



U.S. Department of Homeland Security  
**Transportation Security Administration**  
6595 Springfield Center Drive  
Springfield, Virginia 20598

**MODIFICATION TO DETERMINATION**  
**on**  
**TRANSPORTATION SECURITY OFFICERS and COLLECTIVE**  
**BARGAINING**

Today I exercise my statutory authority over covered employees' terms and conditions of employment under §111(d) of the Aviation and Transportation Security Act (49 U.S.C. § 44935 note) to modify the July 13, 2019 Determination on Transportation Security Officers and Collective Bargaining, as modified on August 8, 2019 and March 5, 2020, (Determination). Consistent with Executive Order (E.O.) 14003, *Protecting the Federal Workforce*, I am revoking provisions of the Determination that were enacted consistent with the now-revoked E.O. 13837, *Ensuring Transparency, Accountability, and Efficiency in Taxpayer-Funded Union Time Use*. These provisions are the exclusion from collective bargaining of free or discounted use of government property or any other agency resource for union representatives and certain provisions restricting the use of official time. Further, in light of the concerns raised by AFGE and consistent with our ongoing collaboration efforts, I am revoking the section of the Determination addressing dues deduction. Additionally, this modification permits TSA and AFGE to address AFGE's proposals regarding union use of government property and/or any other agency resource, and dues deductions, through the resolution process as set forth below.

Accordingly, I exercise my authority to modify the Determination as follows:

**III. Scope of Representation and Coverage:**

**B. Union Representation for Purposes of Collective Bargaining:**

**8. Issues Excluded from Collective Bargaining for a New Collective Bargaining Agreement**

Section III.B.8.m of the Determination states:

m. Free or discounted use of government property or any other agency resource for union representatives. Such property and resources include, but are not limited to, office or meeting space, reserved parking spaces, phones, computers, and computer systems.

In accordance with Executive Order (E.O.) 14003 (January 22, 2021) that revokes E.O. 13837 (May 25, 2018) (including Section 4.(a)(iii) of E.O. 13837), I hereby revoke Section III.B.8.m of the Determination in its entirety.

#### **IV. Rights, Roles, and Responsibilities:**

##### **A. Covered Employees:**

Section IV.A.7 in the Determination states:

##### *7. Official Time:*

- a. Screening of passengers and property is the primary function of a covered employee. Therefore, effective upon expiration of the 2016 CBA:
  - i. Covered employees shall spend at least three quarters of their duty hours each fiscal year performing screening duties or attending necessary training (as required by TSA management);
  - ii. The total amount of official time granted per fiscal year shall not exceed 1 hour per covered employee;
- b. A covered employee serving on the Union's collective bargaining team will receive official time to perform this function consistent with Section III.B.4.d of this Determination and TSA policy.
- c. A covered employee who serves as a Union representative and a properly designated personal representative in a matter for which this Determination, TSA policy, or a binding collective bargaining agreement in effect under this Determination allows for personal representation will receive official time consistent with TSA policy. This will be a reasonable amount of official time consistent with operational needs and the scale and duration of the matter at issue but in no instance will official time for a given matter or meeting exceed eight (8) hours without written justification submitted to management and written approval from the Federal Security Director (FSD) to whom the covered employee ultimately reports or the FSD's designee.
- d. A covered employee who serves as a Union representative at a formal discussion or meeting consistent with Section IV.C.3 of this Determination and TSA policy will receive official time consistent with TSA policy to attend the formal discussion.
- e. A covered employee who serves as a Union representative will receive official time, consistent with TSA policy, to perform those functions stated elsewhere in TSA policy or a binding collective bargaining agreement in effect for which official time is expressly provided.
- f. Official time granted under subsections (b) through (e) of this section are subject to the limitations set forth in subsection (a), when those limitations become effective.
- g. Official time shall not be granted for lobbying or political activities.

- h. All official time use must be formally authorized. Employees who use official time without authorization shall be considered absent without leave and subject to appropriate disciplinary action.

In accordance with Executive Order (E.O.) 14003 (January 22, 2021) that revokes E.O. 13837 (May 25, 2018), I hereby revoke Section IV.A.7 of the Determination in its entirety and replace it with the following:

7. *Official Time:*

- a. Consistent with this Determination, TSA policy will govern official time for covered employees.
- b. A covered employee serving on the Union's collective bargaining team will receive official time to perform this function consistent with Section III.B.4.d of the Determination and TSA policy.
- c. A covered employee who serves as a Union representative and a properly designated personal representative in a matter for which this Determination, TSA policy, or a binding collective bargaining agreement in effect under this Determination allows for personal representation will receive official time consistent with TSA policy. This will be a reasonable amount of official time consistent with operational needs and the scale and duration of the matter at issue but in no instance will official time for a given matter or meeting exceed eight (8) hours without written justification submitted to management and written approval from the Federal Security Director (FSD) to whom the covered employee ultimately reports or the FSD's designee.
- d. A covered employee who serves as a Union representative at a formal discussion or meeting consistent with Section IV.C.3 of this Determination and TSA policy will receive official time consistent with TSA policy to attend the formal discussion.

**IV. Rights, Roles, and Responsibilities:**

D. TSA Management:

Section IV.D.9 in the Determination states:

- 9. If TSA management has received from a bargaining unit employee a voluntary deduction request authorizing TSA to deduct from the pay of the employee amounts for the payment of dues to the exclusive representative, TSA shall honor the request and make an appropriate allotment pursuant to the authorization, subject to the provisions of this section. The following subsections (IV.D.9.a, IV.D.9.b) are effective upon expiration of the 2016 CBA.
  - a. Except as provided under IV.D.9.b., a dues allotment authorization will continue until the BUE submits a cancellation of the dues deduction. Such a cancellation may be submitted at any time.

- b. A dues allotment authorization under IV.D.9 shall immediately terminate upon the following conditions:
  - i. When an employee is temporarily or permanently assigned or transferred out of the bargaining unit, or otherwise excluded from the bargaining unit.
  - ii. If exclusive representation should cease to exist for covered employees.

Consistent with ongoing collaboration with the exclusive representative, I hereby revoke Section IV.D.9 of the Determination in its entirety.

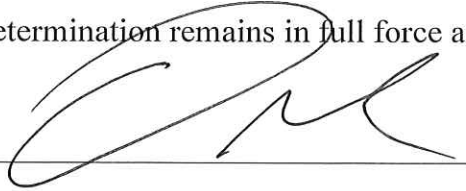
Additionally, I hereby add the following new Section VI to the Determination:

**VI. Specific Issues Related to the 2019 Collective Bargaining Effort:**

- A. In 2019, TSA and the Union engaged in collective bargaining for a 90 calendar day period consistent with Section III.B.5 (hereafter “the 2019 Collective Bargaining Effort”) and tentatively agreed upon a new collective bargaining agreement. After the conclusion of the 2019 Collective Bargaining Effort, the Union filed a grievance raising allegations under Section V.C.9.a.iii (failure to agree on terms of the collective bargaining agreement) (hereafter “the Grievance”). The covered employees subsequently ratified the tentatively agreed upon new collective bargaining agreement which became effective December 10, 2020.
- B. For purposes of any mediation session(s) related to the Grievance only and consistent with this Determination, TSA and the Union may mediate and reach a settlement on the Union’s proposals contained in the Grievance related to the following issues which were not negotiable during the 2019 Collective Bargaining Effort:
  - i. The following matters to the extent that they are solely within the control of TSA management:
    - a. Access to TSA-controlled space for Union representational activities; and,
    - b. Space and equipment for the Union’s locals.
- C. For purposes of Section VI, the matters listed in Section VI.B.i include the Union’s proposals regarding dues deduction contained in the Grievance.
- D. Should TSA and AFGE fail to reach a settlement on the Union’s proposals identified in Section VI.B and Section VI.C above, those proposals may proceed to third-party review consistent with this Determination and TSA policy.

Except as provided for in this Modification, the Determination remains in full force and effect.

2/19/21  
Date

  
Darby LaJoye  
Senior Official Performing the Duties  
of the Administrator