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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW J. BRIGIDA,

*Plaintiff,*

v.

ELAINE L. CHAO, Secretary,  
U.S. Department of Transportation,

*Defendant.*

Civil Action No. 16-2227 (DLF)

**MOTION FOR LEAVE TO FILE FOURTH AMENDED  
AND SUPPLEMENTAL CLASS ACTION COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiff Andrew J. Brigida, by and through his undersigned attorneys, hereby respectfully file this Motion for Leave to file his Fourth Amended and Supplemental Class Action Complaint. Through the amendment Plaintiffs<sup>1</sup> seek leave to define the putative class more precisely, allege additional facts about the Collegiate

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<sup>1</sup> "Plaintiffs" used herein refers to the entire putative Class.

Training Initiative and the Federal Aviation Administration (“FAA”)’s related practices, clarify the nature of relief requested, clarify parties to the suit, and make other modifications to the Complaint. *See* ECF No. 68.

Amendment is appropriate at this relatively early stage of this case because discovery has not yet commenced, prior amendments were necessitated by Defendant’s procedural filings and/or Congressional action and not by deficient pleadings, this amendment is Plaintiffs’ first substantive revision to the definition of the proposed class, no prejudice will arise from the amendment, and the amendment is not made as a dilatory tactic, in bad faith or for any other inappropriate reason. In such circumstances, Plaintiffs’ amendment of their Complaint is proper and Plaintiffs should be afforded the opportunity to test the merits of their claims as amended.

Pursuant to Local Civil Rule 15.1, Plaintiffs have attached the proposed Complaint as amended. Pursuant to Local Civil Rule 7(m), Plaintiffs have conferred with Defendant. Defendant does not presently take a position on this motion to amend but will do so after a reasonable opportunity to review the pleadings.

### **BACKGROUND**

Plaintiff Andrew Brigida timely filed his statutorily-required EEO complaint on April 12, 2014, two months after the Federal Aviation Administration (FAA) finalized the challenged race-based employment decision. ECF No.78-2. Plaintiff Brigida then filed his initial Complaint in U.S District Court for the District of Arizona on December 30, 2015, asserting that the FAA’s racially discriminatory employment actions violated Title VII of the Civil Rights Act of 1964 and the Equal Protection Component of the Due Process Clause of the Fifth Amendment. ECF No. 1.

After stipulating to Defendants’ request to extend the time for filing a responsive pleading and after conferral with Defendants’ counsel, Plaintiff Brigida filed a First Amended Class Action Complaint for Declaratory and Injunctive Relief and Damages on April 18, 2016. ECF No. 18. The

First Amended Complaint added factual allegations, clarified Plaintiff's choice of venue, and added the Equal Employment Opportunity Commission ("EEOC") and Jenny R. Yang, in her official capacity as Chair of the EEOC, as Defendants. ECF No. 17. Plaintiff Brigida then again stipulated to Defendants' request to extend the deadline to respond to the First Amended Complaint, setting a response date of June 10, 2016. ECF No. 19.

On June 3, 2016, the parties jointly agreed to stay the proceedings while Congress considered whether and how to correct the FAA's new, ill-conceived hiring process. ECF No. 21. Partially out of concern for public safety, Congress eventually enacted legislation that specifically dismantled the racially discriminatory hiring practices of the FAA and reinstated the CTI program, among other things. *Id.* ¶¶4-6. With the Defendants' agreement (ECF No. 23 ¶5), the Court ordered Plaintiff Brigida to amend his Complaint to account for these legislative changes. ECF Nos. 24, 25. On August 19, 2016, Plaintiff Brigida filed his Second Amended and Supplemental Class Action Complaint for Declaratory and Injunctive Relief and Damages. ECF No. 26. Defendants then filed their first response to any of the complaints in this case, filing a partial Motion to Dismiss and transfer venue on September 16, 2016. ECF No. 27. The U.S. District Court in Arizona granted this motion on November 7, 2016, dismissing Plaintiff Brigida's Equal Protection Claim, dismissing claims against certain Defendants, striking Plaintiff Brigida's claim for the equitable relief of a reinstated hiring preference and transferring venue to the U.S. District Court for the District of Columbia. ECF No. 33.

Within a month, Plaintiff Brigida filed a Motion for Reconsideration, asking this Court to reinstate his request for the injunctive relief. ECF No. 39. On May 31, 2018, this Court granted Plaintiff Brigida's Motion for Reconsideration, reinstating Plaintiff Brigida's request for equitable relief under Title VII, and ordering Defendant to answer Plaintiff Brigida's Second Amended and Supplemental Complaint by June 21, 2018. ECF No. 50 at 11.

The parties then engaged in exploratory settlement discussions, first filing a joint motion to extend deadlines, then filing a joint motion to temporarily stay the matter to facilitate the settlement discussions. ECF No. 51; ECF No. 55. Once the preliminary settlement discussions failed, Defendant filed her Answer on August 9, 2018. ECF No. 56.

Pursuant to an Order, the parties conferred then filed a Joint Meet and Confer Report by August 31, 2018. ECF 57. In the Report Plaintiff Brigida indicated his intention to amend the Complaint to add proposed class representatives. *Id.* at 1. On September 7, 2018, Plaintiff Brigida, now joined by proposed class representatives Rebich, Wang and Mathew-Douglas filed the Third Amended and Supplemental Complaint. ECF No. 61. Defendant filed her Answer on September 27, 2018. ECF No. 63. After denying Plaintiffs' Motion for Pre-Certification Discovery and striking the Third Amended Complaint and associated answer, the Court ordered Plaintiffs to file a motion for leave to file an amended Complaint. ECF No. 66. These procedural issues were sorted out in a motion and renewed submittal of the Third Amended Complaint on October 23, 2018. ECF Nos. 67, 68. Defendant refiled her answer on November 5, 2018. ECF No. 70.

Plaintiffs filed their Motion for Class Certification on November 12, 2018. ECF No. 73. Briefing on the motion for class certification was completed in mid-February 2019, and a hearing on the class certification motion was held on September 13, 2019. The Court expressed concerns regarding the proposed class definition and denied class certification without prejudice. The Court authorized Plaintiffs to file a motion to amend their Complaint by October 31, 2019. This motion to amend follows.

### **ARGUMENT**

Plaintiffs have diligently prosecuted this case, responding to Congressional action, procedural motions, and settlement overtures. In light of the evolving procedural status, the pre-discovery setting, and the complex factual allegations at issue, Plaintiffs should be granted leave to

file their Fourth Amended and Supplemental Class Action Complaint. “Rule 15 makes clear that when the court's leave is sought, that leave should be ‘freely give[n] ... when justice so requires.’” *United States ex rel. Scott v. Pac. Architects & Engineers, Inc.*, 327 F.R.D. 17, 19 (D.D.C. 2018) (quoting Fed. R. Civ. P. 15(a)(2)). Leave to amend “should be freely given unless there is a good reason ... to the contrary,” and denial of leave to amend constitutes an abuse of discretion “unless there is sufficient reason.” *Id.* (citing *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 1003 (D.C. Cir. 1996); *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996)). As such, the standard for amendment under Rule 15 “is to be construed liberally.” *Connecticut v. U.S. Dep’t of the Interior*, 363 F. Supp. 3d 45, 54 (D.D.C. 2019).<sup>2</sup>

The U.S. Supreme Court explained that an illiberal reading of Rule 15 would be “inconsistent with the spirit of the Federal Rules” because “[i]f the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits.” *Foman v. Davis*, 371 U.S. 178, 181-82 (1962). Consequently, Rule 15’s requirement that leave to amend be freely given “is to be heeded.” *Id.* at 182; *see also Howard v. Fed. Express Corp.*, 280 F. Supp. 3d 26, 29 (D.D.C. 2017). To that end, *Foman* articulated a number of factors to consider in the handful of situations where leave to amend should be denied. These include “futility of amendment, undue delay, bad faith, dilatory motive, undue prejudice, or repeated failure to cure deficiencies by previous amendments.” *Vasquez v. Whole Foods Mkt., Inc.*, 302 F. Supp. 3d 36, 68 (D.D.C. 2018) (citing *Boyd v. District of Columbia*, 465 F.Supp.2d 1, 3 (D.D.C. 2006)). As explained in greater detail below, leave to amend should be granted because none of these factors are present here.

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<sup>2</sup> An example of the liberality of this rule is that amendments under Rule 15(a)(2) may be made at any stage of the litigation. *See* 6 Fed. Prac. & Proc. Civ. § 1484 (3d ed.).

To begin with, amendment would not be futile. In granting the Plaintiffs' Motion to Reconsider, the Court held that equitable relief indeed may be available to Plaintiff Brigida and others despite the passage of legislative reforms affecting the selection of air traffic controllers in 2016. ECF No. 50 at 9-10; *see also In re Interbank Funding Corp. Sec. Litig.*, 629 F.3d 213, 215 (D.C. Cir. 2010) (analogizing amendment under Rule 15 to a Rule 12(b)(6) motion and noting that a "district court has discretion to deny a motion to amend on grounds of futility where the proposed pleading would not survive a motion to dismiss."). Far from being futile, an amended Complaint and associated discovery process would address the Court's recognition that "[w]ithout more factual development, the Court cannot conclude that it would be impossible to fashion—within the framework of the 2016 Act—a remedy involving some type of hiring preference for Brigida and possibly the putative class members as well." ECF No. 50 at 9 (emphasis added). Accordingly, futility of amendment is not an issue here because, in the language of *Foman*, the facts and circumstances relied upon by the Plaintiffs are a proper subject of relief. Instead, the only relevant issues at this stage are the definition of the class of plaintiffs and the restoration of the equitable relief recognized in the Order granting reconsideration, both of which are addressed by the proposed Fourth Amended Complaint.

Further, Defendant cannot assert that leave to amend should not be granted on the grounds that a plaintiff fails to meet the class action requirements of Fed. R. Civ. P. 23. *See Daniel v. Fulwood*, 310 F.R.D. 5, 9 (D.D.C. 2015). In such a situation, the Court held that "[e]ven if the court were to consider the Rule 23 argument, at this stage, it only need consider whether the Amended Complaint contains plausible allegations that would satisfy the rule. ... These allegations can and should be thoroughly vetted *after pre-class discovery and further briefing*." *Id.* (citing *Bush v. Ruth's Chris Steak House, Inc.*, 277 F.R.D. 214, 216–17 (D.D.C.2011)) (emphasis added). As such,

Defendant here cannot use her disagreement over class certification as her opposition to amending the Complaint.

Amendment also does not create a risk of undue delay. No discovery has been authorized yet and no deadlines have been set for dispositive motions or experts reports. Therefore, amendment itself will cause no delay. Moreover, Plaintiff Brigida has diligently prosecuted his claims since 2014. Delays that have occurred have generally resulted from administrative non-action, Congressional action, procedural disputes, and joint exploration of settlement. The Second and Third Amended Complaints were submitted due to the actions of Congress, the District of Arizona, and Defendant rather than Plaintiffs' desire to continually revise their pleading. Following a mutual agreement to stay the proceedings (ECF No. 22), the Second Amended Complaint was submitted by order of the District of Arizona in order to respond to legislative changes that directly impacted the case. *See* ECF Nos. 24, 25. Notably, the submittal of the Second Amended Complaint was *not* opposed by Defendant. ECF No. 23 ¶ 5. Furthermore, the first motion to certify a class was filed in November 2018, with related briefing continuing into 2019. As a result, September 2019 was the first time any court had addressed the class allegations in Plaintiffs' Complaint. In any event, class action cases are well known to take many years to litigate.

Relatedly, and for the reasons stated above, there is no dilatory motive on behalf of the Plaintiffs; rather Plaintiffs want this matter to proceed as quickly as possible and particularly to reach merits discovery regarding their claims. Plaintiffs therefore propose that discovery begin in this case and that they be permitted discovery regarding Defendant's objections to the class allegations during the course of initial discovery.

There is likewise no cognizable claim that the proposed amendment will cause undue prejudice to the Defendant. Whatever prejudice Defendant may claim affects both parties and stems from the required administrative proceeding prior to filing a court complaint, from the parties' taking

Congressional action into consideration, the parties' mutual exploration of settlement, and the Defendant's various procedural objections. Indeed, formal discovery has yet to even begin. By and large the documents and witnesses related to Plaintiff Brigida's individual Complaint are the same witnesses and documents at issue in the proposed class proceeding and hence amending the Complaint to amend the class definition causes no prejudice.

Finally, there has not been a repeated failure to cure deficiencies by previous amendments. At the September 13, 2019 hearing, the Court for the very first time considered the class allegations in Plaintiffs' Complaint and found the class definition would benefit from clarification. The Court then authorized Plaintiffs file this motion to amend their Complaint. Hrg. Tr. 49:13-26.

### **CONCLUSION**

For these reasons, Plaintiffs respectfully request the Court grant them leave to file their Fourth Amended and Supplemental Class Action Complaint.

DATED this 1<sup>st</sup> day of November 2019.      Respectfully submitted,

*/s/ Zhonette M. Brown*

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Attorneys for Plaintiffs and Putative Class Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of November 2019, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court using the Court's CM/ECF system which sent notification of such filing to the following counsel of record in this matter:

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*/s/ Meri Pincock*

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**UNITED STATES DISTRICT COURT  
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ANDREW J. BRIGIDA,

*Plaintiff,*

v.

ELAINE L. CHAO, Secretary,  
U.S. Department of Transportation,

*Defendant.*

Civil Action No. 16-2227 (DLF)

**FOURTH AMENDED AND SUPPLEMENTAL CLASS ACTION COMPLAINT**

Plaintiff Andrew J. Brigida, and additional putative Class Representatives Suzanne M. Rebich, and Matthew L. Douglas-Cook,<sup>1</sup> by and through their attorneys, hereby file this Fourth Amended and

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<sup>1</sup> Should class certification be denied, Ms. Rebich, Mr. Douglas-Cook and several other putative class members intend to seek to be added as individual plaintiffs.

Supplemental Class Action Complaint against the above-named Defendant on behalf of themselves and the Class they seek to represent.

### **INTRODUCTION**

From approximately 2010 through early 2014 the Federal Aviation Administration (“FAA”) developed and implemented a race-based decision to abandon its merit-based system for hiring new air traffic controllers. Previously, candidates for air traffic controller positions were chosen, in part, based on their excellence in an aviation-specific education program and their performance on a scientifically-verified aptitude test designed to objectively determine their fit for the job. Indeed, the FAA advised those interested in becoming air traffic controllers that their most reliable path to success was through these FAA partnered aviation-specific education programs or the military. But in the early 2010’s era of the Obama administration, the FAA cooperated with special interest groups whose primary objective was to increase hiring of African-American candidates as air traffic controllers. The FAA adopted the argument of these special interest groups that the pool of college-trained, aptitude-tested candidates served as an unacceptable barrier to hiring an increased percentage of African Americans. The FAA did not, however, invest the time and effort to create an actual affirmative action program. Instead, trading public safety and operational efficiency for political expediency, the FAA abruptly abandoned its merit-based employment screening system in early 2014. The motive and consequences of the FAA’s actions were so egregious that Congress had to supply a partial legislative correction in 2016, mandating that the FAA once again consider job-specific training as part of the hiring process. This legislation, however, did not remedy the race-based hiring decisions the FAA inflicted on the Plaintiff and the thousands of would-be air traffic controllers they seek to represent in this case. Having invested years of their lives and thousands of dollars to establish their careers, the putative Class members in this case found themselves largely jobless or underemployed, burdened with significant debt and a disvalued college degree – even divorced

or homeless in some cases – all because the government decided to illegally further race-based objectives. These thousands of aspiring air traffic controllers were harmed by the FAA’s race-based hiring and employment decisions and are entitled to relief under Title VII of the Civil Rights Act of 1964.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction, pursuant to 28 U.S.C. § 1331, because the matter in controversy arises under the Constitution and laws of the United States, including but not limited to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e.

2. Venue rests properly in this Court, pursuant to 28 U.S.C. § 1391(e), because “a substantial part of the events ... giving rise to the claim occurred” within this judicial district.

3. Additionally, this matter was transferred to this venue pursuant to Defendant’s motion.

### **PARTIES**

4. Plaintiff Andrew J. Brigida is a current resident of Falls Church, Virginia. He brings this action on behalf of himself individually, and on behalf of a Class of persons similarly situated as described below.

5. Putative Class Representative Suzanne M. Rebich is a current resident of Anchorage, Alaska and member of the putative class. Ms. Rebich seeks to serve as a Class Representative.

6. Putative Class Representative Matthew L. Douglas-Cook is a current resident of Vancouver, Washington and member of the putative class. Mr. Douglas-Cook seeks to serve as a Class Representative.

7. Defendant Elaine L. Chao is the Secretary of the United States Department of Transportation (“DOT”), a cabinet-level department within the Executive Branch of the federal government. In that capacity, Secretary Chao is responsible for overseeing the actions of all the employees

and officers within the agencies of the Department, including the Federal Aviation Administration. Secretary Chao is sued in her official capacity.

### **LEGAL BACKGROUND**

8. Title VII prohibits employment discrimination on the basis of race. 42 U.S.C. § 2000e; *Ricci v. DeStefano*, 557 U.S. 557, 577 (2009). Title VII prohibits discrimination against employees of, and applicants for employment in, the federal government. 42 U.S.C. § 2000e-16. Additionally, the D.C. Circuit has held that Title VII is the sole method by which federal employees can enforce the Equal Protection component of the Due Process Clause against the federal government for employment discrimination. *See Kizas v. Webster*, 707 F.2d 524 (D.C. Cir. 1983) (citing *Brown v. GSA*, 425 U.S. 820 (1976)).

9. Title VII provides that it is unlawful employment discrimination “to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race ....” 42 U.S.C. § 2000e-2(a)(1).

10. Absent a valid defense, Title VII prevents a government agency from refusing to accept the outcome of a race-neutral hiring process solely because of the racial makeup of the successful applicants. *See Ricci*, 557 U.S. at 579. However, it is not simply the consequences of a racially motivated employment decision that violates the statute. The sheer fact that the “ultimate aim” of the employment decision was “because of race” is contrary to the statute. *Id.* at 579-80.

11. A prima facie case of employment discrimination can be established even if a job applicant does not have a “bona fide interest” in working for a particular employer. *Kyles v. J.K. Guardian Security*, 222 F.3d 289 (7th Cir.2000) (holding that an employment “tester” whose sole purpose in applying for a job was to detect possible racial discrimination had standing to bring a Title VII failure-to-hire claim

because the simple act of violating the statute constitutes injury-in-fact); *see also America v. Preston*, 468 F. Supp. 2d 118, 124 (D.D.C. 2006) (citing *Kyles* and holding the same).

### **FACTUAL BACKGROUND**

#### **A. FAA Hiring Plans prior to 2014 and The FAA’s Collegiate Training Initiative.**

12. Prior to the 1990s, the FAA hired air traffic controller candidates from two main sources. First, the FAA hired military-trained controllers (“Veteran’s Recruitment Appointment” or “VRAs”), who had separated or retired from military service. Second, the FAA hired through General Public Announcement (“GPA”), commonly referred to as Off-the-Street (“OTS”) hiring.

13. OTS hiring was inefficient, often resulting in candidates lacking air traffic control or college experience. In addition, besides being expensive to administer, the FAA deemed the quality of candidates unsatisfactory and noted high training failure (“washout”) rates with OTS applicants.

14. In 1989, the FAA published the *Flight Plan for Training*. This publication proposed a new system to solve some of the failures of OTS hiring by implementing and supporting air traffic controller college training programs.

15. In January 1991, the FAA promulgated FAA Order 3120.26, which established the Air Traffic-Collegiate Training Initiative (“CTI”) program to develop, deliver, and implement air traffic control recruiting, selection, and training.

16. The objective of the CTI program was to develop a professional air traffic controller workforce that possessed the skills necessary to succeed at a lower screening and training cost to the government.

17. In order to achieve the objectives of the CTI program, the FAA entered into partnership agreements with colleges, universities and other schools (collectively, “CTI Institutions”) to administer CTI programs throughout the country.

18. The FAA actively encouraged potential applicants to pursue CTI training as the primary means of obtaining employment as an air traffic controller. The FAA's website advertised the CTI program nationwide, informing any interested parties that the various CTI college programs or the military were the best ways to be hired. In addition, the FAA stated that the FAA desired to hire all qualified graduates of the CTI program.

19. By 2012, there were 36 CTI Institutions around the country. From at least 2008 through 2013, most new hiring of air traffic controllers was from the pool of CTI graduates and VRAs.

20. Since the early 2000s, graduates from the CTI programs were required to pass a validated air traffic aptitude test, known as the Air Traffic Control Selection and Training examination ("AT-SAT") in order to be eligible for employment as a trainee controller.

21. The FAA developed the AT-SAT in approximately 2000-2001 to assess the likelihood of an applicant successfully learning Air Traffic Control Specialist ("ATCS") skills as well as to predict achievement of Certified Professional Controller ("CPC") status and air traffic controller job performance. CPC status is achieved after the successful completion of air traffic training.

22. The AT-SAT tests for characteristics needed to perform effectively as an air traffic controller. The characteristics include numeric ability, prioritization, planning, tolerance for high intensity situations, decisiveness, visualization, problem-solving, and movement detection.

23. A CTI student had to affirm his or her United States citizenship prior to being allowed to take the AT-SAT test. Applicants who scored 85 and above on the AT-SAT were classified as "well-qualified" by the FAA. Applicants who scored between 70 and 84.9 were classified as "qualified" by the FAA. Applicants who scored below 70 were classified as "not qualified" by the FAA and were not eligible for hire for ATCS positions.

24. Since the FAA first instituted the AT-SAT, it has been validated multiple times to ensure the test complied with applicable law and professional guidelines. The AT-SAT was validated most recently in March of 2013.

25. By 2008, after the introduction of the CTI program and the AT-SAT test, the FAA created and used CTI-only job postings. Between 2008 and 2013, most air traffic controller candidates hired had been CTI-trained. Only graduates from CTI programs who passed the validated AT-SAT assessment, had not aged out of eligibility, and had received a recommendation from their CTI school (hereinafter referred to as “Qualified Applicants”) were eligible to apply for CTI-only job postings. Prior to 2014, CTI Qualified Applicants received hiring preference for ATCS positions. *See* Section 6 of the Standard Operating Procedures of the FAA’s Aviation Careers Division, defining Qualified Applicants, ECF No. 73-2 at 12-13.

26. In 2005, the FAA forecast a controller shortage due to a large number of controllers who were becoming eligible for retirement. This retirement-eligible group had been hired after the 1981 Professional Air Traffic Controllers Organization strike.

27. The CTI schools were unable to keep up with the increased demand for replacement controllers and, as a result, the FAA once again used OTS hiring announcements to supplement the VRA and CTI applicant pools.

28. At the end of 2012, however, the FAA announced via a mass e-mail that it would not be conducting any further OTS hiring because the CTI schools, along with the VRA applicant pool, were producing sufficient quantities of qualified applicants to fulfill demand.

29. The FAA controller hiring plan required the FAA to hire over one thousand controllers per year in calendar years 2012, 2013, and 2014.

**B. FAA's 2014 Race-Based Change in Hiring Practices for Air Traffic Controllers.**

30. Despite the agency's stated demand for ATCS, the FAA slowed and eventually froze the processing and hiring of new ATCS applicants. Upon information and belief, the FAA intentionally slowed its hiring in 2012 and 2013 in anticipation of abandoning the Qualified Applicant hiring preference and adopting a new, yet to be determined, hiring process that would favor African-Americans.

31. After a job posting that closed on October 12, 2012, the FAA ceased recording the names of CTI graduates who had passed the AT-SAT, beginning a process of terminating the Qualified Applicant hiring preference. Neither the CTI schools, nor the CTI graduates, were notified of this change.

32. On or around February 8, 2013, Terry Craft, the FAA's Manager for External Training Initiatives, sent an e-mail ("Craft e-mail") to the CTI schools about its "CTI Diversity Initiatives."<sup>2</sup>

33. The Craft e-mail provided, *inter alia*, that the FAA was concerned about the diversity of its applicant pool, stating that "[m]y objective, should it be true, is to demonstrate that the CTI pool is as diverse as the other hiring pools including VRA and Gen Pub. *There is a perception that it is not.* So far I do not see this as true, so I need data to back this up before perception becomes perceived truth." (emphasis added).

34. In 2013, the FAA published an employment plan providing that the FAA was "planning to open a general public announcement in FY 2014 to add more depth and diversity to our controller hiring sources." Federal Aviation Administration, *A Plan for the Future: 10-Year Strategy for the Air Traffic Control Workforce 2013-2022* 44 (2013).

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<sup>2</sup> A copy of the Craft e-mail is attached hereto as Exhibit 8.

35. On or around December 30, 2013, over CTI schools' holiday break, Joseph Teixeira, the FAA's Vice President for Safety and Technical Training, sent an e-mail ("Teixeira e-mail") to the CTI schools about the future of hiring for ATCS positions.<sup>3</sup>

36. The Teixeira e-mail provided, *inter alia*, that "[r]ecently, the FAA completed a barrier analysis of the ATC occupation pursuant to the Equal Employment Opportunity Commission's (EEOC) Management Directive 715. As a result of the analysis, recommendations were identified that we are implementing to improve and streamline the selection of ATC candidates."

37. The Teixeira e-mail further provided "[a] nationwide competitive FG-01 vacancy announcement open to all U.S. Citizens will be issued in February 2014. Any individual desiring consideration for employment (including CTI graduates) MUST apply. Existing inventories of past applicants will not be used." The Teixeira email also invited the CTI Institutions to a teleconference to explain the proposed hiring changes. The teleconference was held on January 8, 2014.

38. The Teixeira e-mail also provided that "[t]he existing testing process has been updated. The revised testing process is comprised of a biographical questionnaire<sup>4</sup> (completed as part of the application process) and the cognitive portion of the AT-SAT. The cognitive portion of the AT-SAT will be administered only to those who meet the qualification standards and pass the biographical questionnaire. Applicants for the February 2014 announcement will be required to take and pass the new assessments in order to be referred on for a selection decision."

39. In February 2014, FAA spokesman Tony Molinaro, Public Affairs Officer for the FAA in the Great Lakes and Central Regions, stated that the decision to change the FAA's hiring process for Air Traffic Controllers was made to "add diversity to the workforce." Anna Burleson, *Want to be an air*

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<sup>3</sup> A copy of the Teixeira e-mail is attached hereto as Exhibit 5.

<sup>4</sup> Eventually this test was referred to as the "biographical assessment" but is consistently referred to here as the "biographical questionnaire."

*traffic controller? UND says FAA has 'dumbed down the process'*, Grand Forks Herald, March 5, 2014, <http://www.grandforksherald.com/content/want-be-air-traffic-controller-und-says-faa-has-dumbed-down-process> (last visited October 16, 2019).

40. On information and belief, and after a reasonable opportunity for discovery, the FAA failed to validate the biographical questionnaire to ensure the test was in accordance with the law and professional guideline. This is because the FAA intended and implemented the questionnaire to provide a better score to African-Americans.

41. In sum, between October 2012 and January 27, 2014, the FAA eliminated the CTI program's merit-based hiring preference in favor of implementing a race-skewed screening mechanism, which resulted in Plaintiff, and other putative Class Members, losing their employment preference and opportunity. The FAA's decision to strike the CTI qualifications was not part of an affirmative action program.

**C. The FAA's Race-Based Motives.**

42. On information and belief, and after a reasonable opportunity for discovery, since approximately 2010 several members of the FAA Human Resources ("HR") and Civil Rights ("CR") Offices had been working with, at least, the National Black Coalition of Federal Aviation Employees ("NBCFAE") to eliminate the CTI merit-based hiring preference for Qualified Applicants and to concomitantly increase hiring of African-Americans.

43. On February 10, 2010, the NBCFAE published a "Talking Points" document that described its efforts to pressure the FAA into addressing alleged problems with the agency's racial diversity since at least 2008. *See* Exhibit 9. This document mentioned that NBCFAE had sent a number of letters to the FAA concerning alleged "disparate treatment and under-representation" of African-Americans within the agency. *Id.* at 1-2. NBCFAE also stated that it re-directed its budget to fund this effort and was in the

process of “building a coalition of supporters from entities, outside the FAA, that possess the power to influence the FAA...” *Id.* at 4. This “Talking Points” document also mentioned the formation of a group of senior members of NBCFAE called “Team 7” who had “drafted a plan to move the FAA towards the desired diversity in their workforce.” *Id.* at 3.

44. Thereafter, Team 7 released a document titled “Team 7 On the Move – Visit to the Hill,” which described multiple trips to Washington D.C. to meet with the FAA concerning a perceived “lack of an Affirmative Employment Plan...” and forecasting additional such meetings in 2013. Exhibit 10 at 3. The document mentioned several meetings with Congressional staff towards this end. *Id.*

45. On June 20, 2013, FAA officials met with members of the FAA National Employee Association Forum, which is composed of eight employee associations that represent various minority, women, and disadvantaged sub-groups, including NBCFAE. The stated purpose of this meeting was to brief the various employee associations of recommended changes in the Air Traffic Controller hiring process.

46. Among the persons conducting the June 2013 briefing was an FAA consultant named Dr. James Outtz. Dr. Outtz presented information about a recently completed Barrier Analysis of the FAA Air Traffic Controller hiring process. Dr. Outtz stated that the FAA’s hiring process purportedly had a disparate impact on minority candidates, primarily African-American males.

47. In addition, on April 16, 2013, the FAA released Extension to the Barrier Analysis (“Extension Report”) which largely echoed the same conclusion of the Barrier Analysis. *See* ECF No. 75-1 at 69 (“The results of that [the Barrier Analysis] indicated that barriers exist for certain protected groups on four of the seven critical decision points that comprise the ATCS centralized hiring process.”). For example, The Extension Report concluded that “[w]hen examining the underlying diversity of the various applicant sources, the most dramatic difference was found between the Collegiate Training

Initiative (CTI) source and all other applicant sources with respect to African American representation. African American applicants comprise only 5% of the CTI pool compared to an average of 34% African American representation across the non-CTI applicant sources.” ECF No. 75-1 at 70-71.

48. On information and belief, the Barrier Analysis and Extension Report were solicited and conducted in part to bolster the FAA’s plan to eliminate the merits considerations of Qualified Applicants in favor of a race-based or race-biased hiring process.

49. On October 2, 2013, NBCFAE’s Team 7 issued a “Progress Report” that described its continuing efforts to press for “improvement in workforce diversity.” *See* Exhibit 13 at 2. This document spoke of the need for a “systemic solution ... that will improve the effectiveness of the agency’s efforts to recruit, hire, promote, retain, develop, and train a diverse and inclusive workforce and that it be incorporated into the agency’s human capital plan.” *Id.* at 2–3.

50. The FAA further sought to unlawfully benefit African-Americans in the new hiring process by providing them with non-public information concerning the new screening technique.

51. Several documents demonstrate that the NBCFAE had information on how applicants for the February 2014 announcement could increase their chances of advancing in the hiring process.<sup>5</sup> The NBCFAE e-mailed their members with advice on how to apply for the open Air Traffic Controller positions. *See* Exhibits 2-3. This information was provided by an FAA HR employee who was also a member of the NBCFAE. *See* Exhibit 2. (“If the entire country caught wind of this attachment, then how will your resume be distinguished from others?”).

52. These documents further demonstrate that NBCFAE National President Roosevelt Lenard, Jr. was in contact with senior FAA officials, including Carrolyn Bostick, an FAA management official at

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<sup>5</sup> Copies of these documents are attached hereto as Exhibits 1 through 4.

the Office of Human Resources (abbreviated by the agency as “AHR-1”), about Lenard’s desire to eliminate the entire merit-based hiring preference for Qualified Applicants. *See* Exhibit 3.

53. On or about January 27, 2014, FAA HR Official Bostick assured NBCFAE National President Lenard that the current group of Qualified Applicants would be “purged” and none of these applicants would be offered a letter of employment. *Id.* Relatedly, a NBCFAE Google Group posted a communication from NBCFAE President Roosevelt Lenard, Jr. on January 24, 2014, which confirmed that AHR-1 was terminating the “old hiring process” and that the “list [of Qualified Applicants] has been purged.” *See* Exhibit 3 at 1. Moreover, President Lenard acknowledged that “[d]uring the [2013-2013] holidays CTI schools were informed that they will no longer receive the preferences they have been receiving.” *Id.*

54. The FAA misrepresented the participation of these special interest groups to the CTI schools. Specifically, during a January 8, 2014 teleconference with CTI school representatives, Joseph Teixeira stated that “there were no special interest groups involved in the design of the [new] FAA policy at all. This was done by experts in the human resources department and civil rights ....”

55. Teixeira also stated that “[w]e really have not announced these changes to anyone other than to CTI schools, and you received that for the first time on the 30th of December. There’s been no announcement ....”

56. On information and belief, and after a reasonable opportunity for discovery, FAA HR and CR employees and officials cooperating with the NBCFAE efforts to eliminate Qualified Applicant hiring preferences and implement a race-biased hiring process included active members of the NBCFAE.

**D. Diversity of the CTI Program prior to 2014.**

57. Not only were the FAA’s raced-based actions illegal, they were unjustified.

58. In 2012-2013, 11.5 percent of CTI school enrollees were African-American. Federal Aviation Administration, Air Traffic Collegiate Training Initiative (AT-CTI) Partner School Diversity and Outreach 2012-13 report at 3 (February 25, 2013). This percentage of African-American enrollees exceeded the percentage of African Americans in the relevant civilian labor workforce pool in the same years. United States Office of Personnel Management, Federal Equal Opportunity Recruitment Program (FEORP) for Fiscal Year 2012 Report to the Congress 8 (January 2014), <https://www.opm.gov/policy-data-oversight/diversity-and-inclusion/reports/feorp-2012.pdf> (last visited October 8, 2019).

59. Indeed, on February 8, 2013, Terry Craft, the FAA's CTI program manager, sent an e-mail to CTI schools in which he stated he believed that the CTI applicant pool was diverse. Further, in February 2013, the FAA published a report on the CTI program that provided that "it is clear that the FAA AT-CTI schools are making great strides to incorporate minority students and faculty into their programs...." Federal Aviation Administration, Air Traffic Collegiate Training Initiative (AT-CTI) Partner School Diversity and Outreach 2012-13 1 (February 25, 2013).

60. The FAA's then-Director of Technical Training Support, Anthony Gagliardo stated that FAA manager Joseph Teixeira manipulated the data in the FAA's Partner School Diversity and Outreach 2012-13 report to make the CTI institution student body appear to be much less diverse than it actually was. In addition, 2-year schools such as CTI community college institutions with historically diverse student populations were eliminated from the FAA's calculations to further diminish the actual minority participation.<sup>6</sup>

61. Further, on information and belief and after reasonable opportunity for discovery, no affirmative action programs were in place or deemed necessary by the FAA either before or after 2014.

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<sup>6</sup> A copy of the November 8, 2018 declaration, originally submitted in Support of the Plaintiff's Motion for Class Certification, is attached hereto as Exhibit 7.

**E. Congressional Action.**

62. The Defendant's actions soon attracted the attention of Congress. Concerned with the risk to public safety posed by the FAA's abandonment of a merit-based system for selecting future ATCS, in 2016 Congress inquired into the FAA's racially discriminatory hiring practices.

63. The FAA actively brainstormed ways of explaining itself to various Congressional inquiries while deflecting liability for scuttling the Qualified Applicant hiring preference. *See* e-mail from Molly Harris, Exhibit 6 ("We have to find a way to address Congressional inquiries without hurting our cause when it comes to litigation.").

64. On July 15, 2016, Congress passed the FAA Extension, Safety, and Security Act of 2016 which, *inter alia*, addressed the hiring of ATCS positions by the FAA. FAA Extension, Safety, and Security Act of 2016, Pub. L. 114-190, Section 2106, 130 Stat. 615, 620 (July 15, 2016), *codified at* 49 U.S.C. § 44506 ("the Act").

65. The Act provides that the FAA should give preferential treatment for ATCS positions to qualified individuals maintaining 52 consecutive weeks of civilian or military air traffic control experience. 49 U.S.C. § 44506(f)(1)(A).

66. For any remaining open ATCS positions, the FAA is then required to hire equally from two applicant pools. 49 U.S.C. § 44506(f)(1)(B)(i).

67. The first pool consists of: (1) CTI graduates who have received recommendations from their institution; (2) honorably discharged veterans eligible for a recruitment appointment pursuant to Section 4214 of Title 38; (3) eligible veterans "maintaining aviation experience obtained in the course of the individual's military experience"; and (4) preference eligible veterans. 49 U.S.C. § 44506(f)(1)(B)(ii).

68. The second pool consists of OTS applicants. 49 U.S.C. § 44506(f)(1)(B)(ii).

69. Although the Act prevents the FAA from using the Biographical Questionnaire on applicants from the first pool of applicants (as well as those with previous air traffic control experience), it does not prevent the FAA from using the Biographical Questionnaire on OTS hires. 49 U.S.C. § 44506(f)(2)(A).

70. Accordingly, the revised hiring practices restricts the number of CTI graduates that can be appointed to ATCS positions and requires approximately half of appointments to come from OTS applicants. 49 U.S.C. § 44506(f)(1)(B)(i).

71. Although the Act provides that the FAA shall “provide ... an opportunity to reapply” for an ATCS position under the “revised hiring practices” for any applicant that “was disqualified from the position as the result of a biographical assessment,” the Act does not require the FAA to make any specific hiring or appointment decisions with respect to any CTI graduates. 49 U.S.C. § 44506(f)(2)(B)(i).

72. In addition, the Act did not change the fact that some graduates on the CTI list had already “aged-out.”

73. Furthermore, the Act provides no compensation for the CTI graduates that were Qualified Applicants prior to the FAA’s decision to eliminate its previous merit-based hiring preference.

74. Plaintiff Brigida and the proposed Class were injured by the FAA’s raced-based decision to disregard Qualified Applicants’ existing pre-qualifications. These injuries have not been remedied.

**F. Plaintiff and Proposed Class Representatives.**

75. On information and belief, and after a reasonable opportunity for discovery, there were approximately 2,500 to 3,000 qualified applicants who possessed a degree from a CTI school, had passed the AT-SAT, and were entitled to Qualified Applicant status prior to the FAA’s January 2014 elimination of this merit-based hiring preference. Plaintiff and putative Class Representatives Brigida, Rebich, and

Douglas-Cook were among those who were, or should have been, entitled to the FAA's merit-based hiring preference.

***Plaintiff Brigida.***

76. On April 3, 2013, while attending an FAA approved CTI Institution, Arizona State University ("ASU"), Plaintiff Brigida took and successfully passed the AT-SAT assessment with the top numerical score possible of 100%. Plaintiff Brigida is Caucasian.

77. On August 13, 2013, Plaintiff Brigida graduated from ASU, and was recommended to the FAA by ASU on August 28, 2013.

78. Plaintiff Brigida satisfied all FAA requirements for being defined as a Qualified Applicant.

79. On or about January 27, 2014, the FAA informed Plaintiff Brigida of the changes to the Air Traffic Controller hiring process, that the merit-based hiring preference for Qualified Applicants was being eliminated, and that Mr. Brigida would need to apply under the new hiring process if he wished to be considered for an Air Traffic Controller position.

80. On February 10, 2014, Plaintiff Brigida applied for an Air Traffic Controller position under the new hiring processes. While applying for the position, Plaintiff Brigida took the Biographical Questionnaire.

81. On February 25, 2014, Plaintiff Brigida contacted an Equal Employment Opportunity ("EEO") counselor for the DOT by filing an informal electronic complaint, and alleged that the FAA discriminated against him on the basis of race by changing its Air Traffic Controller hiring practice.

82. On February 27, 2014, the FAA notified Plaintiff Brigida that he had not passed the Biographical Questionnaire and was ineligible to be hired for an ATCS position.

83. On March 31, 2014, Plaintiff Brigida received his notice of right to file a formal EEO Complaint with the DOT.

84. On April 12, 2014, Plaintiff Brigida filed a formal EEO Complaint, individually and as a putative Class Representative on behalf of those similarly situated, with the DOT.<sup>7</sup>

85. On April 16, 2014, the DOT sent a letter to Plaintiff Brigida which acknowledged receipt of the formal EEO Complaint and provided that the Complaint was forwarded to the EEOC for their recommendation to accept or reject the Complaint.

86. On June 30, 2016, Administrative Judge Cynthia G. McKnight dismissed Plaintiff Brigida's EEO Complaint without prejudice under 29 C.F.R. § 1614.409 as a result of the filing of this action.

87. Since being precluded from Qualified Applicant status in 2014, Plaintiff Brigida applied for at least 36 positions with the FAA. Of those 36 applications, 32 were not referred for further consideration, two were cancelled, and only one was reviewed for further consideration and ultimately denied. Ultimately Plaintiff Brigida was hired by the FAA in November 2016 as a Project Management Specialist.

***Putative Class Representative Rebich.***

88. On November 5, 2010, while attending an FAA approved CTI Institution, the University of Alaska at Anchorage ("UAA"), Ms. Rebich took and successfully passed the AT-SAT assessment with a score of 80.2%. Ms. Rebich received a rating of "qualified." Ms. Rebich is Caucasian.

89. On December 17, 2010, Ms. Rebich graduated from UAA, and was recommended to the FAA by UAA on January 18, 2011.

90. Subsequently, Ms. Rebich met the requirements for Qualified Applicant status and applied for ATC positions.

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<sup>7</sup> Plaintiff Brigida's formal EEO Complaint is incorporated by reference herein. See ECF No.78-2.

91. In February 2014, Ms. Rebich was forced to reapply under the FAA's new hiring processes for Air Traffic Controllers. While reapplying for the position, Ms. Rebich took the Biographical Questionnaire.

92. Ms. Rebich did not pass the Biographical Questionnaire.

93. Ms. Rebich reapplied for open ATCS positions on several subsequent occasions, but the FAA did not hire Ms. Rebich.

***Putative Class Representative Douglas-Cook.***

94. In April 9, 2013, while attending an FAA approved CTI Institution, UAA, Mr. Douglas-Cook took and successfully passed the AT-SAT assessment with the top numerical score possible of 100%. Mr. Douglas-Cook is Native American.

95. In December 2013, Mr. Douglas-Cook graduated from UAA and satisfied all requirements for Qualified Applicant status except that UAA did not recommend Mr. Douglas-Cook to the FAA because the FAA did not request any recommendations concerning the December 2013 graduating class. Had a recommendation been requested, UAA would have provided a positive recommendation for Mr. Douglas-Cook.

96. In February 2014, Mr. Douglas-Cook was forced to apply under the FAA's new hiring processes for Air Traffic Controllers. While applying for the position, Mr. Douglas-Cook took the Biographical Questionnaire.

97. Mr. Douglas-Cook did not pass the Biographical Questionnaire.

98. The FAA did not hire Mr. Douglas-Cook for an ATCS position.

**CLASS ACTION ALLEGATIONS**

99. Plaintiff and putative Class Representatives incorporate the allegations in the preceding paragraphs as if fully set forth herein.

100. This is a class action brought by Plaintiff Brigida, and putative Class Representatives Rebich and Douglas-Cook, on behalf of themselves and others similarly situated, pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure and 29 C.F.R. § 1614.204. The Class that Plaintiff and putative Class Representatives seek to represent is the approximately 2,500 to 3,000 non-African American<sup>8</sup> CTI students who by January 27, 2014: (1) graduated from a CTI program that was approved by the FAA and (2) had passed the AT-SAT (thereby indicating their intent to apply for FAA ATC employment), and who did not receive a tentative offer of employment letter from the FAA prior to March 23, 2015 (when the FAA posted its next vacancy announcement). Excluded from the Class are the few CTI graduates whose academic records as of January 27, 2014 explicitly stated that they were ineligible to receive a letter of recommendation from their CTI school or who by January 27, 2014 had aged out of eligibility for FAA ATCS employment, thereby excluding them from possibly meeting the definition of Qualified Applicants per Section 6 of the Standard Operating Procedures of the FAA's Aviation Careers Division.

101. **Commonality.** There are common questions of law, practices, and fact as to the members of the Class which predominate over questions affecting only individual members of the Class. Specifically, this case challenges the FAA's race-based decision to eliminate or purge the Qualified Applicant hiring preference, which resulted in all members of the Class losing a hiring preference, even though they had graduated from a CTI school and passed the AT-SAT assessment. There are no unique factual or practice factors that would make Class status disadvantageous to any member of the Class. The FAA followed a uniform course of action to purge the merit-based hiring preference for Qualified

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<sup>8</sup> Plaintiff and putative Class Representatives have excluded African-Americans from the class definition to overcome certain objections the FAA has raised to the class and to move this case forward after several delays. Plaintiff and putative Class Representatives hope that after appropriate briefing African Americans can be added to the class and/or become a separate sub-class.

Applicants with the expectation of implementing a new race-biased hiring practice, which constituted an adverse employment action which affected all Class members. Defendant's race-based motivation, alleged justification for the decision, and actions taken between 2010 and 2014 to further race-based hiring are common to all Class members. *See Moore v. Napolitano*, 926 F. Supp. 2d 8, 29 (D.D.C. 2013) ("factual variations among the class members will not defeat the commonality requirement, so long as a single aspect or feature of the claim is common to all proposed class members [and] class members have suffered the same injury.") (internal quotations omitted).

102. **Typicality.** Plaintiff's claims for the remedies stated herein are typical of the claims of all members of the putative Class because all members of the putative Class were simultaneously harmed by the FAA's programmatic illegal race-based actions. All Class members will benefit from a declaration that the FAA race-based decisions violated Title VII. All Class members will also benefit from injunctive relief restraining further race-based decision making by the FAA and mandating remedial measures. Whatever factual variations among the prospective Class members that may exist, they do not alter the fact that all prospective Class members suffered the same injuries caused by the FAA's single race-based decision to purge the Qualified Applicant hiring preference. *See Cohen v. Chilcott*, 522 F. Supp. 2d 105, 115 (D.D.C. 2007) ("The typicality requirement is satisfied if each class member's claim arises from the same course of events that led to the claims of the representative parties and each class member makes similar legal arguments to prove the defendant's liability.") (quotations omitted).

103. **Numerosity.** The potential quantity of members of the putative Class as defined is so numerous that joinder of all members would be unfeasible and impractical. The disposition of their claims through this class action will benefit both the parties and this Court. The quantity of the members of the Class is approximately 2,600 people. *See* ECF No. 73-9 (December 5, 2013 e-mail from Rickie Cannon stating that "there are approximately 2,668 candidates in the [AT-CTI] Inventory but AT-SATs are

expiring and candidates are aging out daily.”). The quantity and identity of such membership is easily ascertainable through inspection of Defendant’s, and potentially the CTI schools’ records.

104. **Adequacy.** Plaintiff and putative Class Representatives are adequate representatives of the putative Class and as Class Representatives will fairly protect the interests of the members of the Class, have no interests antagonistic to the members of the Class, and will vigorously pursue this suit via attorneys who are competent, skilled, and experienced in litigating complex matters of this type. Putative Class Counsel are competent and experienced in litigating large cases, are preeminent in their fields, and members of the firms have experience in litigating complex matters including employment and constitutional law cases. Approximately 350 potential Class members have contacted Plaintiff’s legal counsel and approximately 151 have filed informal EEO Complaints with the FAA listing Plaintiff’s legal counsel as potential legal counsel.

105. **Ascertainable Class.** The proposed Class is ascertainable in that its members can be readily identified using objective information that already exists and is contained in Defendant’s and/or CTI-affiliated school records. Specifically, Defendant has records indicating CTI students’ graduation dates, AT-SAT scores, age or date of birth, and race and national origin. Further, the existence of an AT-SAT score may serve as a proxy for the CTI student’s citizenship since the student had to certify citizenship to take the test, and for the student’s intent to apply to the FAA to be accepted for ATC employment since, upon information and belief, the AT-SAT score is not considered as part of the hiring for any other FAA position. The Class that Plaintiff and putative Class Representatives seek to represent is the approximately 2,500 to 3,000 non-African American CTI students who by January 27, 2014: (1) graduated from a CTI program that was approved by the FAA and (2) had passed the AT-SAT (thereby indicating their intent to apply for FAA ATC employment), and who did not receive a tentative offer of employment letter from the FAA prior to March 23, 2015. Excluded from the Class are the few CTI

graduates whose academic records as of January 27, 2014 explicitly stated that they were ineligible to receive a letter of recommendation from their CTI school or who by January 27, 2014 had aged out of eligibility for FAA ATCS training, thereby excluding them from possibly meeting the definition of Qualified Applicants per Section 6 of the Standard Operating Procedures of the FAA's Aviation Careers Division.

106. **Predominance and Superiority.** The nature of this action and the questions of law or fact common to Class members predominate over any questions affecting only individual members. A class action is superior to other available methods for fairly and efficiently adjudicating this controversy for the following reasons, without limitation:

- a. This case involves a federal agency and officials and a sufficiently numerous group of individual Class members with many common claims and issues of law and fact;
- b. If each individual member of the Class were required to file an individual lawsuit, Defendant would necessarily gain an unjust advantage because Defendant would be able to exploit and overwhelm the limited resources of each individual member of the Class with Defendant's vastly superior financial and legal resources – an outcome that contradicts this Court's single-file doctrine, *see e.g., Campbell v. Nat'l R.R. Passenger Corp.*, 163 F. Supp. 2d 19, 25 (D.D.C. 2001) (“The single-file rule allows an individual plaintiff, who has not filed an EEOC charge, to satisfy the administrative exhaustion requirements under Title VII by relying on a charge filed by another plaintiff.”);
- c. Requiring each individual member of the Class to pursue an individual lawsuit would discourage the assertion of lawful claims by the members of the Class who would be disinclined to pursue an action against Defendant because of an appreciable and justifiable fear of retaliation and permanent damage to their lives, careers, and well-being;

- d. Proof of a common practice or factual pattern, of which the members of the Class experienced, is representative of the Class herein and will establish the right of each of the members of the Class to recover on the causes of action alleged herein;
- e. The prosecution of separate actions by the individual members of the Class, even if possible, would create a substantial risk of inconsistent or varying adjudications with respect to the individual members of the Class against Defendant; and which would establish potentially incompatible standards of conduct for Defendant;
- f. Many members of the putative Class are college graduates with large student loan balances and the expenses and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress their injuries, while an important public interest will be served by addressing the matter as a Class Action; and
- g. The cost to the judicial system of such individualized litigation would be substantial and a waste of valuable adjudicative and judicial resources.

107. **Manageability of Class and Common Proof.** The nature of this action makes this class action a particularly efficient and appropriate procedure to afford relief to Plaintiff and putative Class Representatives for the FAA's alleged unlawful actions. Specifically, the primary issue turns upon the FAA's single decision to purge the Qualified Applicant hiring preference and adopt a new race-based or race-biased hiring practice for Air Traffic Controllers. Individual adjudication would prejudice Defendant opposing the Class by requiring the United States government to allocate scarce judicial resources and taxpayer dollars to individually adjudicate the claims of approximately 2,500 to 3,000 air traffic controller applicants.

108. **Subclasses.** Plaintiff and putative Class Representatives reserve the right to move for the creation of any subclasses as may be proper as discovery proceeds. This may include a subclass of Class Members meriting only nominal damages.

109. **Non-named parties.** In addition to the Plaintiff and putative Class Representatives named above, numerous putative Class Members have been harmed by Defendant's race-based employment decision.

a. Most Qualified Applicants have struggled to find work in the wake of the FAA's change of hiring preferences. The skillset and qualifications provided by the CTI program relate exclusively to the work of air traffic controllers and cannot translate easily to other fields. As such, the FAA's abandonment of the Qualified Applicant hiring preference meant that CTI graduates now possess a college degree that is effectively worthless outside the field of aviation.

b. Making matters worse, most CTI graduates incurred student loans to finance their now-worthless degrees. This significant amount of debt was exacerbated by the inability of many Class members to find employment following the FAA's abandonment of the Qualified Applicant hiring preference. Relatedly, some CTI graduates had to incur additional student loan debt in order to pursue additional education for different jobs.

c. In some cases, this financial strain experienced by putative Class members has led to divorce. Other putative Class Members have been rendered homeless because of the same.

**CLAIM FOR RELIEF**  
(Violation of Title VII)

110. Plaintiff and putative Class Representatives incorporate the allegations in the preceding paragraphs as if fully set forth herein.

111. The FAA purged the merit-based hiring preference for Qualified Applicants for Air Traffic Controllers with the intent and purpose of benefitting African-American Air Traffic Controller applicants and hindering qualified and well-qualified non-African American applicants.

112. By purging the Qualified Applicant hiring preference the FAA refused to accept the outcome of a race-neutral hiring process solely because of the racial makeup of the successful applicants. *See Ricci*, 557 U.S. at 579.

113. The FAA's race-based decision to purge the Qualified Applicant hiring preference harmed every non-African American who met the requirements of Qualified Applicant status.

114. The FAA did not have a strong basis in evidence to believe its use of the CTI program would cause it to be subject to disparate-impact liability under Title VII of the Civil Rights Act of 1964. The FAA's decision to strike the CTI qualifications was not part of an affirmative action program.

115. Accordingly, Defendant intentionally discriminated against Plaintiff Brigida and other putative Class members and violated Title VII of the Civil Rights Act by refusing to consider for hiring and/or refusing to hire qualified applicants because of those applicants' race. 42 U.S.C. § 2000e(a)(1); *see also Kyles*, 222 F.3d 289 *and America*, 468 F. Supp. 2d 118.

116. Plaintiff, putative Class Representatives, and other putative Class members are entitled to an order declaring that the FAA's actions constituted an adverse employment action which violated Title VII of the Civil Rights Act of 1964, and an order directing the FAA to give hiring preference to Plaintiff Brigida and other putative Class members. 42 U.S.C. § 2000e-5(g)(1). Similarly, Plaintiff, putative Class Representatives, and other putative Class members are entitled to an order requiring the FAA to process any applications, employment recommendations, and any other outstanding matters that were terminated, ignored, or otherwise neglected by the agency's race-based decision to change its hiring practices.

117. Additionally, Plaintiff, putative Class Representatives, and other putative Class members request an injunction: (a) barring the FAA from employing race-preferential hiring practices for at least five years; (b) barring the FAA from involving special interest groups (including NBCFAE) associated with protected classifications from involvement in designing hiring methodologies; (c) requiring that any new hiring process include a neutral third-party expert review of the process for Title VII compliance prior to adoption; (d) requiring Title VII training for the HR and CR departments; and (e) requiring that the FAA evaluate the forgiveness of student loan debt incurred by Class members.

118. Plaintiff, putative Class Representatives, and other putative Class members are also entitled to damages, to be determined at trial, including, but not limited to, back pay and front pay. Nominal damages are also permissible in Title VII cases. *See Franklin-Mason v. Dalton*, No. CIV962505(RWR/JFM), 2006 WL 825418, at \*16 (D.D.C. Mar. 21, 2006), *aff'd in part*, 742 F.3d 1051, n.5 (D.C. Cir. 2014) (upholding award of nominal damages for breach of settlement agreement concerning a Title VII employment discrimination case).

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff and putative Class Representatives, on behalf of themselves and the Class they seek to represent, respectfully request that this Court:

1. Declare that the FAA's racially motivated purging of the merit-based hiring preference for Qualified Applicants violated Title VII of the Civil Rights Act of 1964;
2. Enter an order directing the FAA:
  - (a) give hiring preference to Plaintiff, putative Class Representatives, and other putative Class members;

(b) process any applications, employment recommendations, and any other outstanding matters that were terminated, ignored, or otherwise neglected by the agency's race-based decision to change its hiring practices in 2014; and

(c) implement training and other measures to prevent race-based hiring decisions;

3. Award Plaintiff, putative Class Representatives, and other putative Class members applicable statutory damages and remedies, the amounts of which are to be determined at trial;

4. Award Plaintiff, putative Class Representatives, and other putative Class members' costs and attorney's fees in accordance with law, including the Equal Access to Justice Act, 28 U.S.C. § 2412; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(k); and

5. Grant Plaintiff, putative Class Representatives, and other putative Class members such further declaratory and injunctive relief as this Court deems just and equitable.

DATED this 1<sup>st</sup> day of November 2019.      Respectfully submitted,

*/s/ Zhonette M. Brown*

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Attorneys for Plaintiff and Putative Class Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of November 2019, I caused a true and correct copy of the foregoing **FOURTH AMENDED AND SUPPLEMENTAL CLASS ACTION COMPLAINT** to be electronically filed with the Clerk of the Court using the Court's CM/ECF system which sent notification of such filing to the following counsel of record in this matter:

Michael L. Drezner  
Michael.L.Drezner@usdoj.gov

Galen Nicholas Thorp  
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*/s/ Meri Pincock*

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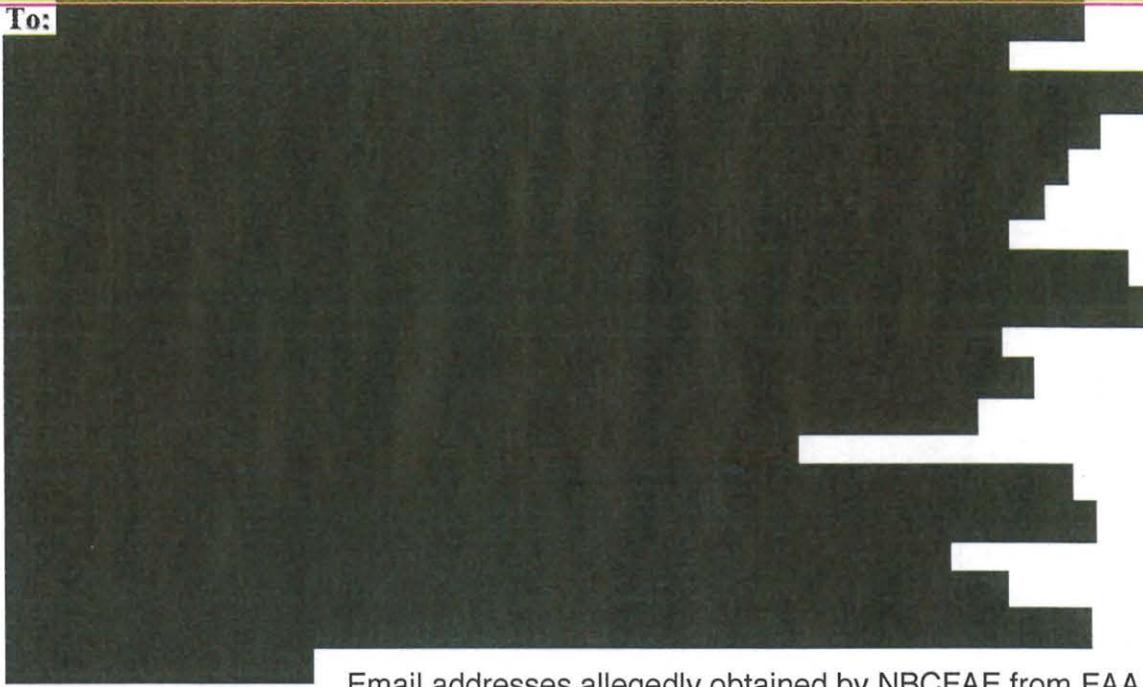
# Exhibit 1

From: "Shelton G. Snow" <[shelton.snow@nbcfae.org](mailto:shelton.snow@nbcfae.org)>

Subject: Telcon Minutes (12/16/2013) Please Read Regarding FAA ATC Hire

Date: December 16, 2013 10:47:35 PM EST

To:



Email addresses allegedly obtained by NBCFAE from FAA HR

Aspiring FAA Air Traffic Controllers,

I was delighted to share with you the process of becoming the next group of Air Traffic Controllers selected for FAA hire!

As promised, attached to this email is the minutes from tonight's telcon. Please consider this file as a checklist to prepare for the open bid. I can be reached for additional questions and/or comments.

Also attached is a membership application for those wanting to join our organization as Associate Members. I have already stressed the importance and the benefit of joining our organization. **Your membership will grant us the authority to represent you INDIVIDUALLY.** Join us to see and be seen. If you choose to join our beloved organization please complete the attached application and send it back to me via email. I am also attaching past newsletters that should give you a small view of what goes on in our organization. The check/money order shall be sent to:

NBCFAE National Treasure  
Jacki Malone  
6430 College Park  
Atlanta, Ga. 30349

Please allow us the opportunity to serve you. We are the only organization of its kind. We have many gatherings within our Region that will place you up-close and personal to some of the most powerful men and women in the Air Traffic Organization (ATO). It's important to know that you will become a member of a winning team. Our region is distinguished as one of the best regions in the country. The

Washington Suburban Chapter has been recognized as the best operating Chapter in the country for 2 straight years. We are here for you. Our trenches are supplied with essentials that will give you the best chance to succeed.

May God continue to bless you and your families. Again, it's been a pleasure and I look forward to collaborating with each of you very soon. Good luck!

In Unity,

Shelton G. Snow  
**Northeast Regional Vice-President**  
**Washington Suburban Chapter President**  
**\*\*\*2012 & 2013 National Chapter of the Year**  
**\*\*\*2013 National Region of the Year**  
Email: [shelton.snow@nbcfaene.org](mailto:shelton.snow@nbcfaene.org)  
Cell: [757-589-0577](tel:757-589-0577)

Associates Members TELCON

12/16/2013

Welcome

Introduction

- Name, JOB Title, Location, Transfer Status
- NBCFAE Title
- Introduce
  - Roosevelt
  - Ejide
  - Leslie
  - Ashley Morely
  - NBCFAE
    - [http://www.nbcfae.org/content.aspx?page\\_id=22&club\\_id=303425&module\\_id=107292](http://www.nbcfae.org/content.aspx?page_id=22&club_id=303425&module_id=107292)
    - [http://www.nbcfae.org/content.aspx?page\\_id=22&club\\_id=303425&module\\_id=107294](http://www.nbcfae.org/content.aspx?page_id=22&club_id=303425&module_id=107294)
- 1. Groom members thought process to better corner achievement, heighten potential to advance up the managerial and/or facility ranks, and influence them to become the best at their craft; thereby making them a key professional in their field of expertise.
- 2. Be your voice of reason in catering to their needs as African-Americans and women in the FAA.
- 3. Serve as a national directory – meaning that regardless of where they work the coalition is within reach to serve as their support group in a host of occurrences.
- 4. Serve as a mentor, coach, and overseer of their training to ensure equality and fairness throughout the training program.
- 5. Also serve as their professional network. This is important for those desiring transfers, promotions, and recommendations for leadership programs such as: ATCLP and PEL. You will discover that some of the most powerful black managers in the ATO stand united with younger generations of FAA employees, and together they stand as one voice! **It's just who you know, but it's how well you know them**
  - And in this case, preparing eligible members for FAA careers.

Appreciation

ABOUT THE FEBRUARY 10<sup>TH</sup> BID

- I. Date & Length of time it will stay open.
  - a. FEBRUARY 10, 2014

- b. 2 weeks
- II. Purpose of this telcon
  - a. Ensure that you are locked and loaded by the end of the year.
- III. What to do now.
  - a. Start grouping resume's applicable records and upload them to USA Jobs (12/31).
    - i. DD214
    - ii. VA Disability confirmation Letters by the Department of Veterans Affairs.
    - iii. Locate, scan and upload CTO and Radar Certifications.
    - iv. Locate, scan and upload any information that will help validate your credentials in the hiring process.
    - v. Locate, scan and upload everything NOW!
    - vi. **FIRST AND FOREMOST....**check your email addresses. **If your email address does not include your first and last name then change it. For example: Denzel.Washington@gmail.com.** Explain why.
    - vii. In the past we've had people on the selection panel we want them to be able to identify you.
    - viii. Also, very important...on your resume **please include if you are a NBCFAE Member.** Most of you are Associate Member; put it on your resume! This is for us to know who our people are in the case that we have one of our very own on the board. In the past we've always had one, and they share our enthusiasm. **Can you see the strategy.**
  - b. We are only concerned about African-Americans, Women (of every ethnic background), and other minorities. Please ensure that you share this information with no one that is identified outside of that. This information is reserve for those classes of people we represent. This is to minimize competition. We effort to influence the FAA to diversify the ATC workforce, and we aim to only prepare candidates that are demographically classed to meet that diversification.
  - c. When you apply for the air traffic bid in the past it gave you an opportunity to choose a state in which you could be selected for. If that state is not available you will be passed over. **PLEASE PUT ANYWHERE IN THE US ON THE APPLICATION,** this will maximize the possibilities of you getting picked up.
  - d. In the past the FAA has hired ATC candidates without regard to Affirmative Action.
- IV. Introduction of the Barrier Analysis. (President Roosevelt)
  - a. This is important!
  - b. Please listen and pay close attention.
  - c. This will explain why it is important for each of you to satisfy the purpose of this telcon. **That's all you can do. Your part is critical.**
- V. More Information Regarding the Bid.
  - a. There will be a test for ALL Applicants (regardless of filing status)

- i. President Roosevelt, again, can you comment?
- ii. 70%, 85% or higher.
- iii. VRA will also have to test.
- iv. **There will be a practice exam released by the FAA towards the end of January.** January 29, 2014 and February 12, 2014. It will be a virtual tour to the FAA's air traffic control occupation. Web address?
- v.
- vi.

**b. CTI Students**

- i. **AT-SAT will not count for the FAA version of the test. You will need to retest. Allow the AT-SAT help you prepare for the FAA's test.**
- ii. **This will be an open/off-the-street-hire for air traffic candidates. Everyone will be grouped together.**
- iii. In the past there were a separate vacancy job announcement for filing status (VRA, CTI, and then there were the open/off-the-street-bid). That's over now. Everyone will be grouped together on this bid.

VI. Membership

- a. 2 main categories of membership
  - i. Active
    1. Describe
    2. Dues Paying Members
  - ii. Associate
    1. Any person who is not an employee of the FAA, but has an interest in NBCFAE, may become an Associate Member on such terms and with such privileges as the Membership Committee may provide.
    2. \$50 Year. Complete Membership Application, scan and email back to me. Mail Check or money order to
      - a. NBCFAE National Treasure. 6430 Jones Road. College Park, GA 30349
      - b. I will include each you in our chapter database
- iii. Why should you become a member?
  1. Website
  2. The fact that we are having this telcon detailing specific information which could drastically change your circumstances indicates that we are heavily concerned your future as an ATCS in the FAA.
  3. The NBCFAE is the largest, most successful and influential employee association in the agency. We exist because of people like you - potential and/or associate members looking for FAA

careers. We exist because of people like me – Active members that are constant in need of professional development and mentorship.

4. The question is not why should you join, the question is why should you not, because you have nothing to lose but a career in the FAA as an air traffic control specialist to gain. Let us label you.

VII. RECAP the high-lit information.

VIII. Questions

- a. Ask in the order those who called in on the telcon.
- b. Be specific, direct, and very on your question.
- c. These Q&A's, and the minutes of this telcon, will travel throughout the country to other Regional Presidents. This information will be used for them to host telcons throughout their region so your question may help them address concerns before they are asked.
- d. Do not let us move on without your question being answered.

IX. Conclusion

# Exhibit 2

From: NER Vice-President & WSC President

<Shelton.snow@nbcfae.org<mailto:Shelton.snow@nbcfae.org>>

Subject: IMPORTANT!

Date: January 15, 2014 4:54:55 PM EST

To: REDACTED

WSC Brothers and Sisters,

It has been confirmed, there will NOT be a selection panel for the open bid on February 10th. Instead, FAA Human Resources will scan in resumes and the computer will group resumes based on key words (aka. "Buzz Words"). These buzzwords will flag your resume, thereby giving you the advantage over thousands of resumes that may flood the system. A list of these buzzwords are attached to this email. This list is being provided to you through one of our members in HR. I encourage you to keep a lid of this attachment and focus on YOUR resume. If the entire country caught wind of this attachment, then how will your resume be distinguished from others? After editing your resume using the attached file, resend me your resume for viewing. In the subject line type: "Amended Resume for (Name)".

Please keep this email confidential between yourselves and the NBCFAE. The information we share with you is to help members of our organization that has invested in their future through the NBCFAE.

In Unity,

Shelton G Snow  
NER VICE-PRESIDENT  
NBCFAE

# Exhibit 3

## Google Groups

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### ATC Hiring update from the National President

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Jan 24, 2014 10:50 PM

Posted in group: **NBCFAEinfoWESTPAC**

NBCFAE Family,

Please read the information below carefully. This process is constantly evolving.

So here's what is fact so far.

1. The controller vacancy announcement is open to all US citizens that meet the minimum qualifications of the vacancy. Everyone interested should bid. The list will also be used to fill future vacancies.

2. Rumors have been spreading that (TOL) temporary offer letters may still be offered to people that went through the old hiring process.. As you know this has been a big issue for NBCFAE. I confirmed yesterday with agency leadership including AHR-1 that the agency will not offer jobs to people that may have been in that pipeline. Their words were "That list has been purged". So please tell everyone impacted by this to apply on the upcoming bid.

3. CTI schools. During the holidays CTI schools were informed that they will no longer receive the preferences they have been receiving. I received a lot of feedback from people impacted the change. Some of it was very negative and some centered around not understanding why NBCFAE fought the issue the way it did. That conversation will continue but the bottom line is All CTI students need to apply on the upcoming bid.

4. Veterans Preference remains. There will be more coming on this one.

5. There is an effort to hire people with targeted disabilities to work in the ATO. The ATO has set a 2014 goal of hiring 10 people with targeted disabilities. The key word is targeted which are defined. More to come.

What we do not know

We do not know exactly what the new ATSAT test will look like. We have a general idea based on the skill set needed to perform the job. The test will have two components. A biographical test and a cognitive test. You will have to pass the biographical portion to take the cognitive portion.

We do not know exactly how the selection factors will be applied but we do know that a diverse pool must come from the process.

The FAA is still working both these issues and as soon as I know you will know. Please bear with me if it takes time. I want to share the correct information the first time.

We will be offering online training for persons interested in learning the types of skill set assessments we believe will be apart of the ATSAT test.

WHATS DIFFERENT

The hiring process for applicants will be a modified Pepsi which means there will be five locations where a person can travel at their own expense to go through the hiring process before attending the academy. The locations are Seattle, Dallas, Atlanta, Chicago and the fifth site is to be determined.

Applicants will be able to go through the security and human resources part of the process but will have to handle their medical clearance separately. If a person chooses not to use the Pepsi process then they will still have the option to use the standard hiring process which takes more time. More to come.

The Federal Aviation Administration (FAA) will be issuing a large number of vacancy announcements on February 10, 2014, for air-traffic control specialists on a nation-wide basis. It will only be open for 10 days.

[http://www.faa.gov/jobs/career\\_fields/aviation\\_careers/](http://www.faa.gov/jobs/career_fields/aviation_careers/)

Visit the FAA Virtual Career Fair and learn all about select aviation careers FAA is offering. FAA recruitment experts will be available for live chats on Jan. 29, 12–4 p.m. EST, and Feb. 12, 12–4 p.m. EST.

To register for the Career Fair and to learn about these aviation careers, please visit: <http://vshow.on24.com/vshow/network/registration/5492>

Applicants are highly encouraged to use the resume builder available on the USAJOBS website [usajobs.gov](http://usajobs.gov).

Visit the USAJOBS Resource Center at [help.usajobs.gov/](http://help.usajobs.gov/) to learn how to build your resume, and access tips and tutorials on applying and interviewing for federal jobs.

Let me say a few things in closing.

We have been very successful in spreading the word on this announcement and it is no surprise, especially in these times, that the response has been enormous. I have seen so many diverse and talented young folks looking for opportunities. Our challenge is to assist them in any way we can to find opportunities wherever they can including in other areas of the federal government if possible. More to come and we will need your help.

NBCFAE has a proud history of helping everyone who ask us for help. We do not ask the ethnicity of anyone seeking our assistance and we want the best and brightest to work for the FAA. I believe what is sometimes lost is that we are also the best and brightest. NBCFAE's goals include assisting in recruiting African Americans, females, and minority individuals into the FAA and to promote equal employment opportunities through all lawful means. We do not apologize for our commitment to that end.

We encourage everyone to join us as members and hope that our organizations work speaks for itself when people consider becoming a member

Please sign on the membership section of [www.NBCFAE.org](http://www.NBCFAE.org). Go to the Resources header. Use the drop down menus to go to Documents and then to ATC hiring for additional information.

Please email any questions you have to me. I will compile them and send a Frequently Asked Questions next week,

Have a wonderful weekend.

In Unity,

Roosevelt Lenard, Jr.  
NBCFAE National President

# Exhibit 4

**NBCFAE'S TEAM SEVEN UPDATE** January 30, 2014



**Ronald Bagley, NBCFAE EEO Chairperson**

**CURRENT ACTIVITIES:**

Ronald Bagley has been attending the Coalition for the Peoples' Agenda meeting (Rev. Dr. Joseph E. Lowery's group). Randy Williams continues to work with the Moral Monday group on behalf of Team 7.

**Pending & Ongoing**

Schedule meeting with Washington, DC Congressional Black Caucus (CBC) for some time in February.

Follow up on our face to face in March regarding the items below: Questions to Federal Aviation Administration (FAA) Administrator Michael P. Huerta regarding the FAA's barriers and its trend analysis of the workforce's major occupations by race, national origin, sex and disability. FAA's responses were that they are working on the issues. DOT alliances indicated to the CBC that they should actively remain on this discrimination issue.

CBC leaders met with DOT and FAA to discuss the agency's hiring process. Next steps are to include appropriations language in to the FAA letters as this may be a vehicle that could remove these barriers very quickly. Additionally, CBC's support to NBCFAE is to ask for best practices that align to FAA's hiring practices for a concentration of minority hiring.

Also, during this visit met with CBC constituents including Congressman Elijah E. Cummings (House Representative, Maryland). Congressman Cummings, Chair of the Committee on Oversight and Government Reform is engaged with the CBC Policy Director and will aid in the development of strategies regarding FAA's infrastructure and political taskforce.

Follow up with membership (joining) requirements of the Coalition of the Peoples Agenda. Follow up on a meeting with Dr. Joseph E. Lowery; currently pursuing information on the status of the IOU's from our last meeting with Rainbow PUSH Coalition's Vice President of Legal Affairs, Attorney Janice E. Mathis. We then will move forward on the following: Letter to and meeting with DOT, FAA and EEOC.

# Exhibit 5

From: [Joseph.Teixeira@faa.gov](mailto:Joseph.Teixeira@faa.gov) [mailto:[Joseph.Teixeira@faa.gov](mailto:Joseph.Teixeira@faa.gov)]

Sent: Monday, December 30, 2013 2:19 PM

To: [les.wilkinson@aims.edu](mailto:les.wilkinson@aims.edu); [lstephe4@aims.edu](mailto:lstephe4@aims.edu); Verne Latham; Mary Niemczyk; Joseph Gridley; John Gilding; [ecolageo@broward.edu](mailto:ecolageo@broward.edu); [asikora@broward.edu](mailto:asikora@broward.edu); [jshakesp@broward.edu](mailto:jshakesp@broward.edu); [senglish@broward.edu](mailto:senglish@broward.edu); [dbraun1@broward.edu](mailto:dbraun1@broward.edu); [Jim.Scott@ccbc.edu](mailto:Jim.Scott@ccbc.edu); [hayden\\_scott@dwc.edu](mailto:hayden_scott@dwc.edu); [wyman\\_peter@dwc.edu](mailto:wyman_peter@dwc.edu); [donofrij@dowling.edu](mailto:donofrij@dowling.edu); [koplinkl@dowling.edu](mailto:koplinkl@dowling.edu); [LindenFM@dowling.edu](mailto:LindenFM@dowling.edu); [dalyt@dowling.edu](mailto:dalyt@dowling.edu); [Deborah.abingdon@roswell.enmu.edu](mailto:Deborah.abingdon@roswell.enmu.edu); [Dusty.lewis@roswell.enmu.edu](mailto:Dusty.lewis@roswell.enmu.edu); [juan.salmon@roswell.enmu.edu](mailto:juan.salmon@roswell.enmu.edu); 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Subject: Hiring of Air Traffic Controllers by the FAA

Dear Colleagues,

The quoted text below, is an extract from letters we sent today to all our primary Collegiate Training Initiative (CTI) contacts. This email is being sent to an expanded list of CTI stakeholders to initiate a dialogue on upcoming changes to the hiring process for of air traffic controllers by the FAA.

"The Federal Aviation Administration (FAA) has enjoyed a long-standing relationship with your organization and values our partnership in the training of potential Air Traffic Controllers (ATC). Recently, the FAA completed a barrier analysis of the ATC occupation pursuant to the Equal Employment Opportunity Commission's (EEOC) Management Directive 715. As a result of the analysis, recommendations were identified that we are implementing to improve and streamline the selection of ATC candidates.

These improvements will have a direct and present impact on all hiring sources, including CTI. An overview of the immediate changes being made to the ATC hiring process is presented below.

#### Revisions to ATC Hiring Process

- A nationwide competitive FG-01 vacancy announcement open to all U.S. Citizens will be issued in February 2014. Any individual desiring consideration for employment (including CTI graduates) MUST apply. Existing inventories of past applicants will not be used.
- All applicants will be evaluated against the same set of qualification standards. Specifically, applicants must have at least 3 years of progressively responsible work experience, a 4 year degree, or a combination of the two.
- The existing testing process has been updated. The revised testing process is comprised of a biographical questionnaire (completed as part of the application process) and the cognitive portion of the AT-SAT. The cognitive portion of the AT-SAT will be administered only to those who meet the qualification standards and pass the biographical questionnaire. Applicants for the February 2014 announcement will be required to take and pass the new assessments in order to be referred on for a selection decision.
- Since a single vacancy announcement will be used for all applicant sources, a single nationwide referral list will be generated containing all candidates who meet the qualification standards and pass the assessments. Location preference will no longer be used as a determining factor for referral or selection.

Centralized selection panels will no longer be convened to make selections from the referral list. Selections will now be fully automated, grouping candidates by assessment scores and veteran's preference.

These improvements to the ATC hiring process will significantly strengthen the long term sustainability of our program and offer our candidates a fair and viable opportunity to demonstrate their capabilities and potential for the ATC position.

We recognize that you may have questions concerning these changes.

Considering the upcoming holiday season, we are planning a teleconference for Mid-January when we will more fully address questions and concerns you may have.

We want to reiterate that we very much value our partnership with the CTI program and look forward to assisting you in understanding our changes to the ATC selection process. We will be contacting you soon to schedule the January teleconference."

Best Regards, Joseph

Joseph Teixeira  
Vice President for Safety &  
Technical Training  
Air Traffic Organization  
Tel: 202-267-3341  
Email: [joseph.teixeira@faa.gov](mailto:joseph.teixeira@faa.gov)  
(Embedded image moved to file: pic26439.gif)

# Exhibit 6



# Exhibit 7

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**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

ANDREW J. BRIGIDA. et. al., on behalf  
of himself and all others similarly situated,

Plaintiff(s),

vs.

ELAINE L. CHAO, Secretary, U.S.  
Department of Transportation, et al.

Defendant(s).

) Case Number: Case No. 16-cv-2227 (DLF)

) **DECLARATION OF ANTHONY  
GAGLIARDO**

) **IN SUPPORT OF PLAINTIFF’S MOTION  
FOR CLASS CERTIFICATION**

I, Anthony Gagliardo, declare as follows:

1. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.

2. I served in the United States Air Force for 18 years.

3. After leaving the Air Force, and prior to my employment with the Federal Aviation Administration (“FAA”), I worked for Northwest and Delta Airlines as the Manager of Flight Operations and Inflight Training.

4. I was employed by the Federal Aviation Administration from June 2009 to October 2013.

DECLARATION OF ANTHONY GAGLIARDO IN SUPPORT OF PLAINTIFF’S MOTION  
FOR CLASS CERTIFICATION.

1 5. After leaving the FAA I was appointed to the position of Director Technical  
2 Learning and Development at the National Aeronautics and Space Administration Jet Propulsion  
3 Laboratory (NASA/JPL).

4 6. My current position is Leader of Training, Global Operations for Polaris, Inc.

5 7. My last position with the FAA according to the FAA's performance and  
6 management system, was "Director, Technical Training Support."

7 8. In my last position with the FAA I had direct oversight and knowledge of the Air  
8 Traffic - Collegiate Training Initiative ("AT-CTI") program.

9 9. AT-CTI schools provided a large portion of air traffic controller applicants. Our  
10 office had data that clearly showed the AT-CTI graduates and military controllers were more  
11 successful than general public or off-the-street air traffic controller applicants.

12 10. Two of the thirty-six AT-CTI schools, Hampton University and the Inter  
13 American University of Puerto Rico, were historically African-American and Hispanic  
14 institutions respectively.

15 11. My office was responsible for the creation of report produced by the FAA titled  
16 "Air Traffic-Collegiate Training Initiative Diversity Data 2011-12" report dated June 12, 2012,  
17 the "Air Traffic-Collegiate Training Initiative Diversity Data 2012-13 " report dated February  
18 25, 2013, as well as the "Air Traffic Collegiate Training Initiative (AT-CTI) Partner School  
19 Diversity and Outreach 2013" report dated February 25, 2013 (collectively "Reports").  
20

21 12. These various Reports sought to determine the diversity of the potential applicant  
22 pool from the FAA's partner AT-CTI colleges and universities.

23 13. In order to prepare the Report we asked each AT-CTI institution to provide  
24 voluntary diversity data.

25 14. Data gathered for the Reports clearly illustrated that the AT-CTI institutions, as a  
26 whole, were very diverse.

27 15. My immediate supervisor, Joseph Teixeira, asked me on several occasions to  
28 modify the Reports to make AT-CTI diversity look worse. Specifically to make it look like AT-

DECLARATION OF ANTHONY GAGLIARDO IN SUPPORT OF PLAINTIFF'S MOTION  
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1 CTI school populations had less African-American, Hispanic, and female participation and  
2 students.

3 16. Mr. Teixeira also instructed me to not include survey data in the Reports from  
4 certain Associate Degree based 2-year CTI schools and other schools in ethnically diverse  
5 areas in order to make the AT-CTI program look much less diverse than the student populations  
6 actually were.

7 17. I told Mr. Teixeira that I wouldn't falsify minority participation in the AT-CTI  
8 programs and that the AT-CTI organizations had demonstrated strong diversity in both  
9 ethnographic and gender categories.

10 18. When I refused to comply with Mr. Teixeira's instruction to change or falsify data  
11 for the Reports, I experienced organizational isolation and retribution.

12 19. Mr. Teixeira subsequently modified the information in the Reports to create the  
13 false impression that the CTI schools were not diverse by manipulating the Reports' findings and  
14 over aggregating and generalizing category and class information. Mr. Teixeira intentionally  
15 reduced CTI minority figures to make the CTI programs look less diverse than they actually  
16 were.

17 20. On February 8, 2013, an employee I supervised named Terry Craft, who at the  
18 time was the FAA's AT-CTI program manager, sent an e-mail to AT-CTI schools in which he  
19 stated he believed that the AT-CTI applicant pool was diverse.

20 21. Mr. Craft was aware of the AT-CTI schools' diversity and Mr. Teixeira's attempt  
21 at changing the data to reflect otherwise.

22 22. Mr. Teixeira became very angry when he learned that Mr. Craft had sent the email  
23 regarding AT-CTI diversity and told me to discipline Mr. Craft.

24 23. When I argued against disciplining Mr. Craft, I experienced further organizational  
25 isolation and retribution by Mr. Teixeira.

26 24. It was generally known in the FAA that the National Black Coalition of Federal  
27 Aviation Employees ("NBCFAE") wanted to eliminate preferential hiring from the AT-CTI  
28

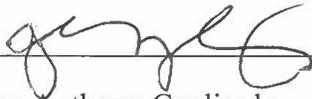
DECLARATION OF ANTHONY GAGLIARDO IN SUPPORT OF PLAINTIFF'S MOTION  
FOR CLASS CERTIFICATION.

1 program so that more general public African American air traffic controller candidates could be  
2 hired without the requirement that they attend a AT-CTI institution or have prior military  
3 experience.

4 25. The Reports were used in a Barrier Analysis and Barrier Analysis Extension  
5 conducted in 2012-2013. It is my belief that information on AT-CTI student diversity in Barrier  
6 Analysis and Barrier Analysis Extension was incorrect due to intentional underreporting of  
7 minority participation by Mr. Teixeira.

8 26. It is my belief that the Reports data was intentionally manipulated to assist the  
9 FAA in eliminating the AT-CTI preference and inventory of qualified applicants that had passed  
10 the ATSAT examination. This was done due to pressure from the NBCFAE as well as certain  
11 individuals in the FAA Air Traffic, Human Resources and Civil Rights offices.

12  
13  
14 I declare under penalty of perjury under the laws of the United States that the foregoing is  
15 true and correct and that this declaration was executed on November 6, 2018.

16  
17 Signature:  \_\_\_\_\_

18 Printed name: Anthony Gagliardo \_\_\_\_\_

19 Address: 5643 226<sup>th</sup> Ave NE Bethel MN 55005

20 Phone Number: 952-217-3505

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DECLARATION OF ANTHONY GAGLIARDO IN SUPPORT OF PLAINTIFF'S MOTION  
FOR CLASS CERTIFICATION.

# Exhibit 8

From: [terry.craft@faa.gov](mailto:terry.craft@faa.gov) [terry.craft@faa.gov]

Sent: Friday, February 08, 2013 6:30 AM

To: Ramon Claudio

Cc: [afsll@uaa.alaska.edu](mailto:afsll@uaa.alaska.edu); [anaumann@mdc.edu](mailto:anaumann@mdc.edu); [asikora@broward.edu](mailto:asikora@broward.edu); [Brent.Spencer@erau.edu](mailto:Brent.Spencer@erau.edu); [cscott@greenriver.edu](mailto:cscott@greenriver.edu); [Coynea7e@erau.edu](mailto:Coynea7e@erau.edu); [danm@hesston.edu](mailto:danm@hesston.edu); [donofrij@dowling.edu](mailto:donofrij@dowling.edu); [drechsel@aero.und.edu](mailto:drechsel@aero.und.edu); [dwilliams@ccbcmd.edu](mailto:dwilliams@ccbcmd.edu); [dwilt@fit.edu](mailto:dwilt@fit.edu); [Deborah.abingdon@roswell.enmu.edu](mailto:Deborah.abingdon@roswell.enmu.edu); [gwescott@tulsacc.edu](mailto:gwescott@tulsacc.edu); [jeichelberger@ccbcmd.edu](mailto:jeichelberger@ccbcmd.edu); [jmerkt@ju.edu](mailto:jmerkt@ju.edu); [Jim.Scott@ccbc.edu](mailto:Jim.Scott@ccbc.edu); [kuhlmank@msudenver.edu](mailto:kuhlmank@msudenver.edu); [linda.bracewell@minneapolis.edu](mailto:linda.bracewell@minneapolis.edu); [lwilkin2@aims.edu](mailto:lwilkin2@aims.edu); [mike.deml@minneapolis.edu](mailto:mike.deml@minneapolis.edu); [mmcfarl2@kent.edu](mailto:mmcfarl2@kent.edu); [mnolan@purdue.edu](mailto:mnolan@purdue.edu); [mtfranqui@gmail.com](mailto:mtfranqui@gmail.com); [Margaret.browning@hamptonu.edu](mailto:Margaret.browning@hamptonu.edu); [parrotwi@lewisu.edu](mailto:parrotwi@lewisu.edu); [ron.ferrara@mtsu.edu](mailto:ron.ferrara@mtsu.edu); [rpace@mgc.edu](mailto:rpace@mgc.edu); [rrogus@mtsac.edu](mailto:rrogus@mtsac.edu); [ryan.seiler@wmich.edu](mailto:ryan.seiler@wmich.edu); [sam.fischer@fscj.edu](mailto:sam.fischer@fscj.edu); [sdaum@mtsac.edu](mailto:sdaum@mtsac.edu); [sharon.devivo@vaughn.edu](mailto:sharon.devivo@vaughn.edu); [slanderson@stcloudstate.edu](mailto:slanderson@stcloudstate.edu); [stephenwest@ou.edu](mailto:stephenwest@ou.edu); [Seanfortier@letu.edu](mailto:Seanfortier@letu.edu); [verne.latham@asu.edu](mailto:verne.latham@asu.edu); Webb, Donnetta; Peter Wyman; ">"@faa.gov; [afach@uaa.alaska.edu](mailto:afach@uaa.alaska.edu); [ancds@uaa.alaska.edu](mailto:ancds@uaa.alaska.edu); [aviation@greenriver.edu](mailto:aviation@greenriver.edu); [Albert.culp@tstc.edu](mailto:Albert.culp@tstc.edu); [beverly.byrdsonq@hamptonu.edu](mailto:beverly.byrdsonq@hamptonu.edu); [broganwi@lewisu.edu](mailto:broganwi@lewisu.edu); [Barb.soleta@aims.edu](mailto:Barb.soleta@aims.edu); [Brad.Sherman@tstc.edu](mailto:Brad.Sherman@tstc.edu); [carey.freeman@hamptonu.edu](mailto:carey.freeman@hamptonu.edu); [ccheatum@fscj.edu](mailto:ccheatum@fscj.edu); [ckomsa@ccbcmd.edu](mailto:ckomsa@ccbcmd.edu); [dbraun1@broward.edu](mailto:dbraun1@broward.edu); [dcushwa@uaa.alaska.edu](mailto:dcushwa@uaa.alaska.edu); [dgallion@fscj.edu](mailto:dgallion@fscj.edu); [dlewis4@mdc.edu](mailto:dlewis4@mdc.edu); [Dusty.lewis@roswell.enmu.edu](mailto:Dusty.lewis@roswell.enmu.edu); [fiqrl@erau.edu](mailto:fiqrl@erau.edu); [forrestj@msudenver.edu](mailto:forrestj@msudenver.edu); [gcomollo@greenriver.edu](mailto:gcomollo@greenriver.edu); [gregory.mcquirk@erau.edu](mailto:gregory.mcquirk@erau.edu); [greverdi@fitaviation.com](mailto:greverdi@fitaviation.com); [gzlotky@mtsu.edu](mailto:gzlotky@mtsu.edu); [hayden\\_scott@dwc.edu](mailto:hayden_scott@dwc.edu); Ida, Richard; [jboerger@kent.edu](mailto:jboerger@kent.edu); [jcain@fit.edu](mailto:jcain@fit.edu); [john.gilding@asu.edu](mailto:john.gilding@asu.edu); [joseph.gridley@asu.edu](mailto:joseph.gridley@asu.edu); [jshakesp@broward.edu](mailto:jshakesp@broward.edu); [juan.salmon@roswell.enmu.edu](mailto:juan.salmon@roswell.enmu.edu); [JCALAF@bayamon.inter.edu](mailto:JCALAF@bayamon.inter.edu); [koplinkl@dowling.edu](mailto:koplinkl@dowling.edu); [lstephe4@aims.edu](mailto:lstephe4@aims.edu); Miller, Scott; [mtsuatc@mtsu.edu](mailto:mtsuatc@mtsu.edu); [mummeb6e@erau.edu](mailto:mummeb6e@erau.edu); [mwillet@ju.edu](mailto:mwillet@ju.edu); [Mary.Niemczyk@asu.edu](mailto:Mary.Niemczyk@asu.edu); [rcharles@mgc.edu](mailto:rcharles@mgc.edu); [rpcapozzi@uaa.alaska.edu](mailto:rpcapozzi@uaa.alaska.edu); [ryates@ju.edu](mailto:ryates@ju.edu); [RBancroft@tulsacc.edu](mailto:RBancroft@tulsacc.edu); [Rosalinda.Herrera@tstc.edu](mailto:Rosalinda.Herrera@tstc.edu); [Rusty.Chandler@cecilairport.com](mailto:Rusty.Chandler@cecilairport.com); [sandraz@hesston.edu](mailto:sandraz@hesston.edu); [sandyt@hesston.edu](mailto:sandyt@hesston.edu); [senglish@broward.edu](mailto:senglish@broward.edu); [smithabc@erau.edu](mailto:smithabc@erau.edu); [streitmi@lewisu.edu](mailto:streitmi@lewisu.edu); [Sshackelford@mtsac.edu](mailto:Sshackelford@mtsac.edu); [SteveKintner@letu.edu](mailto:SteveKintner@letu.edu); [trena.mathis@minneapolis.edu](mailto:trena.mathis@minneapolis.edu)

Subject: Re: URGENT REQUEST: CTI Diversity initiatives

Ramon;

The panel sees the application but does not see anything that is prohibited in selecting based on merit that is anything that is prohibited.

By law the FAA or any other employer can not select an applicant based on race, color, creed, national origin, sex, and in our case and most companies, sexual orientation (Government Executive Order (Clinton 1992), not law).

The issue we have is ensuring those applying and found qualified represent diversity, which hopefully means the applicant "pool" is diverse. If we select as we are bound to, by "merit" without regard to the factors mentioned above, then the selections will hopefully represent the diversity of the pool.

My objective, should it be true, is to demonstrate that the CTI pool is as diverse as the other hiring pools including VRA and Gen Pub. There is a perception that it is not. So far I do not see this as true, so I need data to back this up before perception becomes perceived truth.

I am attempting to demonstrate, again if true, that the CTI future hiring pool is as or more

diverse, and the 36 schools do more to reach those communities than we, the FAA, or anyone else can do.

I hope that helps everyone understand what I am doing and how important it is.

Terry

Terry L. Craft  
AJI-216 Manager External Training Initiatives  
Air Traffic Collegiate Training Initiative  
[www.faa.gov/go/atcti](http://www.faa.gov/go/atcti) <<http://www.faa.gov/go/atcti>>  
Tech Ops Collegiate Training Initiative  
Flight Deck Training  
Out of Agency Training  
202.385.6788 (Office)  
202.578.7627 (Mobile)

-----Ramon Claudio <[ramon.claudio@tstc.edu](mailto:ramon.claudio@tstc.edu)> wrote: -----

To: Terry Craft/AWA/FAA@FAA  
From: Ramon Claudio <[ramon.claudio@tstc.edu](mailto:ramon.claudio@tstc.edu)>  
Date: 02/08/2013 08:57AM  
cc: [afsl@uaa.alaska.edu](mailto:afsl@uaa.alaska.edu), [anaumann@mdc.edu](mailto:anaumann@mdc.edu), [asikora@broward.edu](mailto:asikora@broward.edu), [Brent.Spencer@erau.edu](mailto:Brent.Spencer@erau.edu), [cscott@greenriver.edu](mailto:cscott@greenriver.edu), [Coynea7e@erau.edu](mailto:Coynea7e@erau.edu), [danm@hesston.edu](mailto:danm@hesston.edu), [donofrij@dowling.edu](mailto:donofrij@dowling.edu), [drechsel@aero.und.edu](mailto:drechsel@aero.und.edu), [dwilliams@ccbcmd.edu](mailto:dwilliams@ccbcmd.edu), [dwilt@fit.edu](mailto:dwilt@fit.edu), [Deborah.abingdon@roswell.enmu.edu](mailto:Deborah.abingdon@roswell.enmu.edu), [qwescott@tulsacc.edu](mailto:qwescott@tulsacc.edu), [jeichelberger@ccbcmd.edu](mailto:jeichelberger@ccbcmd.edu), [jmerkt@ju.edu](mailto:jmerkt@ju.edu), [Jim.Scott@ccbc.edu](mailto:Jim.Scott@ccbc.edu), [kuhlmank@msudenver.edu](mailto:kuhlmank@msudenver.edu), [linda.bracewell@minneapolis.edu](mailto:linda.bracewell@minneapolis.edu), [lwilkin2@aims.edu](mailto:lwilkin2@aims.edu), [mike.deml@minneapolis.edu](mailto:mike.deml@minneapolis.edu), [mmcfarl2@kent.edu](mailto:mmcfarl2@kent.edu), [mnolan@purdue.edu](mailto:mnolan@purdue.edu), [mtfranqui@gmail.com](mailto:mtfranqui@gmail.com), [Margaret.browning@hamptonu.edu](mailto:Margaret.browning@hamptonu.edu), [parrotwi@lewisu.edu](mailto:parrotwi@lewisu.edu), [ron.ferrara@mtsu.edu](mailto:ron.ferrara@mtsu.edu), [rpace@mqc.edu](mailto:rpace@mqc.edu), [rrogus@mtsac.edu](mailto:rrogus@mtsac.edu), [ryan.seiler@wmich.edu](mailto:ryan.seiler@wmich.edu), [sam.fischer@fscj.edu](mailto:sam.fischer@fscj.edu), [sdaum@mtsac.edu](mailto:sdaum@mtsac.edu), [sharon.devivo@vaughn.edu](mailto:sharon.devivo@vaughn.edu), [slanderson@stcloudstate.edu](mailto:slanderson@stcloudstate.edu), [stephenwest@ou.edu](mailto:stephenwest@ou.edu), [Seanfortier@letu.edu](mailto:Seanfortier@letu.edu), [verne.latham@asu.edu](mailto:verne.latham@asu.edu), [webbd@scc.losrios.edu](mailto:webbd@scc.losrios.edu), [wyman\\_peter@dwc.edu](mailto:wyman_peter@dwc.edu), [afach@uaa.alaska.edu](mailto:afach@uaa.alaska.edu), [ancds@uaa.alaska.edu](mailto:ancds@uaa.alaska.edu), [aviation@greenriver.edu](mailto:aviation@greenriver.edu), [Albert.culp@tstc.edu](mailto:Albert.culp@tstc.edu), [beverly.byrdson@hamptonu.edu](mailto:beverly.byrdson@hamptonu.edu), [broganwi@lewisu.edu](mailto:broganwi@lewisu.edu), [Barb.soleta@aims.edu](mailto:Barb.soleta@aims.edu), [Brad.Sherman@tstc.edu](mailto:Brad.Sherman@tstc.edu), [carey.freeman@hamptonu.edu](mailto:carey.freeman@hamptonu.edu), [ccheatum@fscj.edu](mailto:ccheatum@fscj.edu), [ckomsa@ccbcmd.edu](mailto:ckomsa@ccbcmd.edu), [dbraun1@broward.edu](mailto:dbraun1@broward.edu), [dcushwa@uaa.alaska.edu](mailto:dcushwa@uaa.alaska.edu), [dgallion@fscj.edu](mailto:dgallion@fscj.edu), [dlewis4@mdc.edu](mailto:dlewis4@mdc.edu), [Dusty.lewis@roswell.enmu.edu](mailto:Dusty.lewis@roswell.enmu.edu), [fiqlr@erau.edu](mailto:fiqlr@erau.edu), [forrestj@msudenver.edu](mailto:forrestj@msudenver.edu), [gcomollo@greenriver.edu](mailto:gcomollo@greenriver.edu), [gregory.mcquirk@erau.edu](mailto:gregory.mcquirk@erau.edu), [greverdi@fitaviation.com](mailto:greverdi@fitaviation.com), [gzlotky@mtsu.edu](mailto:gzlotky@mtsu.edu), [hayden\\_scott@dwc.edu](mailto:hayden_scott@dwc.edu), [idar@scc.losrios.edu](mailto:idar@scc.losrios.edu), [jboerger@kent.edu](mailto:jboerger@kent.edu), [jcain@fit.edu](mailto:jcain@fit.edu), [john.gilding@asu.edu](mailto:john.gilding@asu.edu), [joseph.gridley@asu.edu](mailto:joseph.gridley@asu.edu), [jshakesp@broward.edu](mailto:jshakesp@broward.edu), [juan.salmon@roswell.enmu.edu](mailto:juan.salmon@roswell.enmu.edu), [JCALAF@bayamon.inter.edu](mailto:JCALAF@bayamon.inter.edu), [koplinkl@dowling.edu](mailto:koplinkl@dowling.edu), [Istephe4@aims.edu](mailto:Istephe4@aims.edu), [millers@scc.losrios.edu](mailto:millers@scc.losrios.edu), [mtsuatc@mtsu.edu](mailto:mtsuatc@mtsu.edu), [mummeb6e@erau.edu](mailto:mummeb6e@erau.edu), [mwillet@ju.edu](mailto:mwillet@ju.edu), [Mary.Niemczyk@asu.edu](mailto:Mary.Niemczyk@asu.edu), [rcharles@mqc.edu](mailto:rcharles@mqc.edu), [rpcapozzi@uaa.alaska.edu](mailto:rpcapozzi@uaa.alaska.edu), [ryates@ju.edu](mailto:ryates@ju.edu), [RBancroft@tulsacc.edu](mailto:RBancroft@tulsacc.edu), [Rosalinda.Herrera@tstc.edu](mailto:Rosalinda.Herrera@tstc.edu), [Rusty.Chandler@cecilairport.com](mailto:Rusty.Chandler@cecilairport.com), [sandraz@hesston.edu](mailto:sandraz@hesston.edu), [sandyt@hesston.edu](mailto:sandyt@hesston.edu), [senglish@broward.edu](mailto:senglish@broward.edu), [smithabc@erau.edu](mailto:smithabc@erau.edu), [streitmi@lewisu.edu](mailto:streitmi@lewisu.edu), [Sshackelford@mtsac.edu](mailto:Sshackelford@mtsac.edu), [SteveKintner@letu.edu](mailto:SteveKintner@letu.edu), [trena.mathis@minneapolis.edu](mailto:trena.mathis@minneapolis.edu)

Subject: Re: URGENT REQUEST: CTI Diversity initiatives

Terry,

The overwhelming efforts and initiatives that all CTI schools have leave no doubt that we are reaching out to everyone; however, I have to wonder if the FAA is doing the same. From my understanding of how the hiring panels operate is that the only information the panel members see are names, AT-SAT Scores, GPA, and whatever the student writes in a small comments section of the application. How can the FAA explain that they are looking for diversity yet they blind the very people who are supposed to hire a more diverse workforce by hiding diversity information from the hiring panel members?

Can you please clarify what information the hiring panel members see of each applicant?

Ramon

On Fri, Feb 8, 2013 at 6:43 AM, <[terry.craft@faa.gov](mailto:terry.craft@faa.gov)<mailto:terry.craft@faa.gov>> wrote: CTI Partners;

As I have briefed in the past I am working on the CTI Diversity report that will be pushed up to the highest levels of the FAA.

As I have noted before, I am overwhelmed at the work that you do to reach out to those in under served communities and expose the profession to those who may not be aware of it.

I have compiled all the data that was collected and most important all the initiatives you have worked on this school year. I have transposed them from your evaluations into a single document that will accompany the data. (ATTACHED) I did not alter them, only formatted. Additionally I am going to write a preface to the report that will highlight the CTI commitment through your actions.

Most of you were very detailed in your evaluations and some, did just as asked and answered the question. I want to give you the opportunity to update and add any additional initiatives you may have so I can include them in the report that is being sent up next Friday.

If you have anything new or want to expand on the simple "yes" "no" answers send it to me in a word document no later than COB Tuesday 2/12/2013. I will update the report and add the information to your 2012-13 evaluations.

I can not stress enough how important it is to us for you to do what you do, I absolutely need to demonstrate this to those way way above.

Thanks again as always for being so responsive!

Terry

Terry L. Craft  
AJI-216 Manager External Training Initiatives  
Air Traffic Collegiate Training Initiative

[www.faa.gov/go/atcti](http://www.faa.gov/go/atcti)<<http://www.faa.gov/go/atcti>>

Tech Ops Collegiate Training Initiative

Flight Deck Training

Out of Agency Training

202.385.6788<<tel:202.385.6788>> (Office)

202.578.7627<<tel:202.578.7627>> (Mobile)

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[<http://www.waco.tstc.edu/docs/2194.jpg>]

Ramon Claudio

ATC Department Chair

Texas State Technical College

3801 Campus Drive

Waco, Texas 76705

Office: 254-867-2086

Mobile 254-523-7519

Email: [ramon.claudio@tstc.edu](mailto:ramon.claudio@tstc.edu)<<mailto:ramon.claudio@tstc.edu>>

"This email may contain the thoughts and opinions of Ramon Claudio and does not represent official Texas State Technical College-Waco policy."

# Exhibit 9

February 10, 2010

## National Black Coalition of Federal Aviation Employees

### MD-715 Compliance Effort

#### TALKING POINTS

BACKGROUND: In late 2008, NBCFAE sent a letter to the FAA Office of Civil Rights requesting a copy of each of the last five years' MD-715 Report from FAA to the Equal Employee Opportunity Commission (EEOC). The FAA responded to that request by sending the reports for years 2004, 2005, 2006, and 2007. Upon receipt of those reports, the NBCFAE contracted with Dr. Herbert Vong and Associates to conduct a 11 expert analysis of that information. That analysis was completed and the associated report was delivered to NBCFAE in the summer of 2009. Among the many conclusions drawn from that analysis, the following points stood out:

The FAA/DOT is the least diverse agency/department, when compared to all the Executive Branch Departments in the Federal Government.

The FAA/DOT has the lowest Percentage of Minority Employees in the Federal Civilian Workforce, when compared to all other Executive Branch Departments in the Federal Government.

African Americans constitute 9.47 percent of the FAA Workforce as compared to 17.6 percent in the Federal Civilian Workforce. Thus, the FAA would be required to increase their complement of African American employees by 8.13 percent to reach parity with the Federal Civilian Workforce.

That information was very compelling and prompted the NBCFAE National Executive Board to seek cause(s) for the sustained under-representation of minorities and women within FAA.

In July of 2009, we sent an introductory letter to the FAA Administrator, and requested to meet with him concerning disparate treatment and under-representation in FAA. That request was denied, and we were informed the Administrator would not meet with us. We met with Employee Associations, however, he would continue the practice of meeting with all employee association representatives jointly at the National Employee Forum. That answer was not acceptable to the National Executive Board.

So, in October 2009 the board sent a follow-up letter to the Secretary of Transportation, and the FAA Administrator, that letter outlined our position that FAA is not in compliance with certain provisions of the EEOC's Management Directive (MD) 715, or the U.S. Supreme Court decisions related to the Adarand Construction, Inc. v. Peña, and the City of Richmond v. J.A. Croson, Ca. We, again, requested to meet with the FAA Administrator. (Note: "Citations of sources will be placed on our website")

## WHAT IS MO-715?

Management Directive 715 (MD-715) is the policy guidance which the equal Employment Opportunity Commission (EEOC) provides to federal agencies for their use in establishing an effective programs of equal employment opportunity under Section 717 of Title VII of the Civil Rights Act of '1964 (Title VII), as amended, 42 U.S.C. § 20000 *et seq.*, and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 *et seq.* **MO-715** provides a roadmap for creating effective equal employment opportunity (EEO) programs for all federal employees as required by Title VII and the Rehabilitation Act. It also sets forth the general reporting requirements for all federal agencies. MD715 took effect on October 11, 2003.

## WHY SHOULD WE BE CONCERNED ABOUT THEIR NON-COMPLIANCE?

Underrepresentation of minority, women, and disabled employees is apparent in the FAA's workplace. As a result of the agency's failure to comply with the provisions of **MO-715**, there is no actionable plan to effectively address those conditions. Thus, we continue to experience huge disparities in Hiring, Selections, Promotions, Pay Awards, and Training/Development Opportunities, as compared to other federal employees.

## WHAT ARE WE DOING?

A group of senior members of NBCFAE (TEAM 7) drafted a plan to move the FAA towards the desired diversity in their workforce. In January 2010 that plan was approved by the National Executive Committee. While we will not reveal the full details of that plan, the following initiatives have been completed or are now in progress:

As indicated above, we requested to meet with FAA Administrator Babbs. That request was denied. However, on February 4, 2010 we met with officials of FAA. The results of that meeting will be forthcoming. Meeting participants were:

### Federal Aviation Administration

Fanny Rivera, Associate Administrator for the Office of Civil Rights

Vantrils Gibson, Associate Administrator for the Office of Human Resources

Jorry Melky, Attorney for the Office of General Counsel External Affairs

Julia Rhodes, Attorney for the Office of General Counsel, Personnel and Labor Law

### National Black Coalition of Federal Aviation Employees

Shaun Sanders, National President

Roosevelt Lenard, National Vice President

Margaret Bonlos, Washington Headquarters  
Rogers, National President

Ronald Sargent, EEO Action Committee  
Chairperson

We have re-directed a portion of our National Operational Budget to support this effort.

We are building a coalition of supporters from entities, outside the FAA, that possess the power to influence the FAA to do what is legally required, and right for its employees. The first organization to sign up is the Reverend Jesse Jackson and Rainbow PUSH. Other Organizations we hope to bring on board include the NAACP, National Urban League, and Black Lives Matter.

We are contacting selected U.S. House and Senatorial Representatives about the ongoing problems and requesting their assistance to call the FAA to task.

We are re-initiating our efforts to gather information concerning discriminatory practices in the FAA.

We are re-tooling our EEO Complaint training in order to educate members on more effective ways to address their EEO issues and/or successfully navigate the EEO Complaint process.

## WHAT CAN YOU DO?

Become intimately familiar with the letter and be prepared to discuss it with others. (Members and Non members)

Join other civil rights based groups such as the Rainbow PUSH, NAACP, and Urban League at the local level.

Go to our new Website. Tailor the contact letter to fit your needs. Print the letter and mail it to your respective congressional representatives.

Document the specifics of your personal experiences concerning FAA discriminatory practices, and send that information to:

*Mr. Roaf Bañey*  
*NBCFAE EEO Action Chairperson*  
*2720 61st and Gleaton Pass*  
*Conyers, GA 30013*  
*Cell (770) 815-6885*  
*Fax (770) 785-6767*  
*Em: 111: Ron.Bailey@mbcfae.org*  
*Bailey@aoL.com*

Learn the EEO process for yourself. Be available and participate in the NBCFAE provided EEO Complaint training.

# Exhibit 10

#### TEAM 7 ON THE MOVE-VISIT TO THE HILL

Since the 2012 Las Vegas conference, Team 7 has made two trips to Washington to meet with government officials concerning the Federal Aviation Administration's (FAA) lack of an Affirmative Employment Plan as required by law. Today we are planning our next round of visits that will begin in January of 2013. Although our goal is in sight we have a great distance yet to travel. However please be advised that every effort will be made to use every resource available to reach our ultimate destination.

Several meetings were held on December 5, 2012 between members of NBCFAE Team 7 and Congressional Staffers.

The purpose of the meetings was to:

1. Raise awareness reference FAA's lack of a legal and implementable Affirmative Employment Plan (AEP) in accordance with 29 CFR 1614.102(b)(4).
2. Request support from congress to slow down or stop hiring of new employees until some changes are made by the FAA.
3. Build relationships with bi-partisan Committee Members of the Congressional Transportation and Infrastructure Subcommittee.
4. Continue to strive to build relationships with the Congressional Black Caucus (CBC).

Offices of Staffers who NBCFAE met with:

- Legislative Assistant to Congresswoman Marcia L. Fudge.
  - Congresswoman Fudge has been elected as the new Chair for the Congressional Black Caucus, effective January 2013. The agenda for the CBC's 2013 calendar is being developed. We requested that consideration be made to add our issues to their agenda. Although there may not be a lot of room for revisions Congresswoman Fudge will be briefed on our meeting and contact Ronald G. Bagley with follow up information. They want NBCFAE to forward all correspondence between NBCFAE and other Congressional offices. They also requested that we reach out and meet with the Congressional Tri - Caucus whose members comprise representatives from the Black, Asian and Hispanic congress.
  - Finally, we received assurance that NBCFAE have their support.
- Professional Staff, Aviation Subcommittee, Democratic Staff Director, Subcommittee on Aviation, Democratic Counsel Subcommittee on Aviation.
  - Of all the meetings held, this one with the three (3) bi-partisan members was also productive. Aviation Subcommittee Staffer was the lead for the group and stressed although she may not be a member of the Aviation Subcommittee in January 2013, she would be briefing her boss on the issues discussed. They will all follow up with NBCFAE after briefing their bosses.
- Legislative Correspondent for Congressman Henry "Hank" Johnson, 4<sup>th</sup> District of Georgia.

- There was no meeting scheduled with Congressman Johnson however, a "courtesy visit" proved to be meaningful. The Legislative Correspondent asked follow up questions about MD-715 and how is EEOC addressing reports from FAA. NBCFAE explained that MD-715 is simply a reporting tool and provides guidance for selecting officials and not an action plan.
- The question arose regarding previous congressional contacts and correspondence exchanges. The Correspondent requested copies of all correspondence exchanges be sent to him. He also wanted to know if the Inspector General (IG) had seen the reports submitted by FAA. Answer, no.
- We were advised that Congressman Johnson is trying to get back on the Transportation Committee.
- Director of Policies, Congressional Black Caucus.
  - This was a follow up meeting with the Director to do an overview of the previous meeting and we asked what can NBCFAE do to assist with getting the "ball rolling" again. We were told to continue to push.  
His office will follow up with the letter that was sent to the FAA and assess their response and share with Committee Chairman Ronald G. Bagley.

# Exhibit 11



Federal Aviation  
Administration

# AIR TRAFFIC COLLEGIATE TRAINING INITIATIVE (AT-CTI) PARTNERSHIP AGREEMENT

This partnership is between the Federal Aviation Administration  
and

**PARTNERSHIP AGREEMENT SIGNATORIES.** As signatories to this agreement, we the undersigned on behalf of the organization which we represent accept the criteria and policy established for the AT-CTI program.

  
\_\_\_\_\_  
Ezekiel Jenkins  
Manager  
Air Traffic Controller Training and Development Group, AJL-11

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date



U.S. Department  
of Transportation  
Federal Aviation  
Administration

## AIR TRAFFIC COLLEGIATE TRAINING INITIATIVE (AT-CTI) MANAGEMENT GUIDE

**BACKGROUND.** The Air Traffic Collegiate Training Initiative (AT-CTI) is a non-funded program designed to establish partnerships with educational institutions and to broaden employment opportunities in the aviation industry. While AT-CTI graduates are not guaranteed employment, the FAA considers the AT-CTI program a valuable hiring source for Air Traffic Control Specialists (ATCS).

AT-CTI students are required to achieve a passing score on the Air Traffic Selection and Training (AT-SAT) test battery, attend the FAA Academy, and successfully complete initial qualification training.

The AT-CTI school acknowledges its role and responsibilities in the AT-CTI program. Schools are expected to teach subjects that encompass the FAA's Air Traffic Basics Course; ensure graduates have a broad knowledge of the aviation industry; and possess the requisite knowledge, skills, and abilities to succeed in training.

**PURPOSE.** The intent of this document is to outline policies, roles and responsibilities of the FAA and the participating AT-CTI schools.

**AT-CTI SCHOOL RESPONSIBILITIES.** AT-CTI schools provide the FAA graduates who have successfully completed a FAA-approved AT-CTI program and have received a non-engineering aviation degree that includes curriculum that satisfies the Air Traffic Basics course teaching objectives. In addition, AT-CTI schools shall:

- Ensure that AT-CTI-related advertising accurately reflects the intent of the AT-CTI program, including employment opportunities.
- Ensure that their faculty is knowledgeable of the curriculum and current air traffic control policies.
- Provide guidance and counseling for students in all aspects of the AT-CTI program.
- Construct and administer a comprehensive test of all AT Basics subjects using a testing process equivalent to that used at the FAA Academy. The FAA test blueprint will be provided. Students must achieve a minimum score of 70% on an AT Basics comprehensive test prior to recommendation to the FAA.

**AT-CTI SCHOOL RESPONSIBILITIES** *(Continued)*

AT-CTI schools will provide the FAA the following information:

- Student test scores
- An institutional recommendation for employment for each student
- A current list of the non-engineering aviation degree programs
- Major changes made to the approved degree program(s) and curriculum.

In addition, the following information will be provided quarterly:

- Number of students enrolled in the AT-CTI program
- Number of graduates recommended to the FAA

**FAA RESPONSIBILITIES.** The FAA will test the students' AT Basics knowledge upon arrival for Initial En route or Tower Cab training. In addition, the FAA will:

Track performance of AT-CTI schools

Communicate pertinent information related to the AT-CTI program

Provide the following information to the AT-CTI schools:

- AT Basics Curriculum and AT Basics Test Blueprint
- Aggregate AT Basics Readiness test scores, quarterly.
- Semi-annual report that includes the following:
  - AT-CTI Basics Readiness analysis. This analysis provides the following data:
    - The academic ranking of the AT-CTI student performance
    - AT Basics Readiness scores by topic and school

**CERTIFICATION GUIDELINES.** Participating AT-CTI schools will be monitored throughout the year.

- **Full Certification.** Full certification is granted to applicants who apply and meet the qualifications written in the AT-CTI Institution Participation Guidelines.
- **Provisional Status Entry.** Provisional status entry into the AT-CTI program will be granted to first time applicants who apply and meet the qualifications written in the AT-CTI Institution Participation Guidelines. The applicant must apply for full certification within one year by submitting an application and responding to components I through V.
- **Probationary Guidelines.** The following actions can lead to a school being placed on one year probation.
  - Application by a current fully certified program that does not meet the deadline and qualifications written in the AT-CTI Institution Participation Guidelines.
  - Unresponsiveness to FAA requests for student data or program information.
  - The average number of graduates of the aviation program drops below 25 per year.
  - Consistent AT Basics Readiness test failures.
  - Violation of the terms of the management guide.
  - Actions that reflect negatively on the FAA and the AT-CTI Program.
- **Re-Certification.** Schools must apply for re-certification as required. The re-certification process will be conducted in the same manner as the certification process.
- **Decertification/Termination.** The following are grounds for decertification/termination. Schools must wait two years before they can reapply.
  - Loss of accreditation
  - Non-engineering aviation degree is no longer offered
  - Schools that apply for full or re-certification and do not meet the qualifications written in the AT-CTI Institution Participation Guidelines.
  - Multiple violations of the guidelines

**GENERAL CONDITIONS.** This management guide can be modified only by written amendment.

Any difficulties arising as a result of this guide should be referred to the Air Traffic Controller Training and Development Group, AJA-51.

School's wishing to withdraw from the AT-CTI Program should notify AJA-51 in writing.

The AT-CTI Program is governed by policy and procedures which are identified in Appendix 1 of this document. Copies of policy are in attachments 1 – 7.

## APPENDIX I

**POLICY.** The following Human Resource Management policies should be used in conjunction with the provisions of this Partnership Agreement.

- HROI, Air Traffic-Collegiate Training Initiative (AT-CTI) Standard Operating Procedures
- HROI, Eligibility Period for Air Traffic Collegiate Training Initiative (AT-CTI) Graduates
- EMP-1.10, Permanent External Hiring
- HRPM EMP-1.11, Temporary External Hiring
- HRPM EMP-1.20, Maximum Entry Age For Air Traffic Control Specialists
- Volume I: Employment - EMP-1.7 (Series 2152), Testing Policy for Filling Entry Level Air Traffic Control Specialist Positions in Terminal and En Route Options
- EMP-1.7, Qualification Requirements
- HROI, Applying Veterans Preference

**NOTE:** Go to the following website for detailed information:

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/hroi/emp/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/hroi/emp/)

**AT-CTI MANAGEMENT.** The AT-CTI program is managed as follows:

The Office of Acquisition & Business Services, ATO-A, within the Air Traffic Organization (ATO), is responsible for acquisition policy, contracting, and quality assurance services. It also provides information technology services and human resource management services. In addition, it oversees flight services program operations, workforce development and controller training.

The Air Traffic Controller Training and Development Group, AJA-51, within the ATO-A, manages the AT-CTI program and is the liaison between the participating AT-CTI schools and the FAA.

- AJA-51 is responsible for the following:
  - Conducting the annual application, certification, re-certification, and de-certification processes;
  - Monitoring communication and notification of AT-CTI Program schools regarding program requirements and changes;
  - Reviewing and summarizing the performance of the AT-CTI Program.
- The Office of Human Resources Management Programs and Policies, AHP-300, supports ATO-A by developing and managing issues and policies relating to the qualifications, recruitment, and employment of AT-CTI graduates.

**AT-CTI MANAGEMENT (Cont'd)**

- The Aviation Careers Division, AMH-300, within the Office of Human Resource Management:
  - Maintains the centralized hiring of AT-CTI graduates, the overall management of the AT-CTI inventory, and authorizes pre-employment testing of all AT-CTI students.
  - Reviews applications for completeness, to include registration with the selective service, and verifies veterans' preference.
- The Office of Aerospace Medicine, AAM-1, develops policy and manages the medical clearances for AT-CTI graduates.
- The Assistant Administrator for Security & Hazardous Materials, ASH-1, develops policy and manages the security clearances for AT-CTI graduates.

**MANAGEMENT OF THE AT-CTI INVENTORY.** AMH-300 is responsible for the overall management of the AT-CTI Inventory.

**NOTE:** Go to the following website for detailed information:

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/hroi/emp/atctisop/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/hroi/emp/atctisop/)

**REMOVAL FROM THE AT-CTI INVENTORY.** There are several ways a candidate will be removed from the AT-CTI Inventory including:

- The FAA approved AT-CTI school official does not recommend the candidate.
- The candidate does not achieve a passing score on the Air Traffic Selection and Training (AT-SAT) test battery after two consecutive attempts.
- The candidate was not selected within three years of graduation and did not request or receive approval for an extension of eligibility.
- The candidate reaches age 31.
- The candidate fails to meet the basic qualification requirements for AT-CTI graduates.

**BASIC QUALIFICATION REQUIREMENTS FOR AT-CTI GRADUATES.** To be considered for employment with the FAA, AT-CTI graduates must:

- Successfully complete the FAA approved AT-CTI Program including:
  - Receipt of a degree from a FAA approved AT-CTI school, in an aviation-related field, that includes the teaching objectives required by the FAA.
  - Receipt of an institutional recommendation for employment from an authorized school official.
- Be a United States citizen at the time of application for the AT-SAT test battery.
- Achieve a passing score (70 or above) on the AT-SAT test battery.
- Not have reached their 31st birthday when entering on duty in an FAA terminal or en route facility.
- Meet FAA medical, security, and suitability requirements.
- Successfully complete an interview to determine whether the candidate possesses the necessary personal characteristics and the ability to clearly speak English.

**EMPLOYMENT OF AT-CTI GRADUATES.** Selected candidates will be hired as Air Traffic Control Specialists in the Terminal or En Route option at the FG-2152-01 level. The appointment will be full time temporary, not to exceed 13 months. They will earn annual and sick leave and be eligible for other federal benefits.

En Route & Oceanic Services, ATO-E and Terminal Services, ATO-E establish the hiring requirements and are responsible for selection and placement.

The candidates are required to attend training at the FAA Academy located at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma.

- They will be responsible for paying their own lodging and other expenses.
- The FAA will pay for the cost of travel to and from Oklahoma.

AMH-300 is responsible for initiating the employment process.

- Candidate interviews will be coordinated by the AMH-300, in conjunction with ATO-E and ATO-T.

Security clearances are initiated with the tentative offer of employment.

- The regional Security Division will administer security adjudications for AT-CTI candidates.
- Suitability adjudications will be made in accordance with applicable agency guidance.

Candidates must pass an Air Traffic Control Specialist medical examination prior to employment.

- Medical clearances are initiated with the tentative offer of employment.
  - Additional information can be found in FAA Order 8500.2, FAA Job Required Medical Examinations/Drug Screens.

**ELIGIBILITY REQUIREMENTS FOR AT-CTI GRADUATES.** Candidates hired through this program by-pass the Air Traffic Basics Course.

- **AT-CTI Eligibility:** Candidates are eligible to be hired through the AT-CTI Program for three years after their graduation date.
- **Extending AT-CTI Eligibility:** Candidates who have passed the eligibility period may apply to have their eligibility extended in accordance with HROI: Eligibility Period for Air Traffic Collegiate Training Initiative Graduates.

**NOTE:** Go to the following website for detailed information:

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/hroi/emp/atctieligibility/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/hroi/emp/atctieligibility/)

- **Establishing Eligibility for Previous AT-CTI Graduates:** Students who graduated from an AT-CTI school with a qualifying aviation degree, including the AT-CTI required courses, and did not establish eligibility for employment consideration under the AT-CTI program may elect to do so under the following guidelines:
  - The candidate is within two years of their graduation date.  
(AT-CTI graduates, who enter active military duty after graduation will be given the opportunity to be considered under the AT-CTI program once they are released from active duty, provided they continue to meet all other eligibility requirements. Eligibility must be established within one year of being released from active duty.)
  - The candidate must meet the Basic Qualification Requirements for AT-CTI Graduates.
  - The candidate must be identified to the FAA as an AT-CTI student by an authorized school official.
  - The candidate will take the AT-SAT test battery.
  - The AT-CTI Inventory will indicate the graduation date on the school transcript. (Note: Employment eligibility will be reduced depending upon the length of time between graduation and when the candidate establishes eligibility.)
  - Candidates may apply for an eligibility extension in accordance with extending AT-CTI Eligibility above.
- **Reapplying to the AT-CTI Program:** Candidates previously hired through the AT-CTI Program cannot reapply through this hiring source.

**NOTE:** Go to the following website for detailed information:

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/hroi/emp/atctisop/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/hroi/emp/atctisop/)

**ADMINISTRATION OF AT-SAT TESTING.** AT-SAT testing is conducted in accordance with EMP-1.7 (Series 2152): Testing Policy for Filing Entry Level Air Traffic Control Specialist Positions in Terminal and En route Options. AMH-300 is responsible for coordinating AT-SAT testing for AT-CTI students.

**NOTE:** Go to the following websites for detailed information:

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/hroi/emp/atctisop/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/hroi/emp/atctisop/)

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/emp/emp\\_sup/emp-1-7\\_2152/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/emp/emp_sup/emp-1-7_2152/)

**ELIGIBILITY PERIOD.** The extension of a candidate's eligibility is in accordance with HROI - Eligibility Period for Air Traffic Collegiate Training Initiative (AT-CTI) Graduates.

**NOTE:** Go to the following websites for detailed information:

[https://employees.faa.gov/org/staffoffices/ahr/policy\\_guidance/hr\\_policies/hrpm/hroi/emp/actcieligibility/](https://employees.faa.gov/org/staffoffices/ahr/policy_guidance/hr_policies/hrpm/hroi/emp/actcieligibility/)

**STUDENT ACCESS TO AT-CTI PROGRAM AND HIRING INFORMATION.**

Information about the AT-CTI program will be maintained on the website below. We encourage the participating schools to persuade their students to frequently browse the website.

**NOTE:** Go to the following websites for detailed information:

[Website is under construction](#)

**Air Traffic Collegiate Training Initiative (AT-CTI) Management Guide**

# Appendix I (Partial)

# MYFAA

Employee Site

## HROI - Air Traffic-Collegiate Training Initiative (AT-CTI) Standard Operating Procedures

Updated: 1:42 pm ET April 30, 2007

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**This HROI established:** April 1, 2007

**This version effective:** April 1, 2007

**Use this HROI in conjunction with:**

- HROI: Eligibility Period for Air Traffic Collegiate Training Initiative Graduates
- EMP-1.7 (Series 2152): Testing Policy for Filling Entry Level Air Traffic Control Specialist Positions in Terminal and En Route Options

- 
1. **Purpose:** This document implements the Standard Operating Procedures (SOP) for the Air Traffic - Collegiate Training Initiative (AT-CTI) Program and provides instructions and guidance to all FAA offices to assist them in implementing these procedures.
  2. **Background:** In 1990, the FAA established the AT-CTI program for the employment of Air Traffic Controllers. Graduates who meet the basic qualification requirements for the AT-CTI program may be considered for employment in terminal and en route facilities.
  3. **Definitions:**
    - a. **AT-CTI. Air Traffic – Collegiate Training Initiative:** A program established for the employment of entry level Air Traffic Controllers in the terminal and en route options.
    - b. **AT-CTI Inventory:** A centralized register of AT-CTI candidates maintained by the Aviation Careers Division. The AT-CTI Inventory tracks important information about applicant eligibility including graduation date, recommendation status, and AT-SAT score. This inventory is used for placement and hiring of AT-CTI students.
    - c. **AT-SAT Air Traffic – Selection and Training:** A required computer-based entrance exam for the Air Traffic Controller occupation in the terminal and en route options.
    - d. **NET. Notice of Eligibility to Test:** A notice issued by the Aviation Careers Division that authorizes applicants to take the AT-SAT test.
    - e. **NOTR. Notice of Test Results:** A notice issued by the Aviation Careers Division that provides the results of the AT-SAT test. This notice does not indicate employment eligibility.
    - f. **On-Hold Rule:** An AT-SAT score of 70 or above will be placed in a hold status for students in the AT-CTI program until the candidate graduates from an FAA approved AT-CTI program. The score is activated upon graduation and is valid for three years from the candidate's graduation or eligibility date. The On Hold Rule applies to AT-CTI candidates only.
  4. **AT-CTI Program Management Responsibilities**
    - a. ATO-A, the Office of Acquisition & Business Services within the Air Traffic Organization (ATO):
      - i. Serves as the Program Manager for the AT-CTI program and as liaison between the colleges and the FAA.
      - ii. Funds the administration of the AT-SAT test.
    - b. Office of Human Resources Management Programs and Policies, AHP, supports Acquisition & Business Services by developing and managing issues and policies relating to the qualifications, recruitment, and employment of AT-CTI graduates.
    - c. AMH-300, the Aviation Careers Division within the Office of Human Resource Management:
      - i. Maintains the centralized hiring of AT-CTI graduates, the overall management of the AT-CTI Inventory, and authorizes pre-employment testing of all AT-CTI students
      - ii. Reviews applications for completeness; to include registration with the selective service, and verifies veterans' preference.
    - d. The Office of Aerospace Medicine develops policy and manages the medical clearances for AT-CTI graduates.
    - e. The Assistant Administrator for Security & Hazardous Materials develops policy and manages the security clearances for AT-CTI

graduates.

5. **Management of the AT-CTI Inventory:** The Aviation Careers Division is responsible for the overall management of the AT-CTI Inventory.
  - a. **Establishment of the AT-CTI Inventory:** All AT-CTI schools will provide the Aviation Careers Division an electronic list of students enrolled in the AT-CTI Program. This list should be provided as soon as practical after enrollment in the AT-CTI program. The list will include:
    1. Student Name
    2. Address
    3. Daytime Phone Number
    4. Nighttime Phone Number
    5. Email address
    6. Social Security Number
    7. Date of Birth
    8. Projected Graduation Date
    9. Date Additional Course of Instruction
  - b. **Maintenance of the AT-CTI Inventory:** The Aviation Careers Division establishes and maintains a roster of AT-CTI students and an inventory of eligible candidates. Candidate records are updated by the Aviation Careers Division to reflect changes or corrections as reported by the student/graduate or the AT-CTI school as appropriate. Information in each record includes:
    1. Personal Information including the data listed in paragraph 5a.
    2. AT-CTI School
    3. AT-SAT Score
    4. Graduation Date
    5. Employment Eligibility Status
    6. Geographic Preference
    7. Cumulative Grade Point Average
    8. Veterans' Preference
    9. Self-Certified Citizenship
    10. Military Discharge Date
  - c. **Removal from the AT-CTI Inventory:** There are several ways in which a candidate will be removed from the AT-CTI Inventory including:
    1. FAA approved AT-CTI school official does not recommend the candidate.
    2. Candidate does not achieve a passing score on the AT-SAT test after two consecutive attempts.
    3. The candidate was not selected within three years of graduation and did not request or receive approval for an extension of eligibility.
    4. Candidate reaches age 31.
    5. The candidate fails to meet the Basic Qualification Requirements for AT-CTI Graduates detailed in paragraph 6.
6. **Basic Qualification Requirements for AT-CTI Graduates:** To be considered for employment with the FAA, AT-CTI graduates must:
  - a. Successfully complete the FAA approved AT-CTI program including:
    1. Receiving a degree from the FAA approved AT-CTI school, in an aviation-related field, that includes the teaching objectives required by the FAA.
    2. Receiving an institutional recommendation for employment from an authorized school official.
  - b. Achieve a passing score (70 or above) on the AT-SAT test.
  - c. Be a United States citizen at the time of application for the AT-SAT test.
  - d. Not have reached their 31st birthday when entering on duty in an FAA terminal or en route facility.
  - e. Meet FAA medical, security, and suitability requirements; and
  - f. Successfully complete an interview to determine whether the candidate possesses the personal characteristics necessary for the performance of air traffic control work and that the candidate is able to speak English clearly enough to be understood over radios, intercoms, and similar communications equipment.

7. **Eligibility Requirements for AT-CTI Graduates:** The AT-CTI Program is designed to provide the FAA with qualified applicants for air traffic controller positions who possess a broad-based knowledge of the aviation industry with specific education in air traffic control. Due to the education received at approved AT-CTI schools, candidates hired through this program are authorized to by-pass the Air Traffic Basics Course at the FAA Academy in Oklahoma City.
  - a. **AT-CTI Eligibility:** Candidates are eligible to be hired through the AT-CTI Program for three years after their graduation date.
  - b. **Extending AT-CTI Eligibility:** Candidates who have passed the eligibility period may apply to have their eligibility extended in accordance with HROI: Eligibility Period for Air Traffic Collegiate Training Initiative Graduates.
  - c. **Establishing Eligibility for Previous AT-CTI Graduates:** Students who graduated from an AT-CTI school with a qualifying aviation degree, including the AT-CTI required courses, and did not establish eligibility for employment consideration under the AT-CTI program may elect to do so under the following guidelines:
    1. (1) The candidate is within two years of their graduation date.  
**(Note: With regard paragraph 7ci, AT-CTI graduates who enter active military duty after graduation will be given the opportunity to be considered under the AT-CTI program once they are released from active duty, provided they continue to meet all other eligibility requirements. Eligibility must be established within one year of being released from active duty.)**
    2. The candidate must meet the Basic Qualification Requirements for AT-CTI Graduates detailed in paragraph 6 of this document.
    3. The candidate must be identified to the FAA as an AT-CTI student by an authorized school official.
    4. The candidate may be authorized to take the AT-SAT exam.
    5. The AT-CTI Inventory will indicate the graduation date on the school transcript. (Note: Employment eligibility will be reduced depending upon the length of time between graduation and when the candidate establishes eligibility.)
    6. Candidates may apply for an eligibility extension in accordance with paragraph 7b of this document.
  - d. **Reapplying to the AT-CTI Program:** Candidates previously hired through the AT-CTI Program may not reapply through this hiring source.
8. **Administration of AT-SAT Testing:** AT-SAT testing is conducted in accordance with EMP-1.7 (Series 2152): Testing Policy for Filling Entry Level Air Traffic Control Specialist Positions in Terminal and En route Options. The Aviation Careers Division is responsible for coordinating AT-SAT testing for AT-CTI students. The following guidelines are used for the administration of AT-SAT testing:
  - a. The Aviation Careers Division issues the authority for AT-CTI students to take the AT-SAT test.
  - b. To qualify for AT-SAT testing, AT-CTI students must:
    1. Have completed specific coursework at the AT-CTI school indicating commitment to the program. Qualifying coursework is determined by the AT-CTI school and approved by the FAA.
    2. Be identified by an authorized school official as an AT-CTI student.
    3. Submit a signed self-certification of citizenship to the Aviation Careers Division.
    4. Be able to provide own transportation to and from the test site.
    5. Meet FAA testing parameters at time of testing.
  - c. The Aviation Careers Division issues a Notice of Eligibility to Test (NET) authorizing candidates to be tested.
  - d. The Aviation Careers Division provides a Notice of Test Results (NOTR) to each candidate and updates the AT-CTI Inventory to reflect the AT-SAT score.
  - e. The On-Hold Rule for the AT-SAT test score is used.
  - f. Candidates who take the AT-SAT exam for the first time and fail must wait one year from the date of the initial exam before retesting.
  - g. Candidates who take the AT-SAT exam and achieve a passing score are not authorized to retake the test under the AT-CTI Program to improve their test score.
  - h. Candidates who take the test and do not achieve a passing score after two consecutive attempts are not allowed to retake the test through the AT-CTI program. This does not preclude them from applying through other hiring methods.
  - i. The second AT-SAT score will replace the first AT-SAT score regardless of the outcome.

**Employment of AT-CTI Graduates:** Employment of AT-CTI graduates in the En Route & Oceanic Service Unit and Terminal Service Unit is in accordance with established FAA hiring policies and practices used to fill air traffic control positions.



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# MYFAA

Employee Site

## HROI - Eligibility Period for Air Traffic Collegiate Training Initiative (AT-CTI) Graduates

Updated: 1:45 pm ET April 30, 2007

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**This HROI established:** May 26, 2006

**This version effective:** April 1, 2007

**Use this HROI in conjunction with:**

- [EMP-1.10 Permanent External Hiring](#)
- [EMP-1.11 Temporary External Hiring](#)
- [EMP-1.20 Maximum Entry Age for Air Traffic Control Specialists](#)
- [EMP-1.7 \(Series 2152\): Testing Policy For Filling Entry Level Air Traffic Control Specialist Positions in Terminal and En Route Options](#)

**Background Information:** This HROI has been updated to:

- increase the eligibility period for remaining on the AT-CTI inventory from 2 years to 3 years, and
- allow individuals who decline a position for any reason to remain on the inventory until their eligibility expires or apply to continue to have their names on the inventory in accordance with the procedures outlined in this supplement.

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### Background Information

The FAA AT-CTI program is a separate and distinct recruitment source for terminal and en route air traffic controller candidates. This group of candidates consists of graduates from certain colleges and universities that provide a pre-approved major course of study and recommendations for employment.

All AT-CTI candidates must obtain passing AT-SAT scores.

Because the AT-CTI curriculum provides appropriate education, experience, and training which meet the basic requirements for the terminal and en route air traffic occupations, AT-CTI graduates may be permitted to bypass some of the FAA Academy's Air Traffic Control Training program.

The Aviation Careers Division (AMH-300) maintains an inventory of eligible AT-CTI candidates. Referral eligibility for the candidates is initially a three-year period after graduating from a CTI college or university. Eligibility to remain in the CTI inventory expires if the candidate is not referred or is not selected during the initial three-year eligibility period.

This Human Resources Operating Instruction (HROI) establishes a process for extending candidates' eligibility on the AT-CTI inventory. Candidates may request one-year eligibility extensions. This change will help the FAA successfully fulfill the Controller Workforce Plan to increase hiring of air traffic and en route controllers by maintaining a ready source of candidates in a viable active inventory of eligible AT-CTI candidates.

### General Requirements

- Candidates whose three-year eligibility on the inventory has expired or will expire within 60 calendar days may apply to continue to have their names on the inventory.  
Candidates who reestablish eligibility under this policy will be eligible for one additional year from the date that AMH-300 approves the request. Candidates may continue to reapply and have their names placed on the inventory in one-year increments after each additional year expires, until they reach the maximum entry age.
- If applicants have a valid Air Traffic Selection and Training (AT-SAT) test score in accordance with [EMP-1.7 \(Series 2152\): Testing](#)

Policy For Filling Entry Level Air Traffic Control Specialist Positions in Terminal and En Route Options, they will not be required to retest. Approval will be based on all requirements being met.

- Candidates whose air traffic control specialist pre-employment test score expires prior to their being granted an extension must take and pass the AT-SAT examination in order to be eligible for an extension. Special testing sites will not be provided. Testing will be in conjunction with current AT-CTI school testing. Applicants should keep in contact with AMH-300 for future testing cycles.
- Candidates who receive two consecutive non-qualifying AT-SAT test scores will not be allowed to retake the test for entrance on the AT-CTI inventory. This does not preclude candidates from applying through other hiring methods (e.g., general public announcement); however, they must wait the allotted time in accordance with national policy from the date of their last test.
- The Air Traffic Organization (ATO) may require that candidates who are granted these extensions take refresher training or take portions of the FAA Academy Air Traffic Training program that AT-CTI graduates are normally permitted to bypass.

## Who is eligible?

To apply for an extension, applicants must meet all of the following requirements:

- Have been identified by an AT-CTI school,
- Have received an AT-CTI school recommendation,
- Have passed a pre-employment test,
- Have submitted all appropriate paperwork to AMH-300 (i.e., geographic preference sheet, etc.), and
- Be under the maximum entry age.

**Please Note:** In addition to meeting the requirements stated above, applicants are required to have a valid AT-SAT test score of 70 or higher before an extension is approved.

## Who is not eligible?

Applicants who meet one of the following conditions under the AT-CTI program are not eligible to request an extension:

- Removed - Suitability,
- Removed - Medical,
- Failed to respond to official correspondence,
- Correspondence returned unclaimed, or
- Over the maximum entry age.

## How to apply?

Applicants must complete and return the Request for Air Traffic Collegiate Training Initiative Extension form (MS Word) to AMH-300 using one of the following methods:

- Fax to 405-954-8531, or
- E-mail to 9-amc-amh-cti@faa.gov, or
- Regular mail to:  
Aviation Careers Division  
AMH-300  
P.O. Box 25082  
Oklahoma City, OK 73125

## Extension Procedures

**Step 1. The The AMH-300 AT-CTI Program Manager will:**

- Verify applicant record to ensure that eligibility requirements are met,
- Notify applicant of eligibility/ineligibility for extension and to include notification that AT-SAT testing will be scheduled at a later date, and
- Send applicant's name to the AMH-300 Testing Officer with the next group of AT-CTI applicants who are authorized to take AT-SAT.

**Step 2. The AMH-300 Testing Officer will send authorized applicant's name to AT-SAT Test Administrator.**

**Step 3. AT-SAT Test Administrator will:**

- Notify applicant,
- Schedule applicant to test (applicant will be tested with AT-CTI schools),

- Administer AT-SAT test, and
- Send test results to AMH-300 Testing Officer.

**Step 4. The AMH-300 Testing Officer will:**

- Enter all test results into database, and
- Notify the AMH-300 AT-CTI Program Manager that all test scores have been processed.

**Step 5. The AMH-300 AT-CTI Program Manager will:**

- Notify applicant of approval/disapproval of extension, which includes test score results and/or eligibility/ineligibility to apply for future extensions, and
- Place applicant's name on the inventory for one year from the date of approval.

**Maximum Entry Age**

This policy does not change or supersede any laws, regulations, or agency policies related to the maximum entry age for air traffic controllers.

**Points of Contact**

Questions about this guidance should be directed to the ATO Support Team, AHR-4, on (202) 267-9862.



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## EMP-1.10 Permanent External Hiring

Updated: 11:30 am ET August 15, 2007

### Permanent External Hiring EMP-1.10

This Chapter applies to: All positions filled through external hiring process

**Chapter established:** February 1, 1999

**This version effective:** February 20, 2005

**Background information:** This version replaces EMP-1.10 dated February 1, 1999. On January 18, 2005, a memo was issued by the Assistant Administrator for Human Resources Management (AHR-1) rescinding several Human Resource (HR) Delegations of Authority. Paragraph 2, Recruitment Solicitations was revised to incorporate these changes.

**Policy Bulletin in effect:** Policy Bulletin #48 Special Appointing Authority for Individuals Possessing a Control Tower Operator Certificate with Facility Rating from Trade Schools/Universities/Colleges (08/13/07)

**1. General:** This section applies when hiring individuals who have never successfully completed a probationary period with the federal government or other agency as stipulated in our Interchange Agreement (see EMP-1.3). Current and former federal employees may also apply for and be considered for employment under these processes.

Jobs will comply with merit principles. Candidates will be considered regardless of race, color, religion, sex, sexual orientation, national origin, disability, marital status, or political affiliation.

» A selecting official may use various options for external hiring to the extent authorized by the Line of Business/Staff Office (LOB/SO). Appointments may be made using Announced Vacancies or On-the-Spot Hiring authorities.« Priority selections or considerations as outlined in EMP-1.9 must be applied as required.

#### 2. Recruitment Solicitations:

1. LOB/SO may draft vacancy announcements; however, only the servicing Human Resource Management Division (HRMD) has the authority to approve and issue recruitment solicitations. These may include vacancy announcements, recruitment bulletins, email solicitations, media advertisements, etc. They may be issued for one-time use to fill one or more vacancies or to establish a "register" or continuing list of eligibles to be considered as the need arises. There are only two types of announcements, internal and external. Selection lists are issued based on the type of announcement. If the selecting official wants to consider internal applicants separately from external applicants, two announcements must be issued
2. Vacancies may be announced using any length of open period which may reasonably be expected to produce a sufficient number of well-qualified candidates.
3. Methods of advertising vacancies (i.e. paid advertising, letters to professional societies, publishing announcements in a particular recruitment area, etc.) may vary according to need. Recruitment may be targeted at underrepresented groups; however, competition may not be limited to such groups. The area in which recruitment takes place should reasonably ensure a sufficient number of highly qualified candidates.
4. All announcements **must** include:

a statement as to whether or not payment of relocation expenses to the first duty location will be offered

- a statement indicating the strict limitations on the types of financial investments FAA employees may hold in aviation related companies and the requirement, if appropriate, for a financial disclosure statement

**3. Competitive procedures must be used when hiring under "announced vacancies."** Competitive procedures entail evaluating qualified applicants against job-related selection criteria or administering job-related written tests. Written tests may only be administered if approved for use by the Assistant Administrator for Human Resources or if they are validated in accordance with the technical requirements of the Uniform Guidelines on Employee Selection Procedures.

**4. Candidate Ranking/Grouping, Interviewing and Selection:** When using competitive procedures, » selecting officials have the discretion to decide whether to request that all qualified candidates be referred to them or to have them:

- a. ranked according to numerical score;
- b. grouped according to veteran's preference category; or,
- c. grouped according to "qualified" or "well qualified" categories.«

Whether all qualified candidates are referred, or whether candidates are ranked or grouped, Veteran's Preference (see EMP-1.12) must be applied when making selections under external competitive appointment procedures.

Selecting officials have the discretion to decide whom to interview (see EMP-1.8).

**5. On-the-Spot Hiring:** On-the-Spot hiring is a non-competitive method of filling vacancies and may be used under the following two circumstances:

1. **Hard-to-Fill Positions:** If there are an insufficient number of well qualified eligibles on a register or responding to a specific announcement, or if there is an established history of insufficient numbers of applicants even after repeated advertising efforts and the use of a variety of recruitment sources, a position may be designated as hard-to-fill and may be filled using on-the-spot hiring. »The LOB/SO has the authority to establish criteria to be used to determine if a position or group of positions is hard-to-fill.

Absent such criteria, servicing HRMDs, in collaboration with the LOB/SOs, may develop criteria for hard-to-fill positions specific to their regions.« For cross-cutting positions in the same geographic location, the servicing HRMD will coordinate and develop the criteria for determining if a position or group of positions is hard-to-fill. In all cases, the servicing HRMD will determine if a position meets the established criteria and will authorize the use of on-the-spot hiring. All determinations must be documented. When positions are filled using On-the-Spot authority for Hard-to-Fill positions, the vacancy case file must contain documentation that justifies and explains how the national or regional criteria are met.

For more information regarding pay incentives for hard-to-fill positions, see FAA National PRIB #9 Hard to Staff Facilities/Positions and FAA Order 3550.15 FEPCA of 1990.

2. **Special Appointment Authorities:** Positions may be filled using the on-the-spot hiring for the following special appointments:
  - a. Outstanding Scholars
  - b. CTI Students
  - c. Welfare-to-Work Program eligibles
  - d. Appointment of individuals to confidential or policy-making positions, as approved by the Administrator;
  - e. Any other appointments authorized by the U.S. Office of Personnel Management (OPM) for use in the competitive civil service;
  - f. Appointments of students under FAA Student Intern Program (FASIP), (otherwise appointment of students is accomplished under Temporary External Hiring, EMP-1.11); and,
  - g. Any other special appointments established by the Administrator.

The LOB/SOs may establish additional categories of special appointments with the approval of the Assistant Administrator for Human Resources, AHR-1. Employees who have been hired using On-the Spot hiring are eligible to apply for other job opportunities provided they meet applicable requirements (i.e. Area of Consideration) in EMP-1.14, Permanent Internal Assignments and EMP-1.15, Temporary Internal Assignments.

#### 6. Eligibility Criteria for Special Appointments:

1. **Outstanding Scholar:** An applicant who has a bachelor's degree with a final grade point average of 3.45 (or equivalent) or above on a 4.0 (or equivalent) scale or who graduated in the upper 10 percent of his/her undergraduate class can be hired using the Outstanding

Scholar Program. These candidates may be appointed to either the FG-5 or FG-7 level depending on qualifications. » It is recommended that applicants with education and no general or specialized experience in the occupation group receive a FG-5 grade. Applicants with experience (general or specialized) would receive a FG-7 grade.« **Appointees must meet the qualification requirements for the grade level and occupation to which appointed** as outlined in the U.S. Office of Personnel Management's "Qualification Standards for General Schedule Positions." An official academic transcript is required for appointment. The occupations for which this appointment authority can be used are listed in the Human Resources Operating Instructions for this policy.

2. **CTI Students:** An individual who has successfully completed a program at an institution that is part of the **Air Traffic CTI** program may be selected through the AT CTI Student Program and may be appointed to Air Traffic Control Specialist positions without competition. Appointment to ATCS positions shall be subject to procedures and selection criteria for the CTI program as may be established by the Administrator or his/her designee. Criteria to be met include any **maximum entry age** (see EMP-1.20) established by the Secretary of Transportation for Air Traffic Controller positions. This appointment authority also applies to graduates of the Mid-America Aviation Resource Consortium's Minnesota Air Traffic Control Training Center program. An individual who has successfully completed a program at an institution that is part of the **Airway Facilities CTI** program may be appointed without competition to Electronics Technician or Airway Transportation Specialist positions in accordance with established program criteria. **Other CTI programs** permitting on-the-spot hiring using this authority may be established with the approval of the Administrator or his/her designee.
3. **All Others:** If FAA has not chosen to develop specific criteria for special on-the-spot appointments, » Servicing HRMDs may use eligibility guidelines established by the U.S. Office of Personnel Management for the competitive civil service.« Examples include guidelines established for Veterans Readjustment and Severely Physically Handicapped and Mentally Retarded persons.

## Related Policies

- FAA PMS, Chapter 1, Section 7(b)
- EMP-1.7 Qualification Requirements
- EMP-1.8 Interview Policy
- EMP-1.9 Selection Priority
- EMP-1.12 Veterans' Preference in Hiring
- EMP-1.13 Citizenship Requirements
- FAA National PRIB #9 Hard to Staff Facilities/Positions
- FAA Order 3550.15 FEPCA of 1990
- AAD PRIB #18 External Hiring Options
- ACS PRIB #18 External Hiring Options
- ACS PRIB #28 Outstanding Scholar Provision
- ACS PRIB #30 On the Spot Hiring Authority for AT-CTI Graduates
- ARP PRIB #18 External Hiring
- ATS PRIB #18 External Hiring Options
- ATS PRIB #18B External Hiring (AT-CTI Graduates)
- ATS PRIB #28 On the Spot Hiring Authority for Outstanding Scholars
- ATS PRIB #30 On the Spot Hiring for AT-CTI Graduates

## Human Resources Operating Instructions

- Developing a Crediting Plan
- Documentation of Competitive Selection Process
- Duration of Referral Lists and Requests for Extension
- Method of Evaluating Candidates
- On the Spot Hiring
- Recruiting and Announcing Vacancies for External Hiring
- Selection and Making Job Offers

- [FAA Student Intern Program](#)
- [Request for Reconsideration of Rating](#)
- [Area of Consideration](#)



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## HRPM EMP-1.11 Temporary External Hiring

Updated: 11:31 am ET August 15, 2007

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### Temporary External Hiring EMP-1.11

**This Chapter applies to:** All positions filled through the external hiring process

**Chapter established:** February 1, 1999

**This version effective:** February 1, 1999

**Background information:** This version replaces FAA National PRIB #18 External Hiring Options, FAA National PRIB #28 On-the-Spot Hiring Authority for Outstanding Scholars and FAA National PRIB #30 On-the-Spot Hiring Authority for AT-CTI Graduates.

**Policy Bulletin in effect:** Policy Bulletin #48 Special Appointing Authority for Individuals Possessing a Control Tower Operator Certificate with Facility Rating from Trade Schools/Universities/Colleges (08/13/07)

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**1. General:** This policy applies to filling temporary vacancies or positions with individuals from outside FAA. The policies for filling temporary vacancies or positions with current FAA employees can be found in the Temporary Internal Assignment chapter, Emp-1.15. Candidates for temporary positions will be considered regardless of race, color, religion, sex, sexual orientation, national origin, disability, marital status, or political affiliation

**2. Methods of Selecting Temporary Employees:** » A Line of Business has the flexibility to use various options for temporary external hiring. Appointments can be made under the same competitive procedures or special appointments as permanent hiring (see Emp-1.10) or can be made non-competitively«

(a) Temporary appointments made **using competitive procedures or special appointments** as outlined in Emp-1.10, Permanent External Assignments, can be made for up to five years. » Extensions beyond this period may be granted by the Head of the Line of Business based on documented organizational need.«

(b) Temporary appointments made **non-competitively** can be made initially for up to one year and extended for up to one additional year, for a maximum of two years. Further extensions are not permitted non-competitively even if the appointment is to a different position.

An exception to the two year time limit exists for the temporary appointment of students who are not employed under FAA Student Intern Program. Student temporary appointments will be made Not-to-Exceed one year and may be extended in one-year increments as long as they continue to meet the definition of "student" and supply evidence of enrollment.

(c) All temporary appointments are time limited and are called "excepted appointment not-to-exceed (date)." Individuals who receive appointments with not-to-exceed dates of greater than one year are eligible for benefits.

**3. Conversion of Temporary FAA Employees to Permanent Appointments:** Temporary employees selected into FAA **using competitive procedures or special appointing authorities** (see 2(a) above) can be converted non-competitively to permanent without further competition. The permanent appointment must be to the same occupation and be at or below the grade or level of the temporary appointment. Temporary employees are also eligible to apply for permanent internal assignments for any FAA position for which they qualify as long as they are within the specified area of consideration and their initial temporary appointment was made using competitive procedures.

Temporary employees whose appointments were made **non-competitively** may **not** be converted to permanent. Employees who are on these appointments may only become permanent using external competitive procedures or special appointments outlined in Emp-1.10.

## Related Policies

- [FAA PMS Chapter 1, Section 7 \(b\)](#)
- [EMP-1.7 Qualification Requirements](#)
- [EMP-1.8 Interview Policy](#)
- [EMP-1.10 Permanent External Hiring](#)
- [EMP-1.12 Veteran's Preference in Hiring](#)
- [EMP-1.13 Citizenship Requirements](#)
- [EMP-1.14 Permanent Internal Assignment](#)
- [AAD PRIB #18 External Hiring Options](#)
- [ACS PRIB #18 External Hiring Options](#)
- [ACS PRIB #28 Outstanding Scholar Provision](#)
- [ACS PRIB #30 On the Spot Hiring Authority for AT-CTI Graduates](#)
- [ARP PRIB #18 External Hiring](#)
- [ATS PRIB #18 External Hiring Options](#)
- [ATS PRIB #18B External Hiring \(AT-CTI Graduates\)](#)
- [ATS PRIB #28 On the Spot Hiring Authority for Outstanding Scholars](#)
- [ATS PRIB #30 On the Spot Hiring for AT-CTI Graduates](#)

## Human Resources Operating Instructions

- [FAA Student Intern Program](#)
- [On the Spot Hiring](#)
- [Area of Consideration](#)

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## HRPM EMP-1.20 Maximum Entry Age For Air Traffic Control Specialists

Updated: 3:03 pm ET November 6, 2006

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### Maximum Entry Age For Air Traffic Control Specialists EMP-1.20

This Chapter applies to: (1) Non-bargaining unit employees/positions (2) bargaining unit employees/positions, except where the applicable collective bargaining agreement contains conflicting provisions, (3) All positions filled through external hiring process

**Chapter established:** October 16, 1998

**This version effective:** July 29, 2003

**Background information:** This version replaces EMP-1.20 (February 8, 2000) Maximum Entry and Retention Age for Air Traffic Control Specialists. The following changes were made to paragraph 2, Maximum Entry and Retention Age Provisions: (1) To ensure that applicants who are hired meet the maximum entry age requirements by their enter-on-duty (EOD) date, HROI: Maximum Entry Age Procedures was established and included within paragraph 2a Maximum entry age, (2) Per Public Law 108-7, paragraph 2b Maximum retention age was revised to add an exemption to the mandatory separation requirements for Civil Service Retirement System (CSRS) air traffic control (ATC) specialists, and (3) To further clarify the maximum retention age requirements, HRPM Reference Materials - Air Traffic Controller Mandatory Separation/Coverage - O's and A's/Scenarios were established and included within paragraph 2b Maximum retention age.

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**General:** This section establishes Federal Aviation Administration (FAA) policy regarding maximum entry age and retention age for air traffic control specialists whose duties require that the employees be actively engaged in the separation and control of air traffic. In accordance with the FAA PMS, Section II, Applicable Statutes, the Secretary of Transportation maintains the authority to establish the maximum entry age for original appointment to air traffic control positions within FAA. The Secretary has delegated to the Administrator of FAA or designee the authority to establish criteria and programs for the employment of individuals age 31 or older who have experience in the direct separation and control of air traffic. The Administrator of FAA has further delegated this authority to set criteria and establish programs to the Associate Administrator for Air Traffic Services, ATS-1. The Assistant Administrator for Human Resource Management, AHR-1, must approve any criteria or programs established by ATS-1 as a result of this delegated authority.

#### 2. Maximum Entry and Retention Age Provisions:

**a) Maximum Entry Age:** As established in DPM 338-18, a maximum age of 30 years is established for entry into civilian air traffic control positions in the Federal Aviation Administration whose duties require that the employees be actively engaged in the separation and control of air traffic. This includes the positions of immediate supervisors of any employees actively engaged in the separation and control of air traffic. Persons who have reached their 31st birthdays may not be originally appointed to ATCS positions in FAA. If an individual has previously held such a position, then he/she may be appointed if over age 31. The maximum entry age provision precludes any other appointment or action placing a person age 31 or older into an ATCS position for the first time, except as provided below.

Under the authority outlined in paragraph 1 above, FAA has established the following program and criteria for employment of individuals age 31 or older who have experience in the direct separation and control of air traffic.

- **Retired Military Air Traffic Controllers** (For more details on this policy see EMP-1.20 (ATS Supplement #1: Employment of Retired Air Traffic Controllers Program))

HROI: Maximum entry age procedures outlines the procedures that need to be followed to ensure that applicants who are hired meet the maximum entry age requirements by their enter-on-duty (EOD) date. Contact your servicing Human Resource Management Division (HRMD) for details and guidance.

**b) Maximum Retention Age:** 5 USC 8335(a) and 5 USC 8425(a) require mandatory separation at age 56 in a career controller position. Under this provision, separation shall take place on the last day of the month in which a career controller becomes 56 years of age. The law does provide for some exemptions as noted below:

- Effective February 20, 2003, Public Law 108-7 amended 5 USC 8335(a) for CSRS employees in a covered ATC position a November 12, 2001, by extending the mandatory separation requirement until the ATC is eligible for a retirement under 8336 (e). That is, if the air traffic controller reaches age 56 and has not yet completed the required 20 years service under the special provisions, the air traffic controller may continue employment until the last day of the month in which 20 years of service is completed. **This exemption was made retroactive to January 1, 2003.**
- The Secretary, under such regulations as the Secretary may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions until the controller becomes 61 years of age.

The maximum retention age provisions do not apply to controllers covered under CSRS who: (1) were appointed by the Department of Transportation (DOT) as an air traffic controller that actively engaged in the separation and control of air traffic prior to May 16, 1972, (2) were appointed by the Department of Defense (in a civilian capacity) as an air traffic controller prior to September 12, 1980, or (3) were appointed by DOT to an air traffic controller position that provided preflight, in-flight, or airport advisory service to aircraft operations prior to January 1, 1987. Once any one of the exemptions is met, the employee maintains the exemption regardless of prior or future moves.

All employees selected for air traffic controller positions that do not fall within these exemptions must be notified in writing that they will be subject to the mandatory separation provision. The servicing human resource management division (HRMD) will validate the mandatory separation requirements and notify the respective air traffic division of any employee(s) subject to this provision. The respective air traffic division will issue the notification letter(s). The notification letter must be received a minimum of 60 days prior to mandatory separation. However, Air Traffic has determined that, when feasible, employees shall receive a **90-day** advance notice. This will ensure that the required 60 days advance notice period is met. A copy of this notification should be kept as permanent material in the employee's Official Personnel Folder.

In general, all Federal Employee Retirement System (FERS) air traffic controllers are subject to mandatory separation at age 56. However, if the air traffic controller reaches age 56 and has not yet completed the required 20 years service under the special provisions, the air traffic controller may continue employment until the last day of the month in which 20 years of service is completed.

For more detailed guidance relating to air traffic controller maximum retention age refer to [HRPM Reference Materials - Air Traffic Controller Mandatory Separation/Coverage - Questions and Answers/Scenarios](#) or contact your servicing human resource management division (HRMD).

## Related Policies

- [EMP-1.20 \(ATS Supplement #1: Employment of Retired Air Traffic Controllers Program\)](#)

## Human Resources Operating Instructions

- [Maximum Entry Age Procedures](#)

## Reference Materials

- [Air Traffic Controller Mandatory Separation/Coverage - Questions and Answers/Scenarios](#)
- [Maximum Entry Age Requirements Based on Hiring Source and Experience](#)
- [Maximum Entry Age Checklist](#)
- [Air Traffic Controller Retirement](#)



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# MYFAA Employee Site

## Volume I: Employment - EMP-1.7 (Series 2152)

Updated: 1:50 pm ET April 30, 2007

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### Testing Policy for Filling Entry Level Air Traffic Control Specialist Positions in Terminal and En Route Options

**This Supplement applies to:** Filling entry-level air traffic control specialist (ATCS) positions in the terminal and en route options.

**Supplement established on:** April 1, 2007

**This version effective:** April 1, 2007

**Use this supplement in conjunction with:** EMP-1.7. Qualification Requirements

**Background information:** This supplement replaces Policy Bulletin #8. Changes were made in this supplement to include increasing the valid period of an Air Traffic Selection and Training test score from 2 years to 3 years. Other changes made were to bring the document into agreement with the Air Traffic Organization (ATO) structure.

Changes made to this document were coordinated between AHR and ATO. References to ATO internal administrative processes, roles, and procedures have been deleted. Responsibility for determining who must take AT-SAT was deleted as that is covered by this supplement and would be covered by the change procedures for the Human Resources Policy Manual. Reference to Human Resources Management Division, Mike Monroney Aeronautical Center, AMH-1, internal standard operating procedures has also been deleted.

- 
1. **Policy:** Individuals covered by this supplement are required to pass Air Traffic Selection and Training (AT-SAT) prior to employment as an entry level ATCS in the terminal and en route options. AT-SAT is used in place of the Office of Personnel Management (OPM) written test for ATCS candidates and any further screening previously required, specifically the FAA Academy Screening Program or the Pre-Training Screen.
    - a. All candidates must meet the established qualification requirements or alternatives in accordance with the guidelines contained in EMP-1.7. Qualification Requirements.
    - b. Applicants seeking entry-level positions in the flight service option are subject to passing the OPM test for ATCS positions.
  2. **Definitions:**
    - a. **AT-CTI - Air Traffic Collegiate Training Initiative:** A program established for employment of entry level ATCS in the terminal and en route options.
    - b. **AT-SAT - Air Traffic Selection and Training:** Computer based examination that screens potential candidates for entry-level ATCS positions in the terminal and en route options.
    - c. **CO'TR - Contracting Officer's Technical Representative:** Refers to a Government employee who certifies payment and coordinates contracts with the contractor.
    - d. **NET - Notice of Eligibility to Test:** A notice issued applicants to take the AT-SAT test.
    - e. **NOTR - Notice of Test Results:** A notice that does not reflect eligibility for ATCS positions, but gives results of the test.
    - f. **"On-Hold" Rule:** Students in the AT-CTI program with an AT-SAT score of 70 or above will be placed in a "hold" status until the applicant graduates from an FAA approved AT-CTI program. The score is activated upon graduation and is valid for 3 years from the student's graduation date. The "on-hold rule" applies only to those students in the AT-CTI program.
    - g. **SMS -Score Management System:** A database that stores and maintains applicant AT-SAT test scores.
    - h. **VRA - Veterans Readjustment Appointment:** A special appointing authority by which agencies can, if they wish, appoint eligible veterans without competition to positions up to the applicable pay band permitted by FAA policy.
  3. **Coverage:**

- a. The following groups of individuals must pass AT-SAT to be eligible for selection for entry level terminal and en route ATCS positions:
    1. Individuals applying under a vacancy announcement open to the general public;
    2. Candidates applying based on successful completion of AT-CTI programs;
    3. Individuals who are part of the OPM inventory who did not take and successfully pass the Pre-Training Screen;
    4. Former military personnel (with or without ATC experience) who apply to a specific vacancy announcement that states that passing AT-SAT is a qualification requirement;
    5. Entry level internal applicants (e.g., selections under provisions outlined in EMP-1.14, Permanent Internal Assignments).
  - b. The following groups of individuals shall not be required to take AT-SAT to be eligible for selection:
    1. Former FAA controllers seeking reinstatement (e.g., former PATCO controllers);
    2. Former military controllers who are eligible and are selected under a Veterans Readjustment Appointment (VRA);
    3. Department of Defense civilian controllers (DOD 2152's);
    4. Former military controllers selected under the Retired Military Air Traffic Controllers Program.
4. **Program Administration**
- a. **Test Administration:**
    1. **Contractor conducted testing:** AT-SAT may be administered by a test company awarded an FAA-wide government contract to provide AT-SAT testing services.
    2. **Government conducted testing:** Under special circumstances, ATO may request that AHR conduct testing at certain locations without the involvement of the contractor.
    3. **Selection to take AT-SAT:** Passing AT-SAT is an eligibility requirement for entry-level employment in the terminal or en route options. Selection to take the test battery shall be in accordance with merit principles.
  - b. **Travel and transportation to an AT-SAT test site:** Applicants are responsible for all travel expenses incurred to and from an AT-SAT test site.
  - c. **Re-testing or re-examination using AT-SAT:**
    1. **Re-testing is not guaranteed:** Applicants must apply through an appropriate and available hiring procedure or be participating in a recognized AT-CTI program to be considered for re-testing.
    2. **Individuals who pass:** Applicants who pass the AT-SAT with a score of 70 or above are eligible to retest one year (12 months) from the initial test date. Regardless of the score, the second test score replaces the first score.
    3. **Individuals who fail:** Applicants who fail the AT-SAT with a score of below 70 may retest one year (12 months) from the initial test date. Regardless of the score, the second test score replaces the first score.
    4. **Individuals who do not complete taking AT-SAT:** Applicants who do not complete the test may retest one year (12 months) from the initial test date.
    5. **Exceptions to the one-year waiting period:** Exceptions to the one-year waiting period may be made in situations where candidates are unable to complete the test for technical reasons; such as power failure, where the test administrator must stop the test for other reasons that are outside the candidate's control, and in a limited number of other cases as specified by the agency.
  - d. **Valid period:** Applicants' scores are valid for 3 years, except for AT-CTI students who use the "on-hold" rule. AT-SAT results may be used for any hiring source during the valid period.
  - e. **Qualification Requirements:** All qualification requirements of the position to be filled (e.g., maximum entry age, etc.) must be met before entering on duty.
5. **Program Responsibilities:**
- a. **Office of Human Resources Management Programs and Policies, AHP, is responsible for:**
    1. Conducting testing and providing the COTR for test administration contracts;
    2. Testing procedures;
    3. Exceptions/decisions to re-test candidates that are not addressed in the standard operating procedures (SOP's);
    4. Resolving unusual testing problems;
    5. Approving/disapproving requests received from ATO for special testing sessions;
    6. Responding to inquiries from outside entities (e.g., Congress, etc.);
    7. Certifying contractor invoices for payment; and

8. Contacting the contractor regarding any incidents.
  9. Programming, maintenance, and operation of staff acquisition software applications and appropriate interfaces to:
    - i. Support the generation of lists of applicants eligible for AT-SAT testing
    - ii. Record applicant AT-SAT test scores for use in referral of applicants; and
  10. Providing user instructions, training, and technical support to AMH-300 relative to the staff acquisition software applications and interfaces.
- b. Vice President of Business and Acquisition Services, ATO-A, is responsible for:**
1. Communicating the ATO's testing needs and hiring requirements to AHR;
  2. Funding AT-SAT testing.
- c. Office of Human Resource Management, Aviation Careers Division, AMH-300, is responsible for:**
1. Exchanging information about examinees with the test administration contractor;
  2. Day to day resolution of testing problems such as determining if "no-shows" may be re-scheduled, etc.;
  3. Maintaining the SMS database of who has taken AT-SAT and their scores;
  4. Serving as the single point of contact for the contractor for issuing test authorizations;
  5. Providing the names of AT-CTI candidates to be tested;
  6. Resolving candidate problems, such as authorizing extensions for testing periods or retest issues;
- 6. Recruitment:** See the Human Resources Policy Manual (HRPM) chapters Permanent External Hiring (EMP-1.10) and Permanent Internal Assignments (EMP-1.14).
- 7. Referral of Applicants:** The category grouping method, in which candidates are divided into "qualified" and "well qualified" groups, is mandatory when referring applicants who have passed AT-SAT. AMH-300 is responsible for grouping candidates. Applicants are grouped as follows:
- a. Well-Qualified applicants are those who passed AT-SAT with a score of 85 or higher.
  - b. Qualified applicants are those who passed AT-SAT with a score of 70-84.9. The provisions outlined in EMP-1.12, Veterans' Preference in Hiring, apply when making selections under external competitive appointment procedures. Also refer to the HROI entitled, Method of Evaluating Candidates.
- Note:** This section should not be interpreted to mean that only scores of 85 or above are acceptable. Using the category ranking method, selecting officials may request the names of all candidates or only those in the well-qualified group (all CP and CPS veterans who pass the test must be referred regardless). If there are an insufficient number of candidates in the well qualified group, all candidates from the qualified group must be considered before resorting to testing more applicants for the same hiring effort.
- 8. Exceptions:** Requests for exceptions to provisions of this policy should be submitted to the Manager, HR ATO Support Team. Exceptions are considered on a case-by-case basis. A request for an exception must clearly describe the exception requested, the reason for the request, and the impact if the request is granted.

## Related Information

### Policies

- EMP-1.7 Qualification Requirements
- EMP-1.10 Permanent External Hiring
- EMP-1.12, Veterans' Preference in Hiring
- EMP-1.14 Permanent Internal Assignments

### Human Resource Operating Instructions

- Method of Evaluating Candidates
- Air Traffic Collegiate Training Initiative (AT-CTI) Standard Operating Procedures



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# MYFAA

## Employee Site

### EMP-1.7 Qualification Requirements

Updated: 1:53 pm ET April 30, 2007

## Qualification Requirements EMP-1.7

**This Chapter applies to:** All employees

**Chapter established:** February 1, 1999

**This version effective:** June 2, 2005

**Background information:** This policy chapter replaces EMP-1.7 dated February 20, 2005. This policy chapter has been revised to clarify information contained in paragraph 3, Waivers to Qualifications. The paragraph has been revised to clearly state that if a position has a positive education requirement, one must possess it to be detailed, promoted, or reassigned into the position. This is not a change but rather a clarification of our current policy.

**Policy Bulletin in effect:**

Policy bulletin #11, OPM Test Score Validity Period for Entry into the Air Traffic Controller Occupation - Flight Service Option.

**Qualification Requirements:** To ensure that employees and applicants can compete for jobs based solely on their qualifications, FAA has adopted the government-wide "time-in-grade requirement" for promotion and selection into FAA positions. **Applicants and incumbents must still meet all length, type, and quality of experience requirements, education/training requirements, licensure, medical and/or physical requirements, and any others contained in the relevant qualification standard except as provided for in 2, below. The Human Resource Management Division (HRMD) is responsible for determining qualifications for both internal and external applicants.**

**2. Qualifications:** The provisions of the Operating Manual for Qualifications Standards for General Schedule Positions (formerly called X-118 Handbook) and the Job Qualification System for Trades and Labor Occupations (OPM's X-118C Handbook) remain in effect for all selections or assignments to FAA positions unless either a new qualification standard has been established and approved as discussed below or a specific program provides for waivers of qualification requirements. » Lines of business and Staff offices (LOB/SO) may continue to take advantage of flexibilities in the Operating Manual, such as in-service placement provisions and approved modifications to the qualification standard for reassignment and voluntary changes to lower grades unless otherwise prohibited.« In most cases, however, individuals must have one year of relevant experience comparable to the next lower grade level, acquired in their current position or in previous paid or unpaid employment, prior to being considered for promotion or selection.

LOB/SO managers are responsible for notifying the HRMD when an employee meets the requirements and is recommended for promotion and for deciding that there is sufficient continuing work at the higher grade level to support the promotion. **Promotion does not automatically follow completion of an established waiting period or upon qualification.** The time in grade requirement no longer applies.

There is no restriction on the number of promotions that a **qualified** employee may receive in a given time period, providing higher level work is available.

**3. Waivers to Qualifications:** Specific programs which allow for limited waivers of qualifications include the Upward Mobility Program (Emp-1.21), and certain placement actions taken under Reductions in Force procedures. The servicing HRMD must approve all qualification requests under these programs. In addition, certain temporary internal assignments, which result in no increase in pay (formerly called details), do not require employees to meet qualification requirements. These are not considered "waivers" and » are left to the discretion of the LOB/SO.« However, an employee must meet the qualification requirements if the position has a positive education requirement, license or certification.

**4. Authority to Establish New Requirements:** The Assistant Administrator for Human Resource Management (AHR-1) or his/her designee has the sole authority to identify cross-cutting occupations and to develop and approve objective and quantifiable qualification criteria for these occupations to be used in lieu of the standards contained in the Operating Manual. Crosscutting occupations are those where a single LOB/SO is not the sole or predominant user.

» The LOB/SO, with the concurrence of the Program Director for Personnel (AHP-1), may establish objective, quantifiable qualification criteria for an occupation for which they are the sole or predominant user. AHP-1 must approve the proposed qualification criteria prior to implementation. « Until and unless these criteria have been developed, the provisions of the Operating Manual continue to apply.

**In all cases, new qualification criteria must be developed and validated in accordance with the Uniform Guidelines on Employee Selection Procedures (UGESP).**

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## Related Policies

- [FAA PMS Chapter 1, Section 10](#)
- [EMP-1.10 Permanent External Hiring](#)
- [EMP-1.11 Temporary External Hiring](#)
- [EMP-1.14 Permanent Internal Assignments](#)
- [EMP-1.15 Temporary Internal Assignments](#)
- [AAD PRIB #21 Promotion Qualifications](#)
- [ACS PRIB #21 Promotion Qualifications](#)
- [ARP PRIB #21 Promotion Qualifications](#)
- [ATS PRIB #21 Promotion Qualifications](#)
- [Policy bulletin #11, OPM Test Score Validity Period for Entry into the Air Traffic Controller Occupation - Flight Service Option](#)
- [EMP-1.7 \(Series 1102\) FAA Acquisition Career Development Policy for Contracting Professionals](#)
- [EMP-1.7 \(2154\) Air Traffic \(FG-2154\) Promotion Qualifications](#)
- [EMP-1.7 \(AF-2186\) Supplemental Qualification Guidance for 2186 Series Positions in Airway Facilities](#)

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# Exhibit 12



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## Air Traffic Collegiate Training Initiative (AT-CTI)



### What is the AT-CTI program?

The FAA has partnerships with many colleges and universities. These schools offer two- and four-year non-engineering aviation degrees that teach basic courses in air traffic control. We call this program the Air Traffic Collegiate Training Initiative (AT-CTI) program. The program is designed to provide qualified applicants to fill developmental air traffic control specialist positions.

Graduates of the AT-CTI program are eligible to bypass the Air Traffic Basics Course, which is the first five weeks of qualification training at the FAA Academy in Oklahoma City. Academy training consists of option-specific (terminal or en route) initial training. Students must successfully complete all required training at the FAA Academy to continue employment with FAA.

### Length of Training

- Initial Qualification Training for the terminal option is approximately 37 days
- Initial Qualification Training for the en route option is approximately 62 days

### If I am interested in the AT-CTI program and want to be an air traffic controller, what must I do?

- Graduate from an FAA approved AT-CTI program
- Receive an official school recommendation
- Be a [United States citizen](#)
- In most cases, [not have reached age 31](#)
- Pass a [medical examination](#)
- Pass a [security investigation](#)
- Achieve a score of at least 70 on the [FAA pre-employment test](#)
- Speak English clearly enough for others to understand you on communications equipment
- Complete an interview

### What schools have AT-CTI approved programs?

16-2227-DLF PLA0068

### What schools have AT-CTI approved programs?

A number of schools across the country have approved programs. Here is a list of [AT-CTI schools](#).

### Does FAA provide tuition assistance for the AT-CTI program?

No. You must pay to attend an AT-CTI program. For tuition assistance, contact the financial aid office at the AT-CTI school you want to attend. They will tell you about financial aid programs, scholarships, and grants.

### How does FAA track my status in the AT-CTI program?

The Aviation Careers Division maintains an inventory of students enrolled in the AT-CTI program provided by school officials, and of eligible AT-CTI graduates. The FAA uses the AT-CTI inventory to track information on applicant eligibility, graduation dates, school recommendation status, and for scheduling the pre-employment test.

### How long can I stay in the AT-CTI inventory?

You can stay in the inventory for at least three years after you graduate from your AT-CTI program. The initial eligibility period is 3 years from your graduation date or your 31<sup>st</sup> birthday, if sooner. After that, you can stay in the inventory only if you apply each year for an extension.

### Can I extend my eligibility in the AT-CTI inventory?

Yes. You may apply for a one-year extension after your three-year eligibility period expires or within 60 calendar days of expiration. You may continue to apply for one-year extensions until you reach age 31. You must contact the Aviation Careers Division to request an extension.

### Why do I need a recommendation from my AT-CTI school?

An official school recommendation from your AT-CTI school tells us that you satisfied all academic requirements and that we can consider you for employment. If you do not get a school recommendation, then your name will be removed from the AT-CTI inventory.

### Are AT-CTI graduates guaranteed employment with FAA?

No. The FAA hopes to employ all eligible AT-CTI graduates but cannot guarantee that all will be hired.

### What if I am referred on a list of eligible candidates but not selected?

Your name will be returned to the AT-CTI inventory for future referral unless:

- Your eligibility in the AT-CTI inventory expires
- You reach age 31

Your name will be returned to the AT-CTI inventory for future referral unless.

- Your eligibility in the AT-CTI inventory expires
- You reach age 31

For more information see [Job Offers & Accepting a Position](#).

### If I decline a position, will I receive future consideration for an ATC job?

Yes, until your eligibility expires.

### Who can I contact for information regarding the AT-CTI program?

Aviation Careers Division  
 AMH-300  
 P.O. Box 25082  
 Oklahoma City, OK 73125  
 Phone: (405) 954-4657  
 Fax: (405) 954-8531  
 Email: [9-AMC-AMH-CTI@faa.gov](mailto:9-AMC-AMH-CTI@faa.gov)

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#### Frequently Asked Questions

All Questions 16-2227-DLF PLA0070

# Exhibit 13

## ***TEAM SEVEN PROGRESS REPORT 10-2-2013***

ISSUE: For the past 18 years, the DOT/FAA has steadfastly refused to develop and implement an Affirmative Employment Program (AEP) as stipulated in 29 CFR 1614. 101 and in accordance with the Supreme Court rulings that such plans must be "narrowly tailored" and utilize "strict scrutiny" in implementation.

**RAMIFICATIONS:** An effective AEP would ensure fairness in recruitment, hiring, training, promotions, etc., in addition to eliminating trends and barriers for women and minorities in the workplace. As a result of this blatant violation of law and regulation, DOT/FAA is one of the least diverse federal agencies in America. The economic impact includes denial of jobs and advancement opportunities for Blacks and other minorities.

### **INFORMATION:**

1. DOT/FAA submits one national MD-715 Report to EEOC and Congress that violates law and regulation because it is not "narrowly tailored" to specific geographic location (use United States Supreme Court Decisions, such as Adarand and Croson)
2. Reports indicate African-Americans in the DOT/FAA are significantly under

represented and are severely, adversely impacted by workplace discrimination.

### **ISSUES/CONCERNS:**

1. Agency showing no accountability for improvement in workforce diversity
2. Agency does not apply "strict scrutiny" in identifying and taking action on under representation issues
3. MD-715 report does not provide a breakdown of statistics by geographic locality but presents only an overall national reporting synopsis.
4. There have been no effective programs to address under representation or workplace discrimination.
5. Current data is inaccurate due to narrow analysis and reporting.

### **CONCLUSION:**

1. A systemic solution is necessary since this is a systemic problem due to the FAA's failure to utilize a legal plan that will hold management accountable for Civil Rights issues.
2. NBCFAE stands ready to be part of the solution.

Since the 2012 Las Vegas conference, Team 7 members have made several trips to Washington to meet with government officials concerning the Federal Aviation

Administration's (FAA) failure to address under representation of Blacks in the agency. Congressional visits included:

February- 40 offices

March - 6 offices including CBC and EEOC

June - 18 offices, FAA + consultants

August- EEOC and Attorneys Kator, Parks and Wiser and Office of the Congressional Black Caucus.

Our plan has three (3) prangs:

1. Continue to form external alliances with other civil rights organizations.
2. Continue to meet with members of congress.
3. File law suit.

For the Federal Aviation Administration to be successful in eliminating under representation in their recruitment, hiring, awards, promotion, retention, and training practices they must implement an affirmative employment program plan (AEP).

NBCFAE recommendations are that an AEP must include elements fr01n President Obama's Executive Order 13583 (for Diversity Oversight) that will create a culture of collaboration, flexibility, and fairness to enable individuals to participate to their full potential; a plan that includes a continuing effort to identify and adopt best practices, that will improve the effectiveness of the agency's efforts to recruit, hire, promote, retain, develop, and train a diverse and inclusive workforce and that it be incorporated into the agency's human capital plan.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW J. BRIGIDA,	)	
Plaintiff,	)	Civil Case No. 16-cv-2227 (DLF)
	)	
v.	)	Judge Dabney L. Friedrich
	)	
ELAINE L. CHAO, <i>Secretary, U.S.</i>	)	<b>[PROPOSED] ORDER GRANTING</b>
<i>Department of Transportation,</i>	)	<b>PLAINTIFF'S MOTION FOR</b>
	)	<b>LEAVE FILE TO FOURTH</b>
Defendant.	)	<b>AMENDED AND SUPPLEMENTAL</b>
	)	<b>CLASS ACTION COMPLAINT</b>
	)	
	)	
	)	

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THIS MATTER having come before this Court on Plaintiff's Motion for Leave File to Fourth Amended and Supplemental Class Action Complaint, and this Court having reviewed the Motion and being otherwise full advised in the premises:

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Hon. Dabney L. Friedrich  
United States District Judge