

# Known Crewmember Program Disqualification Protocol (KCMDP)

Version 2

August 24, 2024



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## Revision Summary

Provide a bulleted, high-level description of what changes have occurred and why in the current submission. Provide the date of the revisions.

## Document Change History

<b>Version Number</b>	<b>Date</b>	<b>Description</b>
1.0	January 31, 2019	First Version Issued
1.1	September 25, 2019	<ul style="list-style-type: none"><li>• Clarifies TSA statutory authority to disqualify crewmembers</li><li>• Clarifies TSA program office roles and responsibilities</li><li>• Adds the aircraft operator’s discretion to disqualify crewmembers</li><li>• Adds ability to permanently disqualify crewmembers after multiple infractions of specified regulatory violations</li></ul>
2.0	August 2024	<ul style="list-style-type: none"><li>• Clarifies TSA program office roles and responsibilities</li><li>• Clarifies and amends Disqualifying Violations and KCMDP Disqualification Periods (Table A)</li><li>• Adds ability for disqualification to remain in effect even if the affected crew member changes employers</li><li>• Establishes the role of the KCM Disqualification Review Board (KCM-DRB)</li><li>• Adds ability to disqualify crewmembers based on egregious acts, criminal activity, and intelligence information</li><li>• Adds the impact of Aggravating and Mitigating Factors on the Disqualification Period</li></ul>

## **1. Purpose**

The Transportation Security Administration (TSA) developed the Known Crewmember Disqualification Protocol (KCMDP) to address circumstances in which a crewmember's conduct indicates that the individual is no longer a low risk to qualify for participation in the Known Crew Member (KCM) program. KCM eligibility allows participating crewmembers to enter the sterile area through a KCM access point (except when on personal travel to a non-U.S. location) established by the airport operator and the Federal Security Director and staffed by TSA. Crewmembers may be disqualified from the KCM program based on certain violations of the Transportation Security Regulations (TSR), intelligence information, criminal activity, intentional acts of noncompliance, or egregious or systemic violations.

The KCMDP provides a mechanism for TSA to remove KCM eligibility from individuals who violate TSA's regulatory requirements. Crewmembers who violate TSA's regulatory requirements will not be permitted to use KCM access points for a period of time commensurate with the risk associated with the violation.

## **2. Standard Disqualification from TSA Known Crewmember**

TSA investigates regulatory violations pursuant to its investigative and enforcement authorities and procedures in title 49 of the Code of Federal Regulations (CFR), part 1503, and the National Investigations and Enforcement Manual (NIEM), which may lead to the assessment of a civil penalty or administrative action.

Transportation Security Inspectors (TSIs) will prepare an Enforcement Investigative Report (EIR) in accordance with guidance provided in the NIEM when the agency is made aware of an alleged TSR violation by an employee participating in KCM. The initiation of an EIR will be the first step of the process of disqualification. Prompt opening and closing of EIRs is essential. Security Operations will ensure prompt and accurate reporting to the Principal Security Specialist (PSS) of initiation and final adjudication of EIRs concerning KCM violations.

When an EIR is initiated against an aircraft operator employee participating in KCM, the crewmember will have their KCM eligibility suspended while TSA conducts an investigation. Once TSA has made a determination that a violation occurred or may have occurred, TSA will, if appropriate, disqualify the crewmember for the applicable period as indicated in Table A. If the matter is closed with no action required, the crewmember will be removed from the TSA KCMDP list and their KCM eligibility will be reinstated.

Only violations identified in Table A that warrant the creation of an EIR prompt automatic disqualification from the KCM program in accordance with Table A. However, as stated in Section 3, egregious acts, criminal activity, and intelligence information can also lead to KCM disqualification, whether or not there is an EIR (or any TSA regulatory violation) associated with the disqualifying behavior.

Disqualification from the KCM program may remain in effect even if the affected crewmember changes employers.

## **2.1. Disqualification Process for Violations in Table A**

The TSI will notify both the aircraft operator's assigned PSS and the relevant National Inspector within 24 hours of initiating an EIR for the alleged violation which is reflected in Salesforce. The PSS will send an Initial KCM Disqualification Letter to the aircraft operator's Aircraft Operator Security Coordinator (AOSC). The Initial KCM Disqualification Letter will direct the aircraft operator to suspend the crewmember's KCM access eligibility while TSA conducts its investigation. The Initial KCM Disqualification Letter will provide the reason for the suspension and the date the investigation began. Upon receipt of the Initial KCM Disqualification Letter, the aircraft operator is required to send an acknowledgment of receipt to the PSS.

Once the investigation is complete, Security Operations will notify the aircraft operator's assigned PSS of TSA's final determination regarding the violation. If TSA's investigation results in the issuance of a Notice of Proposed Civil Penalty, the PSS will send the AOSC a Final KCM Disqualification Letter notifying the aircraft operator of the outcome of TSA's KCM disqualification review. Where applicable, the Final KCM Disqualification Letter will:

1. Identify the violation and state the minimum required period of disqualification as indicated in Table A or if based on egregious acts, criminal activity, and intelligence information.
2. Identify any Aggravating or Mitigating Factors relied upon in determining the specific penalty within the ranges indicated in Table A.

If TSA's investigation results in closing the matter with no action, the PSS will inform the AOSC, via the Final KCM Disqualification Letter, that TSA is no longer suspending the crewmember from KCM access and that the crewmember may be reinstated.

If the final determination results in the suspension of the KCM privileges and upon receipt of the Final KCM Disqualification Letter, the aircraft operator is required to send an acknowledgement to the PSS confirming the date the suspension began and the crewmember's resulting total period of KCM disqualification. The disqualification process applies to all individuals under the KCM program. All incidents involving Federal Flight Deck Officers will be treated as those involving law enforcement officers in accordance with guidance provided in the NIEM Appendix 2C-1.

### **2.1.1 Determination of the Disqualification Period**

As part of the process, Security Operations will make a Disqualification Period recommendation to the KCM Disqualification Review Board (KCM-DRB) based on the guidance outlined in Table A. The KCM-DRB consists of representatives from Enrollment Services & Vetting Programs; Security Operations - Compliance; and Policy, Plans, and Engagement, and is advised by the Chief Counsel office. The KCM-DRB will review the EIR and any other relevant materials provided by Security Operations and concur or non-concur with the determination as to the Disqualification Period to be adopted with the applicable range provided in Table A and document the reasons for its determination.

### **2.1.2 Aircraft Operator's Discretion to Disqualify Crewmembers**

An aircraft operator may, at its discretion, disqualify a crewmember from KCM access for any

violation and/or length of time longer than described in Table A. If the aircraft operator elects to extend the disqualification period longer than the period described in Table A, it must advise the crewmember, and inform the PSS as well, in writing, of its decision and the resulting disqualification period. The crewmember will remain disqualified at a minimum until the conclusion of the disqualification period.

## 2.2. Disqualifying Violations and KCMDP Disqualification Periods (Table A)

Disqualifying Violations and KCMDP Disqualification Periods Table A	Enforcement Actions		
Regulatory Violation	1st Violation	2nd Violation	3rd Violation
<p>49 CFR § 1540.103-Fraud and intentional falsification of records.</p> <p>(Make, or cause to be made, (1) any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under 49 CFR Chapter XII, Subchapter C; (2) any fraudulent or intentionally false statement entry in any record or report that is kept, made, or used to show compliance or exercise any privileges under 49 CFR Chapter XII, Subchapter C; or (3) any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under 49 CFR Chapter XII, Subchapter C).</p>	1 to 3 years suspension	3 years to permanent suspension	Permanent suspension
<p>49 CFR § 1540.105(a)(1) -Security responsibilities of employees and other persons.</p> <p>(Tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with, compromise, modify, or procedure implemented under 49 CFR Chapter XII, Subchapter C.)</p>	3 years to permanent suspension	Permanent suspension	

Included in this section are violations involving carrying the belongings of another person through the KCM lane or using a KCM lane while on personal international travel.			
49 CFR § 1540.105(a)(2) –Security responsibilities of employees and other persons.  (Enter, or be present within, a secured area, AOA, SIDA or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas.)	1 to 3 years suspension	3 years to permanent suspension	Permanent suspension
49 CFR § 1540.105(a)(3) - Security responsibilities of employees and other persons.  (Use, allow to be used, or cause to be used, any airport-issued or airport-approved access medium or identification medium that authorizes the access, presence, or movement of persons or vehicles in secured areas, AOAs, or SIDAs in any other manner than that for which it was issued by the appropriate authority under 49 CFR Chapter XII, Subchapter C.)	1 to 3 years suspension	3 years to permanent suspension	Permanent suspension
49 CFR § 1540.107 - Submission to screening and inspection.  No individual may enter a sterile area without submitting to the screening and inspection of his or her person and accessible property in accordance with the procedures being applied to control access to that area under this subchapter.	1 to 3 years suspension	3 years to permanent suspension	Permanent suspension
49 CFR § 1540.109 - Prohibition against interference with screening personnel.	3 years to permanent suspension	Permanent suspension	

<p>*Any assault on a TSA employee during execution of their security responsibilities will result in immediate placement on the KCMDP list. "Assault" refers to any instance of an individual making physical contact with a TSA employee in the course of the TSA employee's screening duties which is offensive or otherwise without legal justification.</p>			
<p>49 CFR. § 1540.111(a) - On an individual's person or accessible property - Carriage of weapons, explosives, and incendiaries by individuals.</p> <p>Attempting to bring an unauthorized firearm through a checkpoint will result in immediate placement on the KCMDP. The discovery of improvised explosive devices, including inert devices, and improvised incendiaries, will result in immediate and permanent KCM disqualification.</p>	<p>5 years to permanent suspension</p>	<p>Permanent suspension</p>	
<p>49 CFR § 1540.111(c) - In checked baggage - Carriage of weapons, explosives, and incendiaries by individuals.</p> <p>The discovery of improvised explosive devices, including inert devices, and improvised incendiaries, will result in immediate and permanent KCM disqualification.</p>	<p>3 years to permanent suspension</p>	<p>Permanent suspension</p>	
<p>49 U.S.C. Chapter 465 - "Special Aircraft Jurisdiction of the United States," and 49 U.S.C. Section 46302, "False Information," and incidents on board aircraft involving Federal Air Marshals.</p>	<p>5 years to permanent suspension</p>		

### 2.2.1 Impact of Aggravating and Mitigating Factors on the Disqualification Period

Many violations in Table A have a disqualification period range to account for aggravating and



mitigating factors. When deciding upon the final disqualification period, TSA may consider the following aggravating and mitigating factors:

1. Significance or degree of the security risk created by the violation;
2. Nature of the violation (whether the violation was inadvertent, deliberate, or the result of gross negligence);
3. Past violation history (compliance should be the norm, this factor is considered only to assess the need for a period of disqualification at the higher end of the range);
4. Violator's level of experience;
5. Attitude of violator, including the nature of any corrective action taken by the alleged violator, as indicated by incident reporting, any Letter of Response provided to TSA in conjunction with civil enforcement proceedings, or other statements;
6. Artful concealment;
7. Fraud and intentional falsification.
8. For violations related to firearms, additional aggravating factors include:
  - a. Use of a KCM portal, including instances in which a crewmember presents at the KCM portal and is referred to the screening checkpoint for random screening
  - b. Use of a passenger checkpoint while in uniform
  - c. The violator is a member of TSA PreCheck®
  - d. The violator has a prior firearm violation (“past violation history”)
  - e. The firearm was carried on the violator’s person
  - f. The firearm has a round that is chambered or the safety is off (loaded firearms carry a separate, higher penalty to unloaded firearms)

### **3. Disqualification from TSA KCM Eligibility for Egregious Acts, Criminal Activity, or Intelligence Information**

The KCM-DRB will assess the violation and will notify the aircraft operator’s assigned PSS of a determination to suspend based on egregious acts, criminal activity, or intelligence information. The Initial KCM Disqualification Letter issued by the PSS will direct the aircraft operator to immediately suspend the crewmember’s KCM eligibility. Upon receipt of the PSS’s Initial KCM Disqualification Letter, the aircraft operator must take immediate action to ensure the crewmember’s KCM eligibility are suspended in accordance with the Disqualification Letter.

### **4. KCMDP Record Management**

Aircraft operators maintain records of crewmembers who are disqualified from KCM access and update them according to the Initial or the Final KCM Disqualification Letter received by their AOSCs from PSSs.

TSA will maintain a record of crewmembers disqualified from KCM access. In the event an error is discovered by either TSA or the aircraft operator, TSA will correct the underlying Performance and Results Information System (PARIS) record. The PSS will communicate the correction to the

AOSC upon notification from Security Operations.

If the KCM regulatory violations are amended while the crewmember is undergoing the EIR process and if the change would affect a crewmember's eligibility, then Security Operations will amend the underlying PARIS record and update the KCMDP list to reflect this change and notify the PSS.

## **5. Inquiries on Disqualification**

### **5.1. Obtaining Information about Violations**

Crewmembers may inquire about their eligibility for KCM access only by contacting their AOSC. In the event a crewmember's KCM eligibility has been suspended pursuant to this KCMDP, KCM-DRB, in consultation with Chief Counsel, Security Operations, and Policy, Plans, and Engagement-Aviation Division, will provide the AOSC with a response in writing advising of the date and location of the disqualifying offense, the reason for the suspension, and the resulting period of disqualification.

### **5.2. Requests for Corrections**

TSA will review requests associated with record corrections. Crewmembers may request a review, through their AOSC, if they identify an error in either the Initial or the Final KCM Disqualification Letter. The AOSC should send record review requests to their PSS who will coordinate with Chief Counsel and Security Operations. TSA will not consider a crewmember's assertion that the violation was not intentional, or any other reason that is not a record correction. Security Operations will complete record corrections, if applicable.

### **5.3. Advice at the Checkpoint**

TSA employees at a security checkpoint who are asked about potential KCM disqualifications will advise individuals to direct their inquiry to the aircraft operator's management/AOSC.

## **6. Program Office Roles and Responsibilities**

### **6.1. Enrollment Services and Vetting Programs (ESVP)**

Enrollment Services and Vetting Programs oversees the KCM program as well as KCMDP enforcement. Enrollment Services and Vetting Programs will assist Compliance, PPE, and CC by providing any pertinent data that may assist in determining the level of enforcement being applied. Enrollment Services and Vetting Programs will coordinate with PPE, Compliance, and CC to issue necessary amendments to security programs and update the KCMDP as necessary.

### **6.2. Security Operations (SO) (Compliance and Domestic Aviation Operations)**

For standard disqualification, Security Operations will oversee the EIR process following its normal investigation process. The outputs of this process will affect crewmembers' eligibility for KCM access. Security Operations will inform PSSs and ESVP about disqualifying incidents involving crewmembers.

### 6.3. Chief Counsel (CC)



CC will provide legal advice and opinions regarding the KCMDP. The Chief Counsel Civil Enforcement group manages the existing civil enforcement process. The outputs of this process will affect crewmembers' eligibility for KCM access.

### 6.4. Policy, Plans, and Engagement (PPE)

PPE, in consultation with ESVP, will issue necessary amendments to security programs and update the KCMDP as necessary. Additionally, the PSSs will communicate with aircraft operators' AOSCs regarding suspensions, disqualifications, and requests for corrections. The PSSs will issue an Initial KCM Disqualification Letter upon notification of EIR being initiated, as well as a Final KCM Disqualification Letter upon notification of the result of the EIR. Policy, Plans, and Engagement – Aviation Division will maintain a record of crewmembers disqualified from KCM access and will make any necessary corrections.

## 7. Signature Page

Approved by:

<b>Security Operations</b>	
<b>MELANIE K HARVEY</b>  Digitally signed by MELANIE K HARVEY Date: 2024.08.21 16:17:30 -04'00'	
<b>EAA</b>	<b>Date</b>
<b>Operations Support</b>	
 Digitally signed by CHAD M GORMAN Date: 2024.08.21 11:20:24 -04'00'	
<b>EAA</b>	<b>Date</b>