



**TSA MANAGEMENT DIRECTIVE No. 1100.63-3
EMPLOYEE REPRESENTATION**

To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Respect, and Commitment.

NOTE: Pursuant to Section 101 of the Aviation and Transportation Security Act (49 U.S.C. 114(n)), this directive and all related Handbooks, Attachments, and Appendices establish Transportation Security Administration (TSA) policy and must be applied accordingly.

REVISION:

This revised directive supersedes TSA MD 1100.63-3, *Employee Representation*, effective March 21, 2014.

SUMMARY OF CHANGES:

Section 1, Purpose, updated to include duty time for representational purposes for employees and Personal Representatives who are not Union Representatives. Section 2, Scope, changed to apply to all TSA employees. Section 3, Authorities, added 18 U.S.C §§ 203, 205. Section 4, Definitions, added the following terms: Determination, Collective Bargaining Agreement, duty time for representational purposes, Exclusive Representative, paid time, Union Representative, and grievance and arbitration process; revised definitions of bargaining unit employees, management official, official time, and Personal Representative; deleted investigation or examination and official time. Section 5, Responsibilities, expanded the responsibilities of management officials and Personal Representatives; added responsibilities for Personal Representatives who are not Union Representatives. Section 6, Policy, and Section 7, Procedures, removal of language allowing bargaining unit employee's personal representation during interviews in connection with certain investigations and examinations and added language clarifying that this is a union right set forth in [TSA MD 1100.63-4, *Union Representation During Examination*](#); updated to add duty time for representation purposes, the designation of Personal Representative, and requests for duty time for representational purposes. Section 8, Approval and Effective Date, updated to reflect current Assistant Administrator for Human Capital and distribution.

1. PURPOSE:

This directive provides TSA policy and procedures for designating Personal Representatives to assist employees in certain matters as described in Section 6, as well as the policy and procedures that apply to such personal representation. This directive also provides TSA policy and procedures for duty time for representational purposes for employees and Personal Representatives who are not Union Representatives.

NOTE: For official time requests of Union Representatives (including Union Representatives serving as Personal Representatives), please see [TSA MD 1100.61-7, *Official Time for Bargaining Unit Employees*](#).

2. SCOPE:

This directive applies to all TSA organizational elements and to all TSA employees.

3. AUTHORITIES:

- A. Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA)
- B. 18 U.S.C §§ 203, 205
- C. 49 C.F.R. Part 1520, Protection of Sensitive Security Information
- D. Determination on Transportation Security Officers and Collective Bargaining dated December 30, 2022

4. DEFINITIONS:

- A. Bargaining Unit Employees (BUEs): The full- and part-time non-supervisory personnel carrying out screening functions under 49 U.S.C. § 44901, as that term is used in ATSA § 111(d) and as defined in the Determination dated December 30, 2022.

NOTE:

- Security Support Assistants, Coordination Center Officers, and Supervisory Transportation Security Officers are not BUEs.
 - The term “employees” in this directive includes BUEs.
- B. Collective Bargaining Agreement (CBA): The Collective Bargaining Agreement in effect between TSA and the American Federation of Government Employees (AFGE) covering BUEs.
 - C. Determination: The Determination on Transportation Security Officers and Collective Bargaining dated December 30, 2022.
 - D. Duty Time for Representational Purposes: For the purposes of this directive, time authorized by a TSA management official to allow an employee, when otherwise in a duty status, to serve as a Personal Representative or to represent themselves consistent with this directive, the Determination, TSA policy, applicable laws, applicable regulations, and/or any related guidance.

NOTE: Duty time for representational purposes does not apply to Union Representatives and/or Union Representatives serving as Personal Representatives. For BUEs who are Union Representatives and/or who are Union Representatives serving as Personal Representatives, please see [TSA MD 1100.61-7, Official Time for Bargaining Unit Employees](#), and [HCAM 2021.61-7, Official Time for Bargaining Unit Employees](#).

- E. Exclusive Representative: The union certified as the exclusive representative of BUEs under the Determination (also referred to as “the Union”).

NOTE: On June 29, 2011, the Federal Labor Relations Authority certified AFGE as the

Exclusive Representative of BUEs under the 2011 Decision Memorandum, Determination on Transportation Security Officers and Collective Bargaining, signed and dated February 4, 2011, by former TSA Administrator John S. Pistole.

- F. Grievance and Arbitration Process: For the purposes of this directive, the grievance and arbitration process established for TSA employees to resolve their disputes.
- G. Management Official: For the purposes of this directive, any TSA employee who is a higher-level official in the employee's chain of supervision (e.g., supervisor, manager, Director, Assistant Administrator, Federal Security Director, Supervisory Air Marshal in Charge) who has the authority to (1) allow or disallow designated Personal Representatives consistent with this directive; and/or (2) approve or disapprove requests for duty time for representational purposes consistent with this directive.
- H. Paid Time: For the purposes of this directive, time for which an employee is paid by the Federal Government, including both duty time (in which the employee performs agency business) and duty time for representational purposes. It does not include time spent on paid or unpaid leave or an employee's off-duty hours. For purposes of this directive, paid time can also be referred to as "duty hours."
- I. Personal Representative: An individual properly designated (as set forth in TSA policy, including this directive) by an employee to serve as a Personal Representative in a matter for which personal representation is permitted under this directive, the Determination, TSA policy, and/or any related guidance.

NOTE: A Union Representative may serve as an employee's Personal Representative if properly designated and consistent with TSA policy, including this directive. Union Representatives and Union Representatives serving as Personal Representatives will not receive duty time for representational purposes. Instead, they may receive official time consistent with [TSA MD 1100.61-7 Official Time for Bargaining Unit Employees](#), and [HCAM 2021.61-7, Official Time for Bargaining Unit Employees](#).

- J. Union Representative: For purposes of this directive, an individual authorized by the Exclusive Representative to represent the Exclusive Representative's interests and who is acting in that capacity consistent with this directive, the Determination, the CBA, TSA policy, and/or any related guidance.

5. RESPONSIBILITIES:

- A. Management officials are responsible for:
 - (1) Complying with the provisions of this directive;
 - (2) Promptly reviewing an employee's designation of Personal Representative to determine whether to allow or disallow consistent with this directive;
 - (3) Receiving requests for duty time for representational purposes;

- (4) Promptly reviewing requests for duty time for representational purposes;
- (5) Promptly acting on requests for duty time for representational purposes;
- (6) Ensuring use of duty time for representational purposes is appropriately documented;
and
- (7) Monitoring, tracking, and reporting use of duty time for representational purposes.

B. Personal Representatives and employees are responsible for:

- (1) Complying with the provisions of this directive; and
- (2) Adhering to TSA's instructions for receiving, handling, and safeguarding Sensitive Security Information (SSI) materials against unauthorized disclosure.

C. In addition to the responsibilities in Section 5.B, Personal Representatives who are not Union Representatives and employees (except employees who are Union Representatives representing themselves) are responsible for:

- (1) Timely submitting requests for duty time for representational purposes;
- (2) Timely providing necessary and accurate information and documentation, as determined by TSA management, to support requests for duty time for representational purposes;
- (3) Properly documenting use of approved duty time for representational purposes;
- (4) Making every effort to perform their representational duties in an expeditious manner;
- (5) Using duty time for representational purposes only for activities that are permitted under this directive, the Determination, TSA policy, and/or any related guidance; and
- (6) Engaging, while on duty time for representational purposes, only in the activities for which that time was authorized and approved.

6. POLICY:

A. Consistent with TSA policy, including this directive, employees may have personal representation or represent themselves in connection with the following activities:

- (1) Responding to an adverse or disciplinary action;
- (2) Participating in the Equal Employment Opportunity (EEO) process;

- (3) Participating in an agency approved mediation or facilitation activity;
- (4) Participating in the grievance and arbitration processes (as applicable), including completing necessary forms, participating in mediation and arbitration, if applicable, and preparing and presenting a grievance to management officials in accordance with applicable TSA policy;
- (5) Participating in appeals to the Merit Systems Protection Board; and
- (6) Engaging in activities and meetings, when authorized by appropriate TSA management officials in the employee's chain of supervision, for which personal representation is permitted in accordance with this directive, the Determination, TSA policy, applicable laws, applicable regulations, and/or any related guidance. For example, an employee may have a Personal Representative when filing a whistleblower retaliation complaint with the U.S. Office of Special Counsel.

NOTE: The Exclusive Representative has the right to be given the opportunity to be represented at any examination of a BUE in connection with an investigation if: (i) the BUE reasonably believes that the examination may result in disciplinary action against the BUE; and (ii) the BUE requests representation. Please see [TSA MD 1100.63-4, *Union Representation During Examination*](#), for information.

- B. An employee may designate a Personal Representative as long as that individual is willing and available to serve in that capacity and is not otherwise disallowed based on this directive, the Determination, TSA policy, applicable laws, applicable regulations, and/or any related guidance.

NOTE: BUEs may not select a representative from any union other than AFGE to provide personal representation consistent with this directive, the Determination, TSA policy, applicable laws, applicable regulations, and/or any related guidance. Concerning the EEO process, at any stage in the processing of a complaint, including the counseling stage, the complainant has the right to be accompanied, represented, and advised by a representative of the complainant's choice. See 29 CFR § 1614.605.

- C. Consistent with the Determination, management has an unrestricted right to communicate directly with an employee except in matters where there is a statutory or regulatory requirement to inform the employee's Personal Representative regarding a pending matter such as certain adverse or disciplinary actions.
- D. Except as may be provided for in the CBA, management is not required to change an employee's or Personal Representative's work schedule or incur overtime pay to accommodate an employee's preference for a specific Personal Representative or to allow the employee and Personal Representative to confer.
- E. Consistent with this directive, the Determination, TSA policy, applicable laws, applicable regulations, and/or any related guidance, an individual is not considered an employee's

Personal Representative until the employee submits a completed [TSA Form 1163-1, *Personal or Union Representative Designation*](#), and management allows it.

- F. Management will disallow an employee's choice of Personal Representative for operational and/or conflict of interest reasons, such as:
- (1) Operational Needs of TSA. TSA's operational needs are determined by TSA management, which include, but are not limited to, staffing and anticipated workload considerations. Management officials will consider whether the designated Personal Representative's proposed absence is likely to create operational difficulties for the office or airport based on workload considerations for the time the representation is needed and/or for the amount of time required for requested representation. This determination shall be made using criteria similar to that used to determine if discretionary leave would be approved for the time requested.
 - (2) Conflict of Interest and/or Position. This refers to an incompatibility between the designated Personal Representative's official duties or position and the employee's position or duties. Additionally, representation cannot create an appearance of a conflict of interest under the Ethics impartiality rules. If management disallows a Personal Representative because of a conflict or potential conflict of interest and/or position, management will notify the employee, in writing, of the reason after receiving the Personal Representative designation. Examples of conflict of or potential conflict of interest and/or position include, but are not limited to:
 - (a) A supervisor or manager serving as an employee's Personal Representative because that would undermine the employer/employee relationship;
 - (b) An employee serving as a Personal Representative for a supervisor or manager as that would undermine the employer/employee relationship;
 - (c) A Union Representative serving as a Personal Representative for a supervisor or manager, as that would create a conflict between the responsibilities of the supervisor or manager as part of the management team to maintain objectivity and independence in overseeing BUEs represented by the Exclusive Representative consistent with the Determination and the primary responsibility of the Exclusive Representative to represent the interests of BUEs consistent with the Determination;
 - (d) A situation where a designated Personal Representative has a schedule conflict and cannot represent the employee within the time period provided or a reasonable time thereafter; and
 - (e) A Human Resources or EEO specialist serving as a Personal Representative in a matter relating to the specialist's areas of responsibility.

- G. A Personal Representative for a TSA employee is a covered person, authorized to receive information designated as SSI for which they have a need to know. Any Personal Representative is therefore obligated to safeguard SSI against unauthorized disclosure, in accordance with [TSA MD 2810.1, SSI Program](#) and its accompanying [TSA SSI Policies and Procedures Handbook](#).

NOTE: A Personal Representative, who is not a TSA employee, in receipt of SSI will be required to sign a non-disclosure agreement. Additional information may be found at [TSA SSI Policies and Procedures Handbook](#).

- H. TSA is not responsible for the payment of any expenses related to an employee's Personal Representative's activities. These activities include, but are not limited to, travel expenses and any costs associated with the employee mailing documents to their Personal Representative.
- I. Consistent with applicable laws, employees cannot be compensated for their representation of another person before the Federal government.
- J. Duty Time for Representational Purposes. This section (Section J) only applies to Personal Representatives who are not Union Representatives and employees (except for employees who are Union Representatives and representing themselves). For official time for Union Representatives serving as Personal Representatives or representing themselves, please see [TSA MD 1100.61-7](#) and [HCAM 2021-61-7](#).
- (1) Use of duty time for representational purposes must have been requested and approved in accordance with this directive.
 - (2) Duty time for representational purposes does not include time used for EEO purposes, lobbying, political activities, and other activities initiated by a Personal Representative for which duty time for representational purposes is not authorized by this directive, the Determination, TSA policy, and/or any related guidance.

NOTE: For official time requests related to the EEO process, please see EEOC regulations, found at 29 C.F.R. § 1614.605, which grants federal employees who are complainants, representatives or witnesses in an EEO complaint, a reasonable amount of official time (time in a duty status) to participate in the EEO process. The amount of time deemed reasonable is dependent on the individual circumstances of each complaint. All requests for official time is subject to approval based on the total amount of time requested and the impact the employee's absence would have on operational needs.

- (3) An employee, as well as the employee's properly designated Personal Representative, if also a TSA employee, may request a reasonable amount of duty time for representational purposes for activities authorized by this directive, TSA policy, applicable laws, applicable regulations, and/or any related guidance. The employee and their Personal Representative may each be granted, if necessary, up to eight hours

for the entire activity, which may consist of several components occurring at different times.

- (4) There is no entitlement to duty time for representational purposes. Requests for duty time for representational purposes will be evaluated consistent with this directive, to include but not limited to whether operational needs permit the request.
- (5) Duty time for representational purposes must be used efficiently and authorized in amounts that are reasonable, necessary, and in the public interest.
- (6) TSA must balance the use of duty time for representational purposes with TSA's mission. An employee's official duties are their primary function. TSA will carefully monitor duty time for representational purposes requests and usage within the context of TSA's mission and operational needs. TSA's operational needs are determined by TSA management, which include but are not limited to staffing and anticipated workload considerations.
- (7) Consistent with the Determination, all employees are expected to work collaboratively to resolve issues through interest-based discussions and to resolve issues as close to the origin of the issue as possible, preferably by the affected individuals or groups themselves. This collaborative approach to reaching resolution and problem solving, including resolution options available through the grievance and arbitration processes (as applicable), is expected to minimize the amount of duty time for representational purposes needed to address matters. TSA will consider this resolution framework as a factor when determining duty time usage for representational purposes.
- (8) Personal Representatives who are employees and are currently on a Performance Improvement Plan (PIP) will not be authorized duty time for representational purposes during the period of the PIP.
- (9) Duty time for representational purposes may be requested only for time that the Personal Representative and/or employee is otherwise scheduled to be in a duty status unless provided for in this directive, the Determination, TSA policy, applicable laws, applicable regulations, and/or any related guidance.
- (10) With the exception of Personal Representatives who are on duty time for representational purposes away from their home airport, Personal Representatives who normally are required to report to work in uniform, will report to work in uniform (regardless of whether they will be on duty time for representational purposes during all or part of the day) and be available to perform their official duties when directed by management.
- (11) Requests for duty time for representational purposes that would result in a loss of certification for either an employee or a Personal Representative will not be granted.

- (12) All duty time for representational purposes use must be authorized, i.e., documented in writing and approved in advance, consistent with this directive, TSA policy, and/or any related guidance. A Personal Representative and/or employee must not take duty time for representational purposes until they are notified in writing by the management official that the request has been approved. A Personal Representative and/or employee must not assume that the request will be approved or has been approved. If notification that the request for duty time for representational purposes has been approved is not received before the start of the shift covered by the request, the Personal Representative and/or employee must work their shift as scheduled.
- (a) If the Personal Representative and/or employee has not received approval for the requested duty time for representational purposes and still uses the time for activities that are not part of their official duties, they may be considered absent without leave (AWOL) and subject to appropriate corrective, disciplinary, or adverse action.
 - (b) If the matter consumes less duty time for representational purposes time than is authorized, the Personal Representative and/or employee must report immediately to the management official for instructions, which may include returning to their work location (e.g., returning to the checkpoint).
- (13) Duty time for representational purposes will be conducted during the Personal Representative's and/or employee's regular duty hours. While on duty time for representational purposes, Personal Representatives and/or employees are eligible for Sunday pay, split-shift differential, and night pay differentials under TSA policy governing duty time and the payment of premium pay. Overtime will not be approved for duty time for representational purposes.
- (14) Use of Duty Time for Representational Purposes: An employee, as well as the employee's designated Personal Representative (if any), may be granted duty time for representational purposes consistent with this directive, TSA policy, applicable laws, applicable regulations, and/or any related guidance. Personal Representatives and the employees they are representing, as well as employees who represent themselves in a matter brought on their own behalf may be granted duty time for representational purposes consistent with this directive, TSA policy, applicable laws, applicable regulations, and/or any related guidance. Consistent with this directive, duty time for representational purposes may be used for representational activities related to the following:
- (a) Responding to a proposed adverse or disciplinary action;
 - (b) Participating in appeals to the Merit Systems Protection Board;
 - (c) Engaging in activities and meetings, when authorized by appropriate TSA management officials, for which personal representation is permitted in accordance with this directive, TSA policy, the Determination, applicable laws,

applicable regulations, and/or any related guidance. For example, duty time for representational purposes may be available when filing a whistleblower retaliation complaint with the U.S. Office of Special Counsel;

- (d) For employees to prepare for or present a grievance brought on the employee's own behalf; or to appear as a witness in any grievance proceeding; and
 - (e) For employees to challenge an adverse personnel action taken against the employee in retaliation for engaging in federally protected whistleblower activity.
- (15) Approval of requests for duty time for representational purposes made in connection with a statutory or regulatory complaint or appeal process will be considered in accordance with any requirements of the applicable complaint or appeal process.
- (16) Any travel time in connection with the personal representational activity is included in the duty time for representational purposes computation consistent with this directive, TSA policy, applicable laws, applicable regulations, and/or any related guidance. There is no separate authorization for travel time in connection with personal representational activities.
- (17) Personal representational activities for which duty time for representational purposes has not been approved may be conducted during non-duty time.

7. PROCEDURES:

A. Designating a Personal Representative:

- (1) An employee will provide the name of their Personal Representative, in writing, to their supervisor or other appropriate management official for review and allowance/disallowance consistent with this directive. An employee may designate only one Personal Representative, per matter or activity, at a time and must indicate the specific matter or activity for which the Personal Representative is authorized to serve. The employee will also provide the Personal Representative's title and contact information, and if employed by TSA, the Personal Representative's work location. [TSA Form 1163-1](#) will be used for this purpose.

NOTE: The employee will submit their designation of Personal Representative sufficiently in advance of the activity to allow for management review and allowance/disallowance.

- (2) Management will determine whether to allow or disallow the Personal Representative designation consistent with this directive (including Section 6.F.), TSA policy, the Determination, applicable laws, applicable regulations, and/or any related guidance.
- (3) If management denies the Personal Representative designation under Section 6.F(1), or the approved Personal Representative is unavailable, management may provide

additional time for the employee to obtain an alternative representative if desired. The employee may designate a different Personal Representative consistent with this directive and generally within 48 hours of being notified of management's disallowance or the unavailability of the previously designated Personal Representative.

- (4) If management denies the request for a Personal Representative under Section 6.F(2), management must inform the employee of the conflict, or potential conflict. Management may provide additional time for the employee to obtain alternative personal representation. If the employee wishes to designate a different Personal Representative, they must do so in writing consistent with this directive and generally within 48 hours of being notified of management's disallowance of the previously designated Personal Representative.
- (5) If an employee changes their Personal Representative, they must notify management, in writing, of the change as far in advance as reasonably possible, before the representational activity is scheduled to take place in order to avoid delays in reviewing and allowing/disallowing the new representation. To notify management of the change, the employee must submit a new a [TSA Form 1163-1](#).
- (6) A Personal Representative must adhere to TSA instructions for receiving, handling, and safeguarding SSI materials, and is forbidden from disclosing SSI to persons without a need to know the information. The Personal Representative will sign the SSI acknowledgment on TSA Form 1163-1 confirming their understanding of TSA's instructions regarding SSI, including the process for requesting and receiving SSI from TSA, execution of a non-disclosure agreement, and return or destruction of SSI at the conclusion of the representational matter.

B. Requests for Duty Time for Representational Purposes. This section (Section 7.B.) only applies to Personal Representatives who are not Union Representatives and employees (except for employees who are Union Representatives and representing themselves). For official time for Union Representatives, including Union Representatives serving as Personal Representatives, please see [TSA MD 1100.61-7](#).

- (1) Duty time for representational purposes must be requested consistent with this directive, TSA policy and/or any related guidance. The approval of each request for duty time for representational purposes is dependent on operational needs and TSA policy, including this directive.
- (2) Personal Representatives and/or employees must use [OPM Form 71](#) or TSA-approved electronic version.
- (3) to request duty time for representational purposes.
 - (a) Requests for duty time for representational purposes must be submitted to the management official as far in advance as possible before the starting time of the

requested duty time for representational purposes.

- (b) Absent compelling justification, requests must be submitted at least 24 hours before the starting time of the requested duty time for representational purposes.
 - (c) Requests for more than eight hours of duty time for representational purposes must be submitted at least 48 hours before the starting time of the requested duty time for representational purposes and include written justification addressing why additional time is necessary and why the activity cannot reasonably be conducted during non-duty time.
- (4) Requests for duty time for representational purposes should be only for the amount of time believed necessary to address the matter. The minimum amount of duty time for representational purposes that may be requested is 15 minutes.
 - (5) Duty time for representational purposes may be requested in increments of 15 minutes up to eight hours per matter. However, the amount of duty time for representational purposes requested depends on the matter.

NOTE: A matter is any activity for which duty time for representational purposes is authorized and may consist of several components occurring at different times. Each matter is not expected to take eight hours of duty time for representational purposes. It is expected that most representational activities will typically require substantially less than the maximum eight hours of duty time for representational purposes.

- (6) Requests for duty time for representational purposes at a minimum must include the date, the specific hours (from/to), the number of hours requested, the location at which the duty time for representational purposes will be spent, and the specific purposes for which such time will be used, providing sufficient detail to identify the tasks that will be completed in that time. The requests for duty time for representational purposes also must include the name of the employee being represented.
- (7) All requests for duty time for representational purposes, including those in excess of eight hours for any matter, must obtain written approval from the management official.
- (8) The management official will assess duty time for representational purposes request to determine if it is reasonable and necessary to grant such amount of time to accomplish the identified activity/activities. If the duty time for representational purposes requested appears disproportionate for the specific activity, the requestor may be asked to provide additional information to support the request.
- (9) The management official must promptly review requests for duty time for representational purposes and respond in writing as soon as possible. The management official reviewing the request will consider operational needs, the

- requirements of this directive, and the scale and duration of the matter or meeting at issue to determine the reasonableness of the request and whether to grant the request.
- (9) Time and attendance records must be annotated appropriately to record use of duty time for representational purposes. For additional guidance, contact ServeU Helpdesk: HC-ServeU@tsa.dhs.gov.

8. APPROVAL AND EFFECTIVE DATE:

This directive is approved and effective the date of signature, unless otherwise specified.

APPROVAL

Jason L. Nelson
Assistant Administrator for
Human Capital

Date

EFFECTIVE

Date

Distribution: All TSA Employees
Point-of-Contact: ServeU Helpdesk: HC-ServeU@tsa.dhs.gov