



**TSA MANAGEMENT DIRECTIVE No. 1100.77-5
FORMAL DISCUSSIONS**

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 1100.77-5, *Formal Discussions*, effective March 21, 2014.

SUMMARY OF CHANGES:

Section 4, Definitions, revised definition of formal discussions; added definition of grievance; replaced management official with Agency Representative; and deleted Personal Representative. Section 5, Responsibilities, added responsibilities for Labor Relations, local Human Resources Specialists, and Labor Management Points of Contact; replaced management officials with Agency Representatives and removed bargaining unit employees who serve as Union Representatives. Section 6, Policy, clarified what constitutes a formal discussion and removed references to personal representation. Section 7, Procedures, removed reference to Appendix A and replaced management officials with Agency Representatives. Section 8, Approval and Effective Date, updated to reflect current Assistant Administrator of Human Capital, distribution, and point of contact. Appendices A and B removed.

1. PURPOSE:

This directive provides TSA policy and procedures regarding formal discussions in accordance with the [Determination on Transportation Security Officers and Collective Bargaining dated December 30, 2022](#).

2. SCOPE:

This directive applies to Agency Representatives, bargaining unit employees (BUEs), the Exclusive Representative, and Union Representatives.

3. AUTHORITIES:

- A. Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA)
- B. Determination on Transportation Security Officers and Collective Bargaining dated December 30, 2022

4. DEFINITIONS:

- A. Agency Representative: For the purposes of this directive, generally, any TSA employee in a BUE's chain of supervision, such as a supervisor or manager (e.g., Federal Security Director (FSD), Assistant FSD, Transportation Security Manager, Supervisory Transportation Security Officer (STSO)), or another person acting on behalf of the Agency (e.g., Field Counsel, Human Resources Specialist, Equal Employment

Opportunity Investigator) who is a participant in a formal discussion.

- B. Bargaining Unit Employees: 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 STSOs are not BUEs.

- C. Collective Bargaining Agreement (CBA): The Collective Bargaining Agreement in effect between TSA and the American Federation of Government Employees (AFGE) covering BUEs.

- D. Determination: The Determination on Transportation Security Officers and Collective Bargaining dated December 30, 2022.

- 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. Formal Discussion: Consistent with this directive and the Determination, a formal discussion is:

- (1) A discussion;
- (2) Formal in nature;
- (3) Between one or more Agency Representatives and one or more BUEs or their representatives; and
- (4) Concerning any grievance or any personnel policy or practices or other general condition of employment.

NOTE: Whether a discussion is considered a formal discussion is based on the totality of the circumstances. See Section 6.C for circumstances to consider in determining whether a discussion is a formal discussion.

- G. Grievance: For the purposes of this directive, a grievance is any complaint:

- (1) By any BUE concerning any matter relating to the employment of the BUE;
- (2) By the Union concerning any matter relating to the employment of any BUE; or

(3) By any BUE, the Union, or the Agency concerning:

- (a) The effect or interpretation, or a claim of breach, of a collective bargaining agreement; or
- (b) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

H. 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. Agency Representatives, BUEs, the Exclusive Representative, and Union Representatives are responsible for complying with this directive.
- B. Labor Relations (LR) is responsible for providing guidance regarding matters covered by this directive.
- C. Local Human Resources Specialists (HRS) and Labor Management Points of Contacts (LMPOCs) are responsible for providing guidance to local management officials. Local HRS and LMPOCs should contact LR for further assistance with matters covered by this directive as necessary.

6. POLICY:

- A. As provided in the Determination, the Exclusive Representative, through the Union Representative, has the right to be notified of and the opportunity to be represented at formal discussions. The purpose of this right is to provide the Exclusive Representative with an opportunity to safeguard its interests and the interests of employees in the bargaining unit, viewed in the context of the Exclusive Representative's full range of responsibilities under the Determination.
- B. Agency Representative(s) will notify the Exclusive Representative of formal discussions as set forth in Section 7 and will allow a Union Representative designated by the Exclusive Representative the opportunity to be present for and to participate in formal discussions, consistent with this directive. Such notice will be provided in advance of a formal discussion, consistent with Section 7.A of this directive.
- C. Whether a discussion is a formal discussion depends on the totality of the circumstances. The purpose and nature of a discussion, as well as other factors, can be considered. Those factors can include:
 - (1) The status of the individual who held the discussion;

- (2) Whether any other management representatives attended;
 - (3) The site of the discussion;
 - (4) How the meeting for the discussion was called (formal advance notice or spontaneous);
 - (5) How long the discussion lasted;
 - (6) Whether a formal agenda was established for the discussion;
 - (7) The manner in which the discussion was conducted; and
 - (8) Whether attendance by the BUE(s) was mandatory.
- D. During a formal discussion, the Union Representative may comment, speak, and make statements related to the subject(s) of the formal discussion. The Union Representative can also state the views or interests of the Exclusive Representative and/or the Exclusive Representative's assessment of the collective views or interests of BUEs on the topics identified for the formal discussion. The views or interests expressed by the Union Representative may or may not be the same as the BUE(s) participating in the formal discussion.
- E. The Union Representative attending the formal discussion on behalf of the Exclusive Representative cannot take charge of or disrupt the formal discussion.

7. PROCEDURES:

- A. The Agency Representative must provide the Exclusive Representative with reasonable advance notice, written or verbal, of the formal discussion as soon as possible, for meetings that are scheduled on short notice.
- B. The written notice must state the date, time, and place of the formal discussion, the general topic(s) for the formal discussion, and the contact information for the formal discussion. If a specific location is not yet secured for the formal discussion, the notice must provide the general location (*e.g.*, section of the airport, terminal or other identifiable area) and additional information about the location must be provided to the Union Representative in a reasonable amount of time from when it is obtained. The Union Representative must have reasonable notice of where the meeting is taking place so that they know where to go to attend. Reasonableness is determined by the circumstances surrounding each formal discussion.
 - (1) Verbal notifications provided for meetings that are scheduled on short notice must contain the same information as described in Section 7.B.
 - (2) The Agency Representative may provide follow-up written notice to the Union Representative to whom the verbal notification was made. If provided, this follow up

written notice will contain when the TSA Agency Representative verbally notified the Union Representative. It will also contain the date, time, and place of the discussion, the general topic(s) for the discussion, and the contact information for the formal discussion.

- C. This written and/or verbal notice must be communicated to the Union Representative designated by the Exclusive Representative to receive such notice (e.g., Council 100 President or designee if formal discussion is national in scope and AFGE Local President or designee if formal discussion is local in scope). It is not sufficient to inform the affected BUE(s) and Agency Representative(s) without notifying the designated Union Representative.
- D. The Agency Representative(s) must attempt to accommodate reasonable scheduling requests from the Union Representative representing the Exclusive Representative at the formal discussion consistent with mission requirements and TSA policy. This does not alter the Agency's ability to proceed with a formal discussion when notice is provided to the Exclusive Representative consistent with this directive.

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