

**Reporting Requirements under**  
**ER 4.1 (Conduct and Discipline)**  
**FAA Form 8500-8 (Flight Physical Form) and**  
**FAA Order 3930.3 (ATCS Health Program)**

Hello NWP Reps and Members;

Welcome to LR Chronicles number 20. As FAA employees, we have certain requirements of conduct which must be followed as part of our employment. These requirements are contained in Human Resources Policy Manual (HRPM) ER 4.1 entitled "Standards of Conduct." ER stands for "Employee Relations" and ER 4.1 applies to all FAA employees regardless of what job function they hold. (Please refer to LR Chronicles number 4) There are also certain provisions that apply specifically to FAA employees that are in a career field that is classified as "Safety-Sensitive" or "Security-Sensitive" positions. There are many FAA employees represented by NATCA that meet this classification, such as air traffic controllers, traffic management coordinators, to name a few.

In addition to ER 4.1, there are separate and distinct reporting requirements for those FAA employees required to maintain a medical clearance in order to fulfill their job requirements. In this edition of the LR Chronicles, I will explain those requirements under ER 4.1 as well as the annual medical examination. Because both ER 4.1 and FAA Form 8500-8 strictly apply to members of NATCA's bargaining unit, compliance is mandatory. The FAA will consider every employee to be aware of the obligations created by ER 4.1 and Form 8500-8. Thus, in the event of any disciplinary action proposed by the Agency, an employee will be seen as having received notice of any failures to follow the constructs of these two documents. This is a very important issue and I feel it is absolutely necessary for all of us to know our rights and responsibilities regarding these reporting requirements.

Section 2 of ER 4.1 is entitled "Employee Responsibilities". I am going to concentrate on and cover Section 2i, which states; ***"Report known or suspected violations of law, regulations or policy through appropriate channels and fully participate in inquiries. This includes reporting any personal violation that has the possibility or appearance of impacting on the employee's position (e.g., an arrest for an alcohol or drug-related driving infraction by an employee in any safety or security-sensitive position)."***

As you can see, the wording of this section is very broad and is specifically worded that way so that the agency can use it against you. For example, **“...known or suspected violations of law, regulations or policy...”** and **“...any personal violation that has the possibility or appearance of impacting on the employee’s position...”** These particular requirements are for both on and off the job violations.

Another portion of section 2 to which I want to draw your attention is **“Report...through appropriate channels and fully participate in inquiries.”** What this means is that you have the requirement and responsibility to report to your supervisor, for example, if you are arrested for DUI. You must also cooperate and answer any questions asked by management regarding the incident. This may or may not be part of the management investigation and are more likely than not to be part of a Weingarten meeting. (Please refer to LR Chronicles number 7 to refresh your memory) Regardless of what violation of law or personal violation you will report to your supervisor, ALWAYS, ALWAYS, and this cannot be stressed enough, request NATCA representation right from the very beginning. I highly suggest that if you find yourself needing to report a violation to management, you contact your FACREP FIRST and speak with him/her PRIOR to notifying management. The FACREP or his/her designee will guide you and counsel you on what to say and how to report the violation. He/she will even set up the meeting and be with you every step of the way.

Now that you are familiar with the requirements under ER 4.1, if you are in a career field that requires you to hold and maintain a medical clearance, you must also report certain violations separately and distinctly on the form that you complete for your annual flight physical. The form is FAA Form 8500-8. To be clear, even though you already reported a violation to your supervisor, you still must report the very same violation, if it meets the criteria of the question, on FAA Form 8500-8. Regarding the reporting requirements, the three most important questions on the form are 18v, 18w, and 19. You must use extreme care when completing these questions. Below, I will outline each of these questions for you, as well as copy the instructions for completing these questions. The instructions for completing the form are part of and actually attached to FAA Form 8500-8.

Question 18v states **“v. History of (1) any conviction(s) involving driving while intoxicated by, while impaired by, or while under the influence of alcohol or a drug; or (2) history of any conviction(s) or administrative action(s) involving an offense(s) which resulted in the denial, suspension, cancellation, or revocation of driving privileges or which resulted in attendance at an educational or a rehabilitation program.”**

The instructions for completing question 18 v states **“Conviction and/or Administrative Action History -- Letter (v) of this subheading asks if you have ever been: (1) convicted (which may include paying a fine, or forfeiting bond or collateral) of an offense involving driving while intoxicated by, while impaired by, or while under the influence of alcohol or a drug; or (2) convicted or subject to an administrative action by a state or other jurisdiction for an offense for which your license was denied, suspended, cancelled, or revoked or which resulted in attendance at an educational or rehabilitation program. Individual traffic convictions are not required to be reported if they did not involve: alcohol or a drug; suspension, revocation, cancellation, or denial of driving privileges; or attendance at an educational or rehabilitation program. If "yes" is checked, a description of the conviction(s) and/or administrative action(s) must be given in the EXPLANATIONS box. The description must include: (1) the alcohol or drug offense for which you were convicted or the type of administrative action involved (e.g., attendance at an alcohol treatment program in lieu of conviction; license denial, suspension, cancellation, or revocation for refusal to be tested; educational safe driving program for multiple speeding convictions; etc.); (2) the name of the state or other jurisdiction involved; and (3) the date of the conviction and/or administrative action. The FAA may check state motor vehicle driver licensing records to verify your responses.”**

Question 18w states **“w. History of nontraffic conviction(s) (misdemeanors or felonies).”**

The instructions for completing question 18w states **“Letter (w) of this subheading asks if you have ever had any other (nontraffic) convictions (e.g., assault, battery, public intoxication, robbery, etc.). If so, name the charge for which you were convicted and the date of conviction in the EXPLANATIONS box.”**

Question 19 states **“VISITS TO HEALTH PROFESSIONAL WITHIN LAST 3 YEARS”**

The instructions for completing question 19 states **“List all visits in the last 3 years to a physician, physician assistant, nurse practitioner, psychologist, clinical social worker, or substance abuse specialist for treatment, examination, or medical/mental evaluation. List visits for counseling only if related to a personal substance abuse or psychiatric condition. Give date, name, address, and type of health professional consulted and briefly state reason for consultation. Multiple visits to one health professional for the same condition may be aggregated on one line. Routine dental, eye, and FAA periodic medical examinations and consultations with your employer-sponsored employee assistance program (EAP) may be excluded unless the consultations were for your substance abuse or unless the consultations resulted in referral for psychiatric evaluation or treatment.”**

As you are filling out this form, please keep in mind how the violation that you previously reported to management fits in and/or is related to one of these questions. Additionally, you are entitled to have a copy of the previous year's 8500 form when completing each subsequent year's form. It is highly suggested that you ask for a copy and have it with you when completing this form. It would be virtually impossible to attempt to discuss every single possible violation and how each one would relate to the reporting requirements. If there ever is a doubt or a question in your mind on whether or not you should report something, or as it relates to FAA Form 8500-8, please speak with your FACREP. If they do not know how to counsel you, or they have questions, NATCA has the resources at the regional and national levels to advise and counsel appropriately.

If, after completing FAA Form 8500-8, you feel that you may have erred on anything on that form, you may always request to amend it. You may make this request in accordance with Article 22, Section 6 of the collective bargaining agreement (CBA), which states ***“An employee, pursuant to OPM regulations, may request that a record maintained by the Agency be corrected or amended if he/she believes the information is incorrect. The Agency will advise the employee within fifteen (15) days of its determination concerning the employee's request. An employee who attempts unsuccessfully to correct or amend a record maintained by the Agency will be advised of the reasons for the refusal and may have a statement of disagreement placed in his/her folder.”*** This provision allows you to request that a record maintained by the agency be corrected or amended if you believe the information is incorrect. In concert with the provisions of Article 22, Section 6, it is suggested that if you feel that you have erred with anything on the Form, you should contact the Regional Flight Surgeon's office to correct any possible errors. Upon completion of doing this, you should write a Record of Conversation (ROC) and include the following information:

- To whom you spoke and their position(s);
- Date and time;
- Who, if anyone else was present;
- Your version of what was discussed. This must include what each person said, including yourself;
- Your signature;
- Date signed

The ROC must be completed as soon as possible after the conversation while it is still fresh in your mind. (Please refer to LR Chronicles numbers 8 and 9 regarding documentation).

If this happens, and you want to correct or amend your FAA Form 8500-8, then I highly suggest that you contact your FACREP to assist you in doing so.

Another reporting requirement for air traffic controllers is contained in FAA Order 3930.3, entitled "Air Traffic Control Specialist Health Program." This reporting requirement is contained in Chapter 1, Paragraph 9d, which states:

**"ATCSs shall:**

- (1) Report for medical examinations as scheduled by the agency.**
- (2) Inform facility management and/or the Flight Surgeon of any health problems and results of medical examinations occurring between periodic exams.**
- (3) Authorize access to or submit medical information obtained outside of the agency which may be required in determining current medical status."**

As you can see, this contains another layer of reporting requirements. Not only do you have to report these when you take your medical exam, you must ALSO report them as they occur. Whenever there is an issue of reporting, it is always advisable to take the most cautious route. Whenever you are dealing with incidents related to medical exams, driving incidents, or any other area that the Agency requires reporting, you should notify the Agency through the appropriate mechanisms. If you have a doubt, contact your Facility Representative.

Some of you may be asking why I would include question 19 in this edition of the LR Chronicle as it does not fit in with the actual subject matter. To answer that question, I will tell you a story that some of you may already know. Approximately three years ago, 12 of our brothers from the NY TRACON (N90) were terminated by the FAA. The reason that the FAA gave for the terminations was **"Omission of information on FAA Form 8500-8, Application for Airman Medical Certificate."** The FAA claimed, as justification for the terminations, a failure to list Doctor's visits on FAA Form 8500-8 on their first flight physical following the filing of an OWCP claim for an on-the-job-injury by each of our 12 brothers. Then, as added charges for each of them, the agency listed each and every separate occurrence, for each subsequent FAA Form 8500-8 at each subsequent annual flight physical. For some of our good brothers, they only had ONE OWCP claim, but the agency decided to

“pile-on” and our brothers were charged not only with their initial **alleged** failure to list the Doctor’s visit, but were also charged with up to 6 failures to report these Doctor’s visits. Not only did the agency know about the OWCP claim as a result of an on-the-job-injury, the FAA also authorized the treatment **and** payment for each of the claims, they also authorized the time off from work, then collected the completed forms from the Department of Labor (DOL) and, in fact, stored all of this information in the very same official medical folder that of the Doctor’s visited, dates of visits/treatments, as well as the specific diagnosis for each employee.

As a side note to this absolute travesty and the beginning of the FAA’s “culture change”, one of our aforementioned brothers had an additional charge. He took a “tone” injury as part of his OWCP claim. Since there is not a corresponding box under question 18a-u for a tone injury, he was fired for not checking box 18x which states **“other illness, disability, or surgery.”**

Through the very hard work of many NATCA activists and representatives, our brothers all got their respective jobs back. However, please keep in mind that they had to attempt to make ends meet, with no pay check, for them and their families from the time they were terminated to the time they were put back to work.

ER 4.1 also has, as part and parcel, what is called the “Table of Penalties.” The Table of Penalties contains nature of conduct and range of penalties for first, second and third offenses. It is important to note that the FAA has, as of late, begun to more effectively utilize the table of penalties and the concept of progressive discipline. As a result, we must all have greater awareness of the impact of a grievant’s previous discipline. I am going to cite some examples below on what the FAA can charge you with for a few “infractions” related to this edition of the Chronicles.

**Nature of offense: 6. Failure to Carry out orders, directions, assignments etc., given by a superior official:**

- **First Offense** – Reprimand to 10-day suspension;
- **Second Offense** – 10-day suspension to removal
- **Third Offense** – Removal

**Nature of Offense: 23. Providing false, misleading, untruthful statements or concealment of material fact or pertinent information in connection with any official inquiry, investigation etc.:**

- **First Offense** – 10-day suspension to removal
- **Second Offense** – 30-day suspension to removal
- **Third Offense** – Removal

**Nature of Offense: 24. Refusal or failure to give oral or written statements or testimony in connection with any official inquiry, investigation etc.:**

- **First Offense** – 10-day suspension to removal
- **Second Offense** – 30-day suspension to removal
- **Third Offense** – Removal

**Nature of Offense: 28. Forging, falsifying, misstating or misrepresenting information on Government records, documents, claims etc., for oneself or another:**

- **First Offense** – 5-day suspension to removal
- **Second Offense** – Removal

**Nature of Offense: 32. Failure to report a violation of law, regulations or policy:**

- **First Offense** – Reprimand to 5-day suspension
- **Second Offense** – 5-14 day suspension
- **Third Offense** - Removal

As you can see, there are certain reporting requirements for certain FAA employees, depending on their career field. The main point of this edition of the LR Chronicles is that if there is ever a doubt as to whether or not to report something as per ER 4.1 and/or when you take your annual flight physical, please contact your FACREP **immediately**. Once again, NATCA has the resources at all levels in order to assist not only you, but your FACREP as well. NATCA, at all levels, will leave no stone unturned and spare no expense with regard to representing our bargaining unit employees from this callous and rogue employer.

If there are any questions, please feel free to contact me.

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