



*To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.*

*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.*

1. **PURPOSE:** This directive provides TSA policy and procedures regarding formal discussions in accordance with the Administrator's Decision Memorandum on Transportation Security Officers and Collective Bargaining, dated February 4, 2011. This directive cancels and supersedes the Interim Guidance on Formal Discussions dated October 31, 2011.
2. **SCOPE:** This directive applies to TSA management officials, bargaining unit employees, the Exclusive Representative, and union representatives.

**3. AUTHORITIES:**

- A. The Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA)
- B. [Decision Memorandum, Determination on Transportation Security Officers and Collective Bargaining](#), signed and dated February 4, 2011 by TSA's Administrator

**4. DEFINITIONS:**

- A. Bargaining Unit Employees (BUEs): The following full- and part-time non-supervisory personnel carrying out screening functions under 49 U.S.C. § 44901, as that term is used in the Aviation and Transportation Security Act of 2001, § 111(d). BUEs, as defined in Section II of the Determination, include Transportation Security Officers (TSOs), Lead Transportation Security Officers, and Master and Expert Transportation Security Officers, including Behavior Detection Officers, Security Training Instructors, and Equipment Maintenance Technicians.

**NOTE:** Coordination Center Officers and Supervisory Transportation Security Officers are not BUEs.

- B. Collective Bargaining Agreement (CBA): The collective bargaining agreement between TSA and the American Federation of Government Employees (AFGE) covering BUEs.
- C. Determination: The Decision Memorandum, Determination on Transportation Security Officers and Collective Bargaining, signed and dated February 4, 2011 by TSA's Administrator.
- D. Exclusive Representative: The union certified by the Federal Labor Relations Authority (FLRA) as the exclusive representative of BUEs under the Determination.

**NOTE:** On June 29, 2011, the FLRA certified the American Federation of Government Employees (AFGE) as the exclusive representative of BUEs under the Determination.

- E. Formal Discussion: Any meeting that is initiated and scheduled in advance by a TSA management official(s) and which includes one or more representatives of TSA management and one or more BUEs and addresses specific topic or topics concerning personnel policies, practices, or other general conditions of employment applicable to BUEs. See Section 6.E for specific exclusions.
- F. Management Official: Any TSA employee in an employee's chain of supervision, such as a supervisor or manager (*e.g.*, Assistant Administrator, Federal Security Director (FSD), Assistant Federal Security Director, Transportation Security Manager).
- G. Personal Representative: For the purposes of this directive, an individual properly designated by a BUE consistent with Determination, the CBA, and TSA policy (including, but not limited to, MDs, Handbooks, and Human Capital Management (HCMs)) for a matter for which the BUE is entitled to a personal representative.

**NOTE:** A personal representative may be, but is not required to be, a union representative.

- H. Union Representative: An individual authorized by AFGE to represent the interests of the Exclusive Representative and who is acting in that capacity consistent with the Determination, the CBA, TSA policy (including, but not limited to, MDs, Handbooks, and HCMs), and any related guidance.

**NOTE:** A BUE may serve as a union representative if designated by the Exclusive Representative.

## **5. RESPONSIBILITIES:**

TSA employees, including management officials, BUEs, and BUEs who serve as union representatives, as well as the Exclusive Representative, and non-employee union representatives are responsible for complying with this directive.

## **6. POLICY:**

- A. As provided in the Determination, the Exclusive Representative, through the union representative, has the right to be notified of and be present at formal discussions. When attending formal discussions, the Exclusive Representative, through the union representative, may provide information and state the interest(s) of the Exclusive Representative and/or the Exclusive Representative's assessment of the collective views or interests of BUEs that are relevant to the topics of the formal discussions consistent with this directive.
- B. The Exclusive Representative's rights to be notified of and attend formal discussions are

separate and distinct from BUEs' rights to personal representation.

- (1) The rights of the Exclusive Representative concerning formal discussions do not amend or broaden the rights of BUEs to have personal representation as provided in TSA policy ([TSA MD 1100.63-3, \*Employee Representation\*](#), and [TSA MD 1100.63-4, \*Personal Representation During Examination or Investigation\*](#)) and Article 1 of the CBA.
  - (2) BUEs do **not** have the right to personal representation at formal discussions.
  - (3) In situations in which a BUE has the right to a personal representative, the Exclusive Representative has no independent right to be notified of or be present at any such meeting. However, if a BUE has the right to a personal representative, the BUE may, but is not required to, designate a union representative to serve as his/her personal representative consistent with the Determination, the CBA, and TSA policy, as applicable.
- C. The Exclusive Representative's rights concerning formal discussions only attach if the meeting between a TSA management official(s) and one or more BUEs qualifies as a formal discussion as defined in this directive.
- D. To qualify as a formal discussion, the meeting must be initiated and scheduled in advance by a TSA management official(s), *i.e.*, specifically arranged in advance as to date, time, place, topic, and expected attendees. A formal discussion may concern one, several, or multiple issues and topics that fall within the definition of a formal discussion contained in Section 4.E and can involve one or more TSA management officials and BUEs. Examples of meetings that do and do not qualify as formal discussions are set forth in Section 6.E and Appendix B to this directive.
- E. Formal discussions do not include:
- (1) Any discussion that concerns matters pertaining to a specific BUE and/or the application of TSA policies, practices or other conditions of employment to a specific BUE;
  - (2) Impromptu discussions between TSA management official(s) and BUE(s);
  - (3) Routine staff meetings such as shift briefings, or any meeting to disseminate or discuss new Standard Operating Procedures (SOPs);
  - (4) Discussions occurring during regularly scheduled office hours where office hours are held to enable any employee to voluntarily meet with a TSA management official;
  - (5) Informal, scheduled "town hall" style meetings conducted by TSA management for the primary purpose of conveying information to employees (including BUEs) and/or for employees (including BUEs) to ask questions, at which attendance is

voluntary and open to all employees, or to all employees in a specified category (e.g., all TSOs, all employees in a specific airport terminal) or in a specific work unit (e.g., a specific shift). Some examples of such “town hall” meetings are FSDs’ prescheduled meetings with employees at which employees may raise concerns or questions, prescheduled “meet and greet” meetings with TSA leaders visiting a workplace (such as meeting with the Administrator at an Airport) and prescheduled awards ceremonies;

- (6) Meetings held to discuss and/or provide information concerning actual or potential security policies or procedures, including revised SOPs, directives, or instructions;
- (7) Meetings occurring before or after security operations to discuss the operations (e.g., before or after carrying out a Visible Intermodal Prevention Response (VIPR) action or a playbook play);
- (8) Individual counseling sessions involving a BUE’s performance and/or conduct;
- (9) Meeting with a BUE to review and/or discuss his/her attendance record and/or leave restriction;
- (10) Training; and
- (11) Meetings at which a BUE has a right to personal representation, such as a grievance meeting, or reply to a disciplinary/adverse action. Although an employee may select a union representative to serve as his/her personal representative in a matter for which the Determination, the CBA, or TSA policy provides for personal representation, this does not qualify as a formal discussion.

F. The union representative may attend a formal discussion to provide information and state the interest(s) of the Exclusive Representative and/or BUEs, consistent with this directive. However, the union representative may not:

- (1) Raise issues that were not previously identified by TSA management as topics of the formal discussion or raise issues that are unrelated to the topics of the formal discussion;
- (2) Disrupt the formal discussion or otherwise attempt to hinder the formal discussion;
- (3) Seek to end the formal discussion; and
- (4) Require that the formal discussion not be held because of the union representative’s unavailability (although the TSA management official scheduling the meeting must attempt to accommodate reasonable scheduling requests from the union representative consistent with mission requirements, as noted in Section 7.D of this directive).

G. In a formal discussion, the union representative must be afforded a reasonable

opportunity to:

- (1) Provide relevant information;
- (2) Ask pertinent questions; and
- (3) 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.

## 7. PROCEDURES:

- A. The TSA management official(s) who initiates and schedules a prearranged meeting with a BUE(s) that meets the definition of formal discussion contained in this directive must provide the Exclusive Representative with reasonable advance written notice of the meeting, or verbally, as soon as possible, for meetings that are scheduled on short notice. A template for this notice is set forth in Appendix A of this directive.
- B. The written notice must state the date, time, and place of the discussion, the general topic(s) for the 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 he/she knows 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 delineated in Section 7.B.
  - (2) TSA management 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 management official 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. It is not sufficient to inform the affected BUE(s) and TSA management official(s) without notifying the designated union representative.
- D. The TSA management official(s) who initiated and scheduled the formal discussion must attempt to accommodate reasonable scheduling requests from the union representative

consistent with mission requirements.

8. **APPROVAL AND EFFECTIVE DATE:** This policy is approved and effective the date of signature unless otherwise specified.

**APPROVAL**

*Signed*

March 20, 2014

\_\_\_\_\_  
Karen Shelton Waters  
Assistant Administrator for Human Capital

\_\_\_\_\_  
Date

**EFFECTIVE**

March 21, 2014

\_\_\_\_\_  
Date

Distribution: Administrator, Deputy Administrator, Assistant Administrators, Regional Directors, Federal Security Directors, Supervisory Air Marshals in Charge, Business Management Division Directors, Administrative Officers, and Human Resources Specialists  
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**APPENDIX A**

Template language to notify the Exclusive Representative of a formal discussion

**NOTICE OF FORMAL DISCUSSION**

Pursuant to Section 7 of TSA MD 1100.77-5, *Formal Discussions*, this communication provides notice to the Exclusive Representative that a formal discussion as defined in TSA MD 1100.77-5 has been initiated by TSA management and scheduled as follows:

- Date
- Time
- Place
- Topic(s) to be discussed
- Contact for additional information

If the Exclusive Representative has any questions concerning the formal discussion, please promptly discuss these questions with the contact listed above. Please consult TSA MD 1100.77-5 for further information about rights, roles, and responsibilities at formal discussions.

APPENDIX B

**Scenarios: Is it a Formal Discussion under TSA MD 1100.77-5, Formal Discussions?**

Note that these scenarios serve as examples only and are not intended to be an exhaustive list addressing formal discussions.

**Scenario One:** A BDO approaches a supervisor and asks a general question about work rules or personnel practices.

**Q:** Is this a formal discussion under TSA MD 1100.77-5?

**A:** No. Section 6.E(2) excludes impromptu discussions between TSA management official(s) and BUE(s) from the definition of a formal discussion. Additionally, Section 4.E provides that a formal discussion must be initiated and scheduled by TSA management; in this instance, the BDO initiated the discussion.

**Scenario Two:** An STSO informs LTSOs of a meeting later in the shift to discuss implementation of a new personnel policy. The LTSOs tell the STSO that the Exclusive Representative does not need to be notified of the meeting because the LTSOs already are aware of and agree with the new rules.

**Q:** Does the STSO need to notify the Exclusive Representative about the discussion?

**A:** Yes. As described, the discussion meets the definition of a formal discussion in Section 4.E of TSA MD 1100.77-5. Specifically: (1) it is a meeting initiated and scheduled by a management official that is prearranged between one or more representatives of TSA management and one or more BUEs; (2) it is about a specific topic concerning personnel policies, practices, or other conditions of employment related to BUEs generally; and (3) none of the exclusions listed in Section 6.E apply.

Therefore, Section 7.A requires the management official who schedules the meeting to provide the Exclusive Representative with reasonable notice of the meeting. This notice must include the information contained in Section 7.B, specifically, the date, time, and place of the discussion, the general topic(s) for the 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). Any additional information about the location must be provided to the union representative once it is obtained. The union representative must have reasonable notice of where the meeting is taking place so that he/she knows where to go to attend.

**Scenario Three:** While standing at the checkpoint, an STSO discusses a TSA employment policy with a TSO and answers questions from the TSO about the application of that TSA policy to him. The STSO's discussion with the TSO was not arranged in advance.

**Q:** Is this a formal discussion?

**A:** No. Section 6.E(2) of TSA MD 1100.77-5 excludes impromptu discussions between management official(s) and BUE(s) from the definition of a formal discussion. Additionally, Section 6.E(1) excludes discussions concerning matters pertaining to a specific BUE and/or the application of TSA policies, practices, or other conditions of employment to a specific BUE from the definition of a formal discussion.

**Scenario Four:** An STI is called to a meeting at a specified date, time, and place to receive a verbal warning and counseling from the supervisor regarding his performance.

**Q:** Is this a formal discussion?

**A:** No. Section 6.E(8) of TSA MD 1100.77-5 excludes individual counseling sessions involving a BUE's performance and/or conduct from the definition of a formal discussion. A formal discussion does not include a discussion that concerns matters pertaining to a specific BUE. Formal discussions involve matters that concern BUEs generally, as defined in Section 4.E.

**Scenario Five:** A TSM informs TSOs of a meeting later in the shift to discuss a revision to the baggage Standard Operating Procedures. The TSOs inform the TSM that she has to notify the Exclusive Representative about the meeting.

**Q:** Does the TSM have to notify the Exclusive Representative about the discussion?

**A:** No. Section 6.E(6) excludes from the definition of formal discussion any meetings held to provide information concerning new security policies or procedures, including revised Standard Operating Procedures, directives, or instructions.

**Scenario Six:** At a formal discussion, the union representative wants to discuss new issues that are not on the meeting's agenda and do not relate to the agenda's topics.

**Q:** May the union representative raise new matters that are unrelated to the topics of the formal discussion?

**A:** No. As explained in Section 6.F(1)(a) of TSA MD 1100.77-5, the union representative may not raise issues that were not previously identified as topics of the formal discussion or raise issues that are unrelated to the topics of the formal discussion.

**Scenario Seven:** A TSA management official has initiated and scheduled a meeting with a TSO, an HR specialist, and two TSA management officials to discuss the reasonable accommodation program generally. The purpose of the meeting is not to discuss the application of the reasonable accommodation program to the TSO. As there will be only one BUE present, the TSA management official believes that it does not qualify as a formal discussion.

**Q:** Is the TSA management official correct that this meeting is not a formal discussion under TSA MD 1100.77-5?

**A:** No, the TSA management official is incorrect. The meeting is a formal discussion as defined in Section 4.E of TSA MD 1100.77-5. The TSO is providing input on the reasonable accommodation program generally – not on the application of the reasonable accommodation program to him. Note that if the management official planned to focus the discussion on the application of reasonable accommodation to the TSO, it would not be a formal discussion.