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**NEWS**

# Air Marshals Sue TSA for Race Discrimination

January 3, 2024 | [Leah Shepherd](#)

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Four Black air marshals recently sued the Transportation Security Administration (TSA), alleging racial discrimination in promotion decisions.

The class-action lawsuit, filed on Nov. 29 in U.S. District Court for the District of Columbia, said the TSA's promotion decisions are made by a small group of executive leaders who are almost exclusively white men. Recommendations for highly qualified Black applicants to enter senior leadership roles were repeatedly ignored or discounted, and the plaintiffs were passed over many times in favor of less qualified white candidates, the lawsuit alleged.

The TSA's promotion system had a [disparate impact](#) on Black employees that cannot be justified by business necessity, and the denial of promotions resulted in lost wages and



Air marshals fly on commercial planes to monitor passengers for potential threats. They respond to emergencies and criminal activities occurring during flights, arrest passengers who commit crimes aboard flights, and execute arrest warrants.

The TSA declined to comment on the pending case.

## Background

[Title VII of the Civil Rights Act of 1964](#) prohibits employment discrimination based on race. Title VII applies to employers with 15 or more workers. An employer can defend against a discrimination claim by showing that its action, such as a promotion denial, was job-related and consistent with business necessity, and not based on discriminatory intent. For example, a legitimate, nondiscriminatory reason for failure to promote might be poor job performance, lacking certain credentials or not having enough experience.

“Employers can mitigate the risk of a discrimination claim by creating written promotion guidelines, reviewing such guidelines with employment counsel, consistently following such guidelines and updating such guidelines as necessary,” said Atoyia Harris, an attorney with Proskauer in New Orleans.

Employers could end up in legal battles by haphazardly handling performance evaluations.

“Some of the common practices that expose employers to discrimination claims include lack of attention to unwritten and written protocols concerning promotion, failure to address employee concerns raised formally and informally about their employment, poorly written and inaccurate performance evaluations, not conducting performance evaluations on a regular basis, and failure to consult with counsel when evaluating promotion practices,” Harris said.

Consistency is key in preventing discrimination against protected groups.

“Employers should monitor whether managers are maintaining consistent and accurate performance evaluations that are based on as many objective criteria as possible, and whether managers are trained on how to write and deliver performance evaluations,” Harris said.

The U.S. Equal Employment Opportunity Commission (EEOC) recommends these [best practices](#) to prevent race discrimination in promotions:

- Train HR professionals and managers on anti-discrimination laws.



groups.

- Communicate promotion criteria and job openings to all eligible employees.
- Monitor for legal compliance by conducting self-analyses to determine whether promotion practices are having a disparate impact on protected groups.

## Similar Case Against U.S. Marshals

The [U.S. Marshals Service](#) recently settled a long-standing class-action lawsuit alleging racial discrimination in hiring, promotions and job assignments. On Sept. 26, the EEOC granted preliminary approval of the \$15 million settlement. The Marshals Service continues to deny any wrongdoing.

As a federal law enforcement agency, the Marshals Service protects federal judges, apprehends federal fugitives, transports federal prisoners and executes federal arrest warrants.

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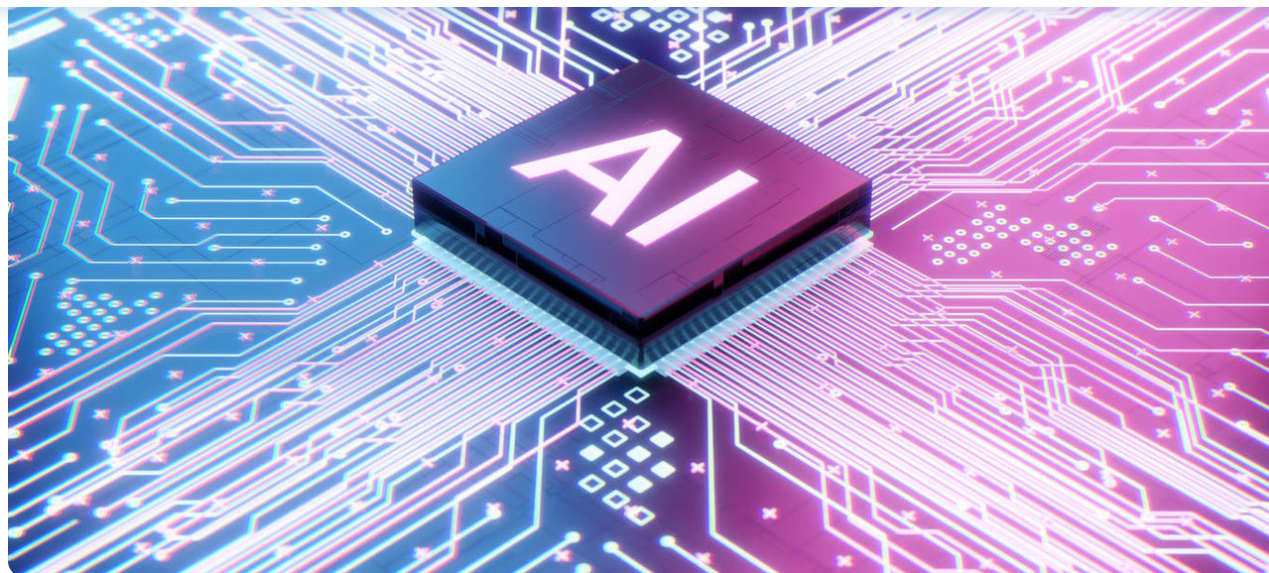
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