

ARTICLE 39 – PHYSICAL EXAMINATION/FITNESS FOR DUTY

(a) If two or more members of management determine there is a serious question as to an employee's physical fitness to perform his assigned work, **one or more of the following may be required of the employee.** ~~he may be given a physical examination by the Company doctor. The employee will be notified of the examination in writing. The notification~~ **which** will include an explanation of the reason(s) for the **evaluation examination.** ~~An employee who fails to pass a Company physical examination may, within fifteen (15) calendar days of the date of written notification of his failure to pass the examination, be permitted to exercise his seniority in resuming his classification or any lower classification in work which he is qualified to perform, or, at his option, have a review of his case in the following manner:~~

(1) **If he is currently under the care of a physician, he may be required to provide medical documentation regarding such treatment.** ~~He may employ a qualified medical examiner of his own choosing and at his own expense for a physical examination.~~

(2) **If he is not currently under the care of a physician or does not provide medical documentation to AA Medical from his own personal physician in timely manner, management may request a fitness for duty evaluation through the Company Medical department.**

~~Should the medical examiner chosen by the employee disagree with the findings of the medical examiner employed by the Company, the Company will, at the written request of the employee or his Union representative, ask that the two medical examiners agree upon and appoint a third qualified and neutral medical examiner, for the purpose of making a further physical examination of the employee.~~

(3) **As soon as the medical information is received either from the employee's treating physician or the company provided medical evaluation, it will be reviewed by an AA physician or the AA Medical Review Board (hereafter referred to as the MRB) at the next scheduled MRB (normally within two (2) weeks). The Company physician or MRB will consider the information provided by the treating physician or the medical evaluation as well as the employee's AA Medical file.**

~~The three (3) doctors, one representing the Company, one representing the employee affected, and one as the neutral doctor (approved by the Company doctor and the employee's doctor), will constitute a board of three (3), the majority vote of which will decide the case.~~

Note: During any time the employee is absent from work due to these situations, he will be compensated from his existing sick bank unless he is on "withhold with pay" status.

As a result of the Company physician and/or MRB review, one of the following will apply:

- (a) The employee may be cleared to full duty;**
- (b) Temporary restrictions may be assigned;**
- (c) Permanent restrictions may be assigned.**

~~(4) The expense of the third medical examiner will be borne one-half by the employee and one half by the Company. Copies of the Board's report will be furnished to the Company, the Union, and the employee.~~

~~(5) If the majority opinion of the Board of three (3) medical examiners upholds the employee's case, he will be restored to his former job and be paid for time lost, at his regular rate of pay, less any amount he may have received as compensation during the interim period.~~

~~(b) Should the medical examiner, chosen by the employee in Article 39(a)(1), agree with the findings of the Company doctor but disagree regarding the employee's ability to return to his job, the following will apply to all cases, including alcoholism and mental disorders, except when superceded by the DOT or FAA rules or the Company's Alcohol/Drug Policy:~~

~~(1) The employee may appeal through the local Union President to a System Review Panel, composed of the Vice President — Employee Relations and the Director of the Air Transport Division, to resolve the dispute.~~

~~(2) Should the System Review Panel be unable to satisfactorily resolve the case, it will be referred to a System Professional Medical Board composed of the American Airlines Corporate Medical Director, a physician appointed by the employee, and a third physician mutually agreed upon by the first two physicians. The third physician will possess the medical expertise necessary to resolve the dispute.~~

~~(3) The case will be presented to the Professional Medical Board which will be empowered to return the employee to his former job. The decision of the Board will be final and binding, the majority vote deciding the case.~~

~~(4) The expense of the employment of the third physician will be shared equally by the parties.~~

(b) Temporary Restrictions

A temporary restriction is a restriction assigned by the employee's treating physician or AA Medical, until the employee's fitness for full duty can be

established. If temporary restrictions are assigned, AA Medical will notify local management of the temporary restrictions, who will determine if the restrictions can be accommodated in the workplace. AA Medical will work with the employee and his treating physician to address the temporary restrictions. (In some cases, the temporary restrictions may become permanent restrictions.)

~~(c) If a dispute should arise from the application of Article 39(a) or 39(b), the Company will supply to the employee's personal physician, upon receipt of a signed release from the employee, a copy of the employee's medical records that pertain to the dispute. Provision and disclosure of the medical records will be in conformity with applicable government regulations.~~

(c) Permanent Restrictions

A permanent medical restriction is a work restriction that is based on the presence of a medical condition which is unlikely to change substantially in the immediate or foreseeable future. If the employee is assigned permanent restrictions, AA Medical will notify the employee in writing of the permanent restrictions. (A form will be included in the MRB letter.) An employee who has been assigned permanent restrictions by the MRB is encouraged to seek local accommodation in his existing job with local management. If local management is unable to accommodate the restrictions, the employee may file an appeal as stated below, or request a broader accommodation or job search assistance from the Accommodation Review Board (hereafter referred to as the ARB). In the event that the employee's treating physician disagrees with the permanent restrictions that have been assigned by the MRB, the employee and his treating physician may appeal the MRB's decision within fifteen (15) calendar days of the date of written notification. The employee will be permitted to exercise his seniority in resuming his classification or any lower classification in work which he is qualified to perform or, at his option, have a review of his case in the following manner:

- (1) Once AA Medical has been notified of the appeal the Company will, at the written request of the employee or his Union representative, ask that the two medical examiners, the employee's treating physician, and the AA Medical physician agree upon and appoint a third qualified and neutral medical examiner for the purpose of conducting a further medical evaluation of the employee. AA Medical will research the qualifications and credentials of physicians qualified as medical examiners for the appropriate medical condition and/or restrictions to be reviewed. AA Medical will provide a written list of medical examiners to the employee's treating physician with a copy to the employee. AA Medical will also review a list of qualified medical examiners provided by the employee's treating physician if provided.**

(2) The employee's treating physician should notify AA Medical of the choice of medical examiner within fifteen (15) calendar days of the date of the letter. The employee must provide a medical release to AA Medical prior to the scheduling of an appointment with the medical examiner. Provision and disclosure of the medical records will be in conformity with applicable government regulations. AA Medical will schedule the appointment, will notify the employee in writing and will provide all appropriate Company medical records to the medical examiner. Additionally, if the employee or the employee's treating physician has additional medical information, it must be submitted to AA Medical along with the medical release for forwarding to the medical examiner prior to the appointment.

(3) The three (3) doctors, one representing the Company, one representing the employee affected, and one as the neutral medical examiner (approved by the Company doctor and the employee's doctor), will constitute a board of three (3), the majority vote of which will decide the case.

a. The expense of the third medical examiner will be borne by the Company including all expenses related to travel such as airfare and hotel. Copies of the medical examiner's report will be furnished to AA Medical and the employee's treating physician. **If the employee fails to show for the scheduled appointment and has no justifiable reason, he will be responsible for any no-show fee.**

b. If the majority opinion of the Board of three (3) medical examiners upholds the employee's case, he will be restored to his former job. Back pay will apply from the date the **employee files his Article 39 appeal**. The employee will be compensated at his regular rate of pay, less any amount he may have received as compensation during the interim period. If the employee used sick leave or vacation allowance, his sick leave or vacation allowance will be replenished.

c. Should the third party medical examiner agree with the permanent restrictions assigned by AA Medical, the employee may request accommodation through the ARB.

d. The decision of the third party medical examiner is final and binding on all parties.

Note: This process will not supersede the Company's Alcohol/Drug Policy, FAA, or DOT rules.

~~(d) — In order to expedite the resolution of cases brought before the AA-TWU System Review Panel under the provisions of Article 39(b), the provisions of this paragraph will be followed. In the event that the Panel, with the concurrence of the AA Corporate Medical Director or his designee, returns the employee to his job, or another job covered by the Agreement, the reinstatement will be effective no later than ten (10) calendar days from the date the decision is reached. The reinstated employee will return to work on the date, time, and place determined by the Manager of the work unit to which the employee will return.~~

~~(1) — In the event of a deadlock by the Panel under the provisions of Article 39(b)(1), the employee will:~~

~~_____ (a) — Complete and sign an American Airlines authorization form for the release of medical information; and~~

~~_____ (b) — Write a letter to the AA Medical Director stating the name of the doctor specializing in the treatment of the medical disability which caused the employee to be disqualified from his job and/or upon whose opinion the Company may rely, if the System Review Panel determines the doctor has not been specified already; and~~

~~_____ (c) — Furnish a detailed medical memorandum for the physician under Article 39(d)(1)(b). The memorandum will detail the diagnosis, prognosis, medication, current status, test results, etc., based on an examination performed not more than ninety (90) days before or after the date of the System Review Panel hearing.~~

~~_____ (2) — The above documents are to be sent to:~~

~~_____ Corporate Medical Director
_____ P. O. Box 619616, MD 5187
_____ DFW Airport, TX 75261-9616~~

~~(3) — Upon receipt of the above documents, the AA Medical Department will evaluate the employee's physician's report and will communicate with the employee's physician to choose a third physician to constitute the Professional Medical Review Board specified under Article 39(b)(2). All questions concerning the submission of documents above will be handled by AA Medical.~~

~~_____ (4) — The entire process of appeal from the decision of the System Review Panel to the Professional Medical Review Board will be completed within forty-five (45) calendar days. However, when the employee's physician, the AA physician, or the third doctor are not available, test results are delayed, or other factors beyond the control of the parties exist, the process may be extended~~

~~another fifteen (15) calendar days to a total period from deadlock of the System Review Panel through the process of the Professional Medical Review Board of not more than sixty (60) calendar days.~~

~~(5) Every employee participating in the process above will be made aware of his or her responsibility to share the cost of the third physician equally with the Company under the provisions of Article 39(b)(4).~~

(e) The attachment on the following page is agreed to by the parties and is incorporated as part of the Agreement.

~~ATTACHMENT 39.1—ADA ACCOMODATIONS COMMITTEE~~

~~From: Edward Koziatek
To: Managing Director Employee Relations
Re: ADA Accommodations Committee~~

~~October 14, 1992~~

~~You have requested information on how your field representatives should handle employee requests under the ADA (Americans with Disabilities Act) to start the process of the Accommodations Committee reviewing their medical restrictions.~~

~~Once an employee has exhausted the provisions of the contract, including Article 39, and is still restricted from performing a job s/he believes s/he can accomplish, the employee should forward to the local Personnel Manager, in writing, with a copy to the Local Union President a request for review by the ADA specified Accommodations Committee.~~

~~The Personnel Manager is the designated contact point for such accommodation review requests and other questions and/or issues relating to the ADA.~~

~~(Signed original on file)~~

ATTACHMENT 39.1 – ACCOMMODATION REVIEW BOARD

June 30, 2008

**Robert Gless
AA System Coordinator
Air Transport Division
Transport Workers Union of America, AFL-CIO**

Re: ACCOMMODATION REVIEW BOARD

Robert,

In follow up to today's conversation I am providing information on how your field representatives should handle employee requests regarding the process of the Accommodations Review Board and how it relates to their permanent medical restrictions.

If permanent restrictions are assigned, AA Medical will notify the employee and the TWU ATD Designees in writing of the permanent restrictions. Once an employee has exhausted the provisions of the contract and is still restricted from performing his job, the employee should forward to HR, in writing, with a copy to the Local Union President, a request for review by the ADA System Accommodations Committee.

HR is the designated contact point for such accommodation review requests. Employees who have been assigned permanent restrictions by the MRB are encouraged to seek local accommodation in their existing job with their local management. If local management is unable to accommodate the restrictions, the employee may request a broader accommodation or job search assistance from the Accommodation Review Board.

The ARB will consist of:

- Human Resources (Chairperson)**
- Employee Relations**
- TWU ATD Designees**
- Legal**
- Medical**
- Local Management**
- Local Union Representative – Designated by the Local President**

The function of the ARB is to discuss all aspects of the employee's request, his restrictions and ability to perform his essential job functions, and whether the Company can reasonably accommodate the restrictions without undue hardship,

in an attempt to return the employee to his previously held position. The ARB works with management, union representatives and Human Resources prior to making a recommendation. If the employee is unable to return to his previous position, a job search within AMR is recommended.

If a job search is recommended, the ARB Chairperson will assist the employee in an attempt to identify other open positions within all of AMR in which the employee will be able to work, with or without a reasonable accommodations, and for which he may be qualified (may include non-TWU represented positions). This assistance may include coordinating access to internal Company postings; resume writing techniques and skill assessment.

The ARB will do all possible to work with local management to implement the recommendation of the board.

Sincerely,

**James B. Weel
Managing Director
Employee Relations**