a notice of proposed disciplinary action is issued before a final decision is made (e.g., proposed suspensions, reductions-in-grade, or removals), the Accountability Board shall also be notified by the Accountable Official of the final decision within 2 workdays of that decision. Similarly, in cases where an action is subsequently appealed, grieved, or settled, the Accountability Board shall be notified by the Accountable Official of the final disposition of the appeal, grievance, or settlement, including any modification to the initial action taken. It is reiterated that coordination with the HR POC is required regarding all phases of disciplinary action, including appeals, settlements, and decisions concerning grievances.

(5) During the internal inquiry, if the Accountable Official determines the case is more complex or sensitive than it originally appeared to be, he or she shall notify the Accountability Board Coordinator and request that the matter be considered for a formal investigation by the Office of the Associate Administrator for Civil Aviation Security. The Accountable Official must do this as soon as possible but not later than the 15-day period intended for internal resolution.

(6) The HR POC shall maintain case files in accordance with procedures for other conduct and discipline matters and preserve notes and reports of pertinent facts and decisions relating to each case, as appropriate.

f. Phase IIIb -- Referral for Formal Security Investigation.

(1) If the Accountable Official believes the allegation warrants formal investigation, he or she will notify the Accountability Board Coordinator as soon as possible but not later than 15 workdays from the date the allegation is first reported or the date the incident otherwise becomes known to management.

(2) The Accountability Board Coordinator will refer requests for investigations to the Accountability Board Investigations Program Manager (ACS-3), who will assign the allegation to the Office of Civil Aviation Security Operations or appropriate regional or center Civil Aviation Security Division within 2 workdays. ACS-3 will notify the Accountability Board Coordinator as to who will conduct the investigation, and the Coordinator will, in turn, advise the Accountable Official of the name of the investigator(s). If a disagreement arises over whether a formal investigation is warranted, the matter will be referred to ACS-1 to be resolved in coordination with the Accountability Board Director and the Board member representing the organization requesting the investigation.

(3) In unique circumstances, or if a case is particularly sensitive, the Accountable Official may request that an investigator be assigned from outside the region or agency, as determined by the Accountability Board Director in consultation with the Associate Administrator for Civil Aviation Security.

(4) Generally, the security investigator shall complete the investigation and provide a copy of the ROI to the Accountable Official, the HR POC, and ACS-3 within 30 days of referral for investigation. After reviewing a copy of the completed ROI to ensure the allegations were fully investigated, ACS-3 shall provide the ROI to the Accountability Board Coordinator. ACS-3 will notify the Accountability Board Director of requests for extensions of time to complete an investigation, along with sufficient justification. The Accountability Board Director will grant extensions. ACS-3 will notify the Accountability Board Director when allegations involve criminal conduct and when other Federal or local law enforcement agencies have assumed jurisdiction, in which case the 30-day timeframe may not apply. The ROI shall provide findings of fact, but not conclusions or recommendations.

(5) The Accountable Official will designate the appropriate management official within his or her organization to determine appropriate disposition of the case. The HR POC shall provide assistance to the Accountable Official and designated manager or supervisor in determining appropriate action and preparing any correspondence related to that action. The Accountable Official will notify the Accountability Board Coordinator of the action AFTER initiating that action, with the following exceptions:

(a) If a case is particularly sensitive, the Accountability Board, in its discretion, may direct that the Accountable Official advise the Accountability Board BEFORE initiating any action. The Accountable Official will be notified of the Accountability Board's intent to review the proposed action not later than 5 workdays of the report of the allegation to the Accountability Board; or

(b) If the Accountable Official and the responsible HR organization do not agree as to what action is appropriate, the Accountability Board shall be consulted BEFORE initiating any action. Even in this instance, the Accountable Official's organization, after consultation with the Accountability Board, will be responsible for determining the appropriate disposition.

(6) Preparation of any action shall be a priority for the designated management official and the HR POC, and related correspondence shall be issued not later than 10 workdays from receipt of the ROI. The Accountability Board will review such actions to ensure consistency with agency policy and practice in similar cases FAA-wide.

(7) In cases where a notice of proposed disciplinary action is issued before a final decision is made (e.g., proposed suspensions, reductions-in-grade, or removals), the Board shall also be notified by the Accountable Official of the final decision within 2 workdays of that decision. Similarly, in cases

where an action is subsequently appealed, grieved, or settled, the Accountability Board shall be notified by the Accountable Official of the final disposition of that appeal, grievance, or settlement, including any modification to the initial action taken. Again, such actions must be coordinated with the appropriate HR POC.

(8) ROI's will be maintained in the appropriate Civil Aviation Security Division.

g. Phase V--Providing Feedback.

(1) The importance of feedback to both Reporting Parties and Respondents throughout the course of the Accountability Board process cannot be overemphasized. Both parties should be provided information at the beginning of the process as to what they can expect as participants in the process. Both parties should receive periodic feedback regarding the status of the allegation/incident throughout the process and especially at the conclusion. Accountable Officials must ensure that feedback is provided and that designated management officials are equipped to fulfill their responsibilities in this regard.

(2) The appropriate management official in the Reporting Party's organization shall inform that party of the status of the allegation throughout the process, consistent with the requirements of the Privacy Act and other pertinent laws, regulations, and negotiated agreements. Substantive information concerning the facts developed, merits of the allegation, or disposition generally cannot be given to the Reporting Party.

(3) Similarly, the appropriate management official shall ensure that the Respondent is informed of the status of the allegation throughout the process, consistent with the requirements of the Privacy Act and other pertinent laws, regulations, and negotiated agreements. Feedback should be provided as timely as possible.

(4) To ensure appropriate information is provided, the management official involved shall coordinate with the HR POC prior to providing any feedback to the Reporting Party or the Respondent.

(5) In cases involving more than one organization (e.g., the Reporting Party is in one organization and the Respondent in another), particular attention must be given to ensuring that management officials involved communicate throughout the process. For example, coordination as to the appropriate method of inquiry and the status of the disposition is critical to ensure that appropriate and timely feedback is provided to the Reporting Party and the Respondent. Accordingly, Accountable Officials are responsible for ensuring timely and appropriate communication across organizational lines, as necessary.

16. EVALUATION. The Accountability Board will evaluate these procedures and their effectiveness within 18 months of the effective date of this order, as well as track and monitor all allegations and their outcomes. The Accountability Board will analyze trends in allegations and the manner in which they are

resolved to identify areas within the agency that need attention. Based on its analysis of pertinent data, the Accountability Board will recommend policies and procedures to correct identified systemic problems in agency policies and practices. Appropriate modification to these procedures will be made as necessary to enhance their efficiency and usefulness to the agency.

17. TRAINING AND AWARENESS. Continuing training for managers and supervisors and awareness by employees in issues and procedures related to the Accountability Board are essential to its success. Particular attention must be given to new employees, managers, and supervisors.

a. Managers and supervisors are responsible for ensuring that all employees in their organizations are briefed on the functions of the Accountability Board and how the process works. In addition, the Office of the Assistant Administrator for Human Resource Management and regional and center Human Resource Management Divisions are responsible for providing a copy of the Accountability Board brochure to all new employees with employee information and orientation materials.

b. All organizations are responsible for ensuring that a copy of this order is made available to all managers and supervisors and that they are trained in Accountability Board matters commensurate with their responsibilities.

c. Managers and supervisors shall be briefed by their organizations on an annual basis as to their roles and responsibilities in the Accountability Board process. In addition, all organizations are responsible for disseminating information on the activities and status of the Accountability Board, as provided for in quarterly reports issued by the Director. Managers and supervisors are, in turn, responsible for ensuring the information is provided to their employees.

18. AUTHORITY TO ISSUE CHANGES TO THIS ORDER. The Administrator reserves the authority to issue changes to this order that involve policy and assignment of responsibilities. The Accountability Board Director may issue changes to this order that do not involve policy or assignment of responsibility.

Jane F. Garvey
Administrator

APPENDIX 1. EMPLOYEE NOTIFICATION OF THE RELATIONSHIP OF THE ACCOUNTABILITY BOARD PROCESS TO THE EEO AND GRIEVANCE PROCESSES

1. The Accountability Board exercises senior management oversight concerning:

a. All allegations or incidents of verbal, written, graphic, or physical harassment and other misconduct that create an intimidating, hostile, or offensive work environment based on race, color, religion, gender, sexual orientation, national origin, age, or disability;

b. All allegations of sexual harassment and other misconduct of a sexual nature; and

c. Allegations of reprisal for reporting or for cooperating in an official inquiry or investigation of allegations covered under the scope of the Accountability Board.

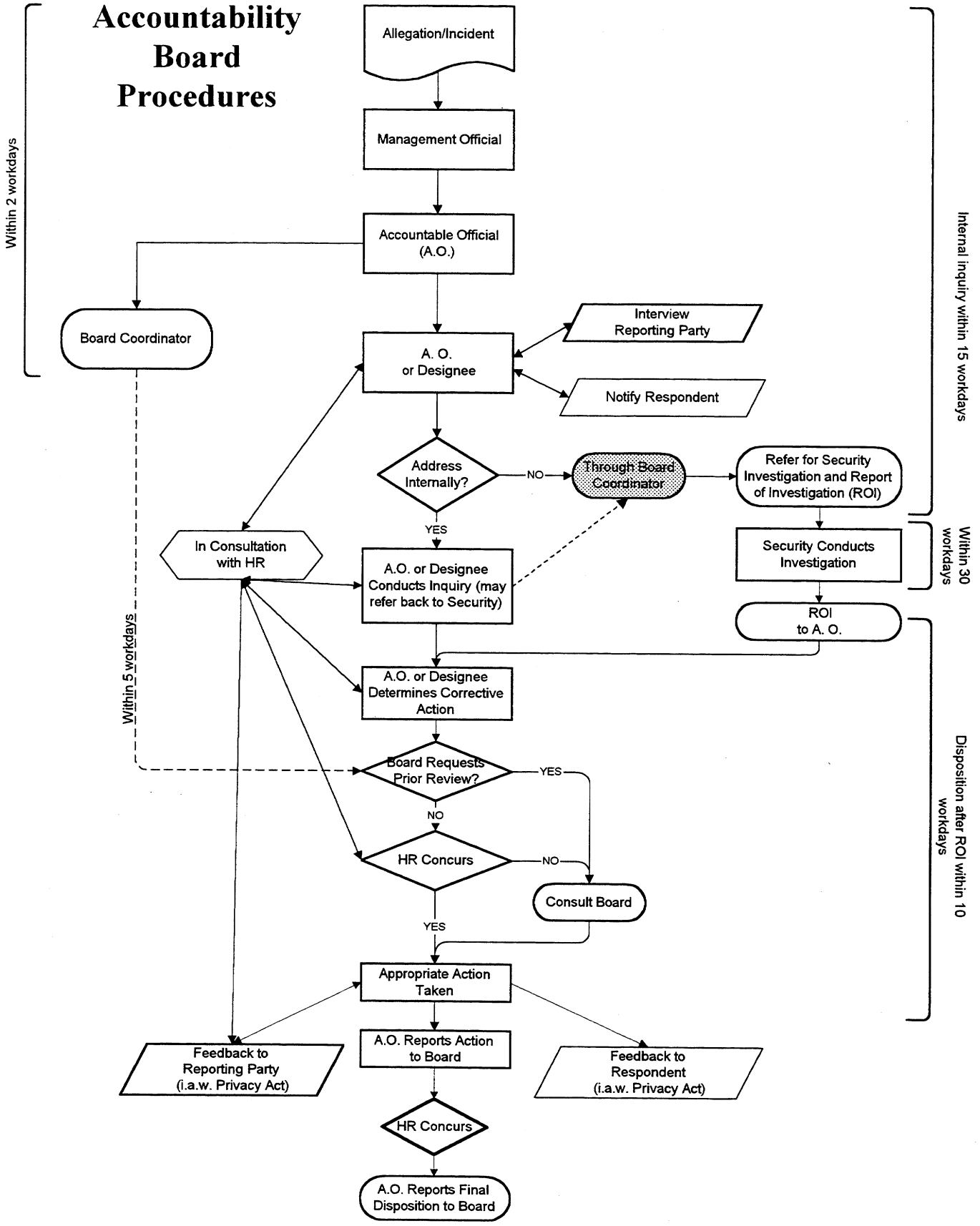
The objectives of the Board are to ensure that such allegations are dealt with in a timely, consistent, and appropriate manner throughout the agency.

2. The Equal Employment Opportunity (EEO) discrimination complaints process and the grievance process (if such processes do not exclude matters of harassment and other discrimination from its coverage) are among the avenues available to employees who wish to seek individual relief.

3. The Board process does not change any statutory, regulatory, or internal agency procedures available for employees to seek relief. For example, an employee may file an EEO complaint or a grievance at the same time management is addressing the issue in accordance with the procedures set forth in this order.

4. The Board process does not extend or limit the timeframes for filing or processing a complaint or grievance. It is important to understand that both the grievance and EEO processes have specific timeframes for reporting allegations, which must be carefully adhered to in order for a complaint or a grievance to be considered timely filed.

APPENDIX 2.


Accountability Board Procedures
Allegation/Incident
Management Official
Accountable Official (A.O.)
Board Coordinator
Interview Reporting Party
A. O. or Designee
Notify Respondent
Address Internally?
NO
Through Board Coordinator
Refer for Security Investigation and Report of Investigation (ROI)
YES
In Consultation with HR
A.O. or Designee Conducts Inquiry (may refer back to Security)
Security Conducts Investigation
ROI to A. O.
A.O. or Designee Determines Corrective Action
Board Requests Prior Review?
YES
NO
HR Concurs
NO
Consult Board
YES
Appropriate Action Taken
Feedback to Reporting Party (i.a.w. Privacy Act)
A.O. Reports Action to Board
Feedback to Respondent (i.a.w. Privacy Act)
HR Concurs
A.O. Reports Final Disposition to Board
Within 2 workdays
Within 5 workdays
Internal inquiry within 15 workdays
Within 30 workdays
Disposition after ROI within 10 workdays

APPENDIX 3. CHECKLIST FOR CONDUCTING INITIAL INTERVIEW

The initial interview of the Reporting Party is critical to the successful implementation of these procedures. Prior to meeting with the Reporting Party, the designated management official shall solicit advice and guidance from the Human Resource Point of Contact designated for Accountability Board matters. The purpose of the initial interview is to determine, to the extent possible, the nature of the alleged misconduct leading to the allegation(s) and to identify the parties involved.

When interviewing, allow the Reporting Party to tell you in his or her own words what happened. To the extent possible, ask open-ended questions to facilitate getting as many facts as possible. The following are specific questions that should be asked during the initial interview. In addition, ask the Reporting Party to provide a statement in his or her own words that addresses as many of the following questions as appropriate.

_____1. What happened?

a. **Allegations or Incidents of Harassment or Misconduct Creating an Intimidating , Hostile Work, or Offensive Environment.**

____Identify the specific misconduct or incident that is alleged; whether it was based on race, color, religion, gender, sexual orientation, national origin, age, or disability.

____What has led you to believe the incident(s) was based on (i.e., race, color, gender, national origin, sexual orientation, age, religion, or disability).

b. **Allegations or Incidents of Sexual Harassment or Misconduct of Sexual Nature.**

____Identify the specific conduct that is alleged to constitute sexual harassment or misconduct of a sexual nature; the focus should be on that behavior which was allegedly sexual in nature.

____Was the conduct unwelcome?

____Did you make it known that it was unwelcome, and, if so, how was this communicated?

_____2. Was the alleged misconduct or incident verbal, written, graphic, physical, or visual?

_____3. Where did it happen (at the workplace, outside the workplace, etc.)?

_____4. Who was involved? Is the Respondent a coworker, supervisor, subordinate, contractor, etc.?

_____5. When did the alleged incident(s) happen (date, time, during work hours, at lunch, on travel, etc.)?

_____6. How long has the alleged misconduct been going on?

_____7. Were there any witnesses? If so, fully identify (full name, date, organization/position, and telephone number, if known.)

_____8. Has a similar incident(s) happened before? If so, obtain details of the alleged incident(s) and fully identify any witnesses (dates, times, and full witness names, organization/position, telephone number, if known.)

_____9. Was the incident previously reported to a manager or supervisor? If so, what action was taken?

_____10. Did you talk with anyone about what happened? If so, fully identify (full name, date, organization/position, and telephone number, if known.)

_____11. Do you know if similar incidents have happened to others? If so, obtain details and fully identify others/witnesses (dates, times, and full names/organization/positions/telephone number, if known.)

_____12. What, if anything, have you said to the individual(s) about the behavior? What was the response?

_____13. Do you have anything to add regarding this alleged incident?

APPENDIX 4. CHECKLIST FOR NOTIFYING THE RESPONDENT

1. GENERAL. It is essential that FAA supervisors/managers maintain neutrality in all contacts with the Respondent before a decision has been made on what, if any, action needs to be taken. This neutrality must be maintained when notifying the Respondent of the alleged misconduct. In giving the notification, it is critical that nothing be said that could be misconstrued as an oral admonishment or other form of discipline. It is important to emphasize that if a supervisor/manager is unable to ensure his/her neutrality regarding the allegation, he/she must notify the Accountable Official immediately and should have no further involvement.

2. WHEN NOTIFYING THE RESPONDENT, FAA SUPERVISORS/MANAGERS SHALL:

____a. Inform the Respondent of the allegation(s).

____b. Inform the Respondent the discussion concerning the allegation(s) is not disciplinary in nature.

____c. Avoid getting Respondent's input to the allegation—that will be done during the inquiry or investigation. If the Respondent insists, listen to the Respondent without agreeing or disagreeing with the input. If, however, the Respondent is a collective bargaining unit member and starts to respond to the allegation, you must end the session and ensure that the employee is accorded the opportunity to obtain a union representative, if he or she so desires.

____d. Inform the Respondent that before any determination regarding the validity of the allegation is made, he/she will have an opportunity to give his/her input.

____e. Avoid taking sides. Affirmatively state that you are completely neutral.

____f. Reiterate that no determination has been made, but the supervisor/manager is obligated to tell the respondent that **if** the alleged misconduct has occurred it must stop immediately.

____g. Inform the Respondent he/she will be notified how the allegation(s) will be investigated.

____h. Inform the Respondent he/she will be notified of the outcome of the inquiry/investigation.

____i. Provide the Respondent with the name and telephone number of the person he/she should contact if he/she has any questions about the processing of the allegation(s).

3. QUESTIONS. Any questions the designated management official has regarding these matters should be directed to the HR Point of Contact designated to provide assistance for Accountability Board matters.

APPENDIX 5. NOTICE TO RESPONDENT

I have been notified by the FAA supervisor/manager of the following:

1. An allegation of misconduct has been made against me, and the known specifics explained to me.

2. No determination of the validity of the allegation(s) has been made.

3. The allegation will be investigated, and I will have an opportunity to give a statement before any determination is made.

4. The FAA informed me that IF I have engaged in the alleged misconduct it must stop immediately.

5. I will be notified how the allegation(s) will be investigated.

6. I will be notified of the outcome of the inquiry/investigation.

7. Any questions I have about the process should be directed to the HR Point of Contact _____; telephone number _____.

_____

Date Respondent

_____

Date Supervisor/Manager