

USE OF FLIGHT PRIVILEGES BY FAA EMPLOYEES

- 1. POLICY.** This policy establishes procedures under which FAA employees may obtain permission to use flight privileges that they have because of their previous employment with an air carrier, or because of air carrier employment of a spouse or family member.

This policy allows FAA employees, other than Executives and Political Appointees, to use flight privileges derived from air carrier employment, absent extraordinary circumstances, as long as a determination has been made that the employee is disqualified from participating in particular matters involving the air carrier or that the employee's disqualification is not required.

Executives and Political Appointees may not use flight privileges derived from air carrier employment.

This policy does not preclude the spouse or other family members of an FAA employee, including an Executive or Political Appointees, from using flight privileges of the employee, absent extraordinary circumstances.

- 2. DEFINITION.** For purposes of this policy, "flight privileges" refer to any arrangement that an air carrier offers to its employees or retirees, or to their families, allowing them to travel on a space-available or reserved-space basis on such carrier or its affiliates on terms not generally available to the public. Flight privileges include, but are not limited to, flight passes and other items treated as fringe benefits under Section 132 of the Internal Revenue Code. (26 U.S.C. Section 132(a), (j))

- 3. BACKGROUND.** Certain FAA employees have retiree flight privileges earned through former employment with air carriers. Typically these privileges extend to the immediate family of the employees as well. Other FAA employees have the use of flight privileges because of their spouses' former or current air carrier employment. For employees whose official duties could affect an air carrier on which they may enjoy flight privileges, the privileges may create a real or apparent conflict of interest in the performance of those duties.

Out of concern over potential conflicts of interest, the agency over the years has generally prohibited employees from taking advantage of flight privileges. However, enforcement of the prohibition has not been uniform and, on occasion, has been applied in circumstances that ordinarily do not

pose a conflict, e.g., use of flight privileges by an employee whose duties and responsibilities do not affect the air carrier granting the privileges.

4. PROCEDURES.

a. In General

The agency will adopt the procedures outlined in the regulations of the Office of Government Ethics (Title 5 CFR Section 2635.502) for making case-by-case conflict determinations. Under this process, a specific conflict determination will be made with respect to each employee who wishes to use flight privileges under the terms of this policy.

b. Required Notice to the FAA

Any employee who, for his or her own travel, or that of his or her family members, wishes to use flight privileges under the terms of this policy must first provide written notice to his or her immediate supervisor and local ethics officer. The notice should identify the air carrier involved and describe the terms of the flight privileges that have been extended to the employee or his or her family.

c. Disqualification Required Determination

Any employee who, for his or her own travel, or that of his or her family members, wishes to use flight privileges under the terms of this policy must first obtain a determination from his or her ethics officer as to whether exercising the flight privileges would create a real or apparent conflict so as to require the employee's disqualification from matters that involve the air carrier responsible for granting the flight privileges.

d. Discretionary Waiver of Disqualification

If in the opinion of the ethics officer, an employee's participation in a particular matter will not result in an actual conflict of interest under Title 18 USC 208, and the FAA has a significant interest in or need for that employee's participation in the matter, then the agency may grant a waiver to the employee under Title 5 CFR Section 2635.502(d) with respect to that particular matter. If a waiver is issued, the employee

may be directed to refrain from using flight privileges during the period of the waiver.

In certain cases, disqualification of the employee from one or a series of matters may not be an acceptable option to the agency. The employee's expertise and the agency's needs may require the employee to be available to work on certain matters.

e. Extraordinary Circumstances

In the event of extraordinary circumstances, such as the impending bankruptcy of an air carrier, disqualification of an employee having flight privileges with the air carrier may be required because of a resulting conflict of interest or the appearance of one. In such a case, the employee may be directed to refrain from using, or allowing his or her spouse and any other family member use of, flight privileges with the air carrier during the period of the disqualification.