



AFGE Helps You Enforce New Rights for TSA Officers

As a result of your long struggle and recent election of AFGE as your union, new rights based on the Pistole Determination will take effect on October 31, 2011.

While these interim guidance documents are just “interim” for now, AFGE is continuing to meet with TSA to seek further improvements. In the meantime, the guidance documents provide significant new rights for TSOs across the country. We’re glad that the new rights we have insisted on are finally being implemented.

You should familiarize yourself with TSA’s guidance documents so that you know your rights and the rights of all TSA officers. AFGE intends to aggressively enforce these rights for the benefit of all, and will go to bat to defend these rights when they are violated. These rights are enforceable through a grievance.

On the following pages AFGE provides its summary of your new rights, along with our advice on how to assert those rights. Your local AFGE officers will have more information.

Employee’s Rights to Personal Representation

This guidance gives TSA officers, for the first time, the right to have a Union Rep in a meeting that may lead to discipline. This is one of the fundamental rights that AFGE has pushed TSA to implement. Be sure to take full advantage of it. This right is stated in the guidance as:

“ . . . employees have the right to personal representation during interviews in connections with examinations or investigations . . . that the employee reasonably believes may result in disciplinary or adverse action.”

Employees Must Assert this Right – the employee must request such representation, orally or in writing, before or during the meeting. The guidance does not make it an obligation on management to inform the employee of this right. The representative may be an AFGE representative, and no other union may provide this representation.

No Unreasonable Delays – Securing such representation cannot unreasonably delay the investigation; if management determines it would cause an unreasonable delay to bring in the requested representative, management must offer the employee the option to choose an alternative representative who is available without unreasonable delay.

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Employees Must Cooperate in the Investigation – “Nothing in this guidance alters the obligation of employees to cooperate fully with all TSA examinations and investigations, as required by TSA MDs and Handbooks, as well as all applicable laws and regulations.” Ask if the meeting or interview is mandatory, and if so, refer to the AFGE Know Your Rights pamphlet for such meetings. If you are given your Miranda rights, ask to speak to a lawyer; if you face criminal charges you should talk to a criminal lawyer. Get it on the record if management refuses to allow you to speak to a lawyer in such situations.

Role of the Union Rep – The representative may ask questions, suggest other employees as witnesses, consult with the employee prior to the interview. The representative may also refuse to divulge statements made to him/or her by the employee during the private conference before the interview. However, the guidance does not permit the representative to contest the scope of the interview, interrupt management’s questioning of the employee, interfere with the employee’s responses, answer for the employee or instruct the employee not to answer or otherwise disrupt the interview.

Not Covered by this Right – Your right to a representative under this TSA guidance memo does not cover interviews related to “a security incident or concern at a screening location, the resolution of which is time sensitive and requires immediate action.” Please refer to the list of examples given in the guidance Section 6.E.1. Meetings exclusively for the purpose of informing the employee of a disciplinary or non-disciplinary decision made prior to the meeting, performance evaluation meetings, and counseling or verbal warning sessions also are not covered by the right to a representative.

Official Time

This guidance addresses the process and rules for the use of official time for union business, such as representing TSA officers in disciplinary matters, contract negotiations, etc.

Definition of Official Time:

“On-duty time during which employees participate in activities for which official time is permitted, provided that the employee’s use of time for these activities has been authorized or requested, and approved, in accordance with this interim guidance. “

Official time does not include time devoted to internal union business, like membership solicitation, election of union officers, and collection of dues.

Reasonable amounts of official time are permitted when:

- serving as a union rep in formal meetings.
- working on grievances, disciplinary appeals and other matters in the Dispute Resolution Process.
- acting as a Union Rep (or personal representative) in a “Weingarten” meeting.
- fulfilling other duties and responsibilities under the Pistole Determination.

Dispute Resolution Process – a representative is entitled to “reasonable amounts of official time consistent with operational needs and the scale and duration of the matter at issue, but in no case will official time for a given matter or meeting exceed eight (8) hours without written justification submitted to management and written approval from the FSD.”

Process – When an official time request is submitted, “supervisors are required to promptly review requests . . . and respond to the requesting employee as soon as possible.” This is an important tool for your AFGE officers, stewards and reps to use in representing our members.

Rights and Responsibilities

Every TSA bargaining unit employees (everyone eligible to vote in the election), as well as the union (AFGE), has new rights and responsibilities under this guidance. And, TSA Management has new responsibilities.

Rights of TSA employees:

- Right to a Union Representative (or personal representative) during an examination or investigation by the Agency that the employee reasonably believes may result in disciplinary or adverse action (similar to “Weingarten Rights”).
- Right to serve as Union Representative (or personal representative) for a fellow officer.
- Right to designate a fellow officer to be your Union Representative (or personal representative).

TSA employees also are to be free, without interference, coercion or retaliation to:

- Join the union (or not join).
- Vote on whether or not to support any collective bargaining agreement negotiated by AFGE and TSA before the agreement becomes binding.
- Use the Dispute Resolution System.
- Request and be granted official time to engage in union activities (management must promptly review and act on requests for official time).

Union Rights:

TSA recognizes that AFGE also has important rights including the right to negotiate, the right to represent unit employees, and the right to have a representative present at formal discussions. The union is also required to maintain respectful and constructive communication on work issues and to act in a cooperative problem solving manner in raising, addressing and seeking to resolve issues. Remember, too, that under the Pistole Determination, Section IV.B.3., the union is not required to provide personal representation for non-members.



(From page 3 - Rights and Responsibilities)

Collaboration, Cooperation and Respect:

In an important step toward developing a collaborative working relationship, all TSA employees – both management level and bargaining unit employees – are charged the responsibility to:

- maintain respectful and constructive communication on work issues; and,
- act in a cooperative problem solving manner in raising, addressing and seeking to resolve issues.

Where you have had difficult dealings with local management, this new guidance in particular will be useful as we step up our demands for collaboration and respect. If local management refuses to work collaboratively and constructively with you, refer to this guidance.

Formal Discussions

AFGE has the right to be notified, to be present, and to state the interests of the union and/ or the employees in any formal discussions with TSA management.

What is a “Formal Discussion” – Any meeting that is “prearranged between one or more representatives of TSA management and one or more [bargaining] unit employees on a specific topic or topics concerning personnel policies, practices, or other conditions of employment.”

Role of Union Rep in Formal Discussions – can be present for the meeting, raise our interests and provide information, but cannot raise other topics not covered by the formal discussion, disrupt the discussion, or try to end or prevent the discussion.

Some Meetings Excluded – This right does not cover several types of meetings like impromptu discussions; routine staff meetings (like shift briefings); discussions during officers hours where office hours are held to enable any employee to voluntarily meet with a manager; informal, scheduled “town hall” style meetings; meetings on new security policies, SOPs, etc.; training; etc.

This will be an important first step in cementing AFGE’s role as the exclusive representative, and in requiring local management to begin to deal with the union on a formal basis.

