



**Transportation
Security
Administration**

The Honorable Bennie G. Thompson
Chairman, Committee on Homeland Security
U.S. House of Representatives
H2-176 Ford House Office Building
Washington, DC 20515

Dear Chairman Thompson:

Thank you for your recent letter received on March 20, 2020, concerning the frontline workforce of Transportation Security Administration and its protection from COVID-19. As I have testified before the Committee, TSA's employees are our most valuable resource and I am committed to making every effort to ensure their safety and well being while they execute our critically important security mission. To that end, TSA's Chief Medical Officer, Director of Occupational Safety, Health, and Environment, Assistant Administrator for Aviation Operations, and a number of other Senior Leaders briefed staffs from the House Committee on Homeland Security, House Committee on Oversight and Reform, Senate Committee on Commerce, Science, and Transportation, and Senate Committee on Homeland Security and Governmental Affairs on March 20, 2020 regarding the various measures TSA has implemented to protect its workforce and the traveling public. Your correspondence contains several specific questions, which are answered below:

1. What guidance and personal protective equipment has TSA provided its employees to ensure they are protected from the virus and limiting its transmission to others?

Since before the onset of this pandemic, TSA has been and continues to be in coordination with DHS, the Centers for Disease Control and Prevention (CDC), other federal agencies, and several local and state public health officials to ensure the safety and health of our employees. TSA continues to share information about COVID-19 and provide updated guidance to the workforce through several different communication channels including broadcast messages, shift briefs, the TSA intranet, the TSA News App, field calls, and virtual town halls. The CDC's current guidance on mask and respirator use does not recommend mandatory use by employees in TSA's operational setting. In an abundance of precaution, TSA has authorized frontline employees whose work requires them to come into close contact (less than 6 feet) with the traveling public to voluntarily wear surgical masks, while continuing mandatory use of TSA's standard 5 milimeter nitrile gloves and increasing the frequency they are changed. TSA also provides the frontline workforce with alcohol-based hand sanitizer.

All employees are trained on the use of personal protective equipment (PPE) in addition to other CDC recommendations to lessen the spread of COVID-19, such as universal precautions, frequent hand washing, routine use of TSA provided alcohol-based hand sanitizer, cough etiquette, and staying home if you are sick. Guidance on workforce protection and how to handle possible employee COVID-19 exposures has been distributed to TSA leadership at all levels. Cleaning and

disinfection guidance and supplies have been provided to the workforce. TSA continues to promote social distancing opportunities and has implemented measures to maximize flexibilities to support the workforce (weather and safety leave, telework, etc.).

2. What is TSA doing to ensure employees exhibiting symptoms of COVID-19 do not come to work and are incentivized to stay home?

Regardless of their health state, for all employees that are able to telework to perform their duties, TSA is maximizing the use of this option nationwide. For individuals for which telework is not an option, TSA has assured its employees that if they are exhibiting symptoms of COVID-19 and stay home, their pay will continue uninterrupted, without detriment to their accrued sick or annual leave. Specifically, the below outlines how employee-specific scenarios are addressed:

- Asymptomatic and Telework Eligible: Employees will be eligible to telework for a quarantine/isolation period of 14 days. If, during this time, an employee demonstrates symptoms, or if their treating health care provider prescribes a longer monitoring period, extensions are granted for the duration of the period.
 - Asymptomatic and Non-Telework Eligible: Employees are placed on Weather and Safety Leave for a quarantine/isolation period of 14 days. If, during this time, an employee demonstrates symptoms, or if their treating health care provider prescribes a longer monitoring period, extensions are granted for the duration of the period.
 - Symptomatic Employees: Employees are granted Weather and Safety Leave while awaiting COVID-19 test results and further medical instruction.
 - Employees Returning from a CDC Level 3 Designated Country: Employees are required to quarantine/isolate for 14 days (either via telework or Weather and Safety Leave based on position) to monitor for symptoms.
- a. Has TSA assured employees that they should stay home if sick and will continue to be paid even if they have expended all accrued sick leave?**

As delineated above, TSA is not requiring employees to use accrued sick leave if they think they have been exposed to, or could be positive for, COVID-19.

- Asymptomatic employees with perceived or real exposure to a person positive for COVID-19 are approved for telework or Weather and Safety leave, depending on the employees telework eligibility.
- Symptomatic employees who are awaiting COVID-19 test results are granted Weather and Safety leave while awaiting further medical documentation, to include test results.
 - Employees who are tested, but negative, for COVID-19 are instructed to complete the 14-day quarantine/isolation period to ensure that symptoms do not develop which require further medical attention.
 - An employee with a positive COVID-19 diagnosis, will be placed on administrative leave/excused absence for a period not to exceed 14 calendar days. Typically, the employee must submit medical documentation within 14 days of diagnosis. The 14-

day marker is a touchpoint to ensure that the agency and employee have contact during treatment and extensions beyond the 14-days will be granted until the time at which a medical professional clears, in writing, the employee to return to work.

b. Has TSA considered checking employee temperatures and providing a health assessment upon each employee's arrival for duty?

As it relates to COVID-19, and especially asymptomatic individuals, TSA believes it to be more prudent to rely upon an employee's assessment of their own health to determine whether they should report to duty. To that end, TSA is exercising its personnel management authorities to incentive individuals that may be vulnerable or potentially exposed to COVID-19 to not come to work.

3. According to TSA, passenger volume at TSA checkpoints yesterday was only about 25-percent of the passenger volume on a comparable Thursday a year ago. Will you commit that TSA will not terminate the employment of any employees due to the reduction in passenger volume?

TSA will not terminate the employment of any employee due to the short-term reduction in passenger volume related to COVID-19. TSA is committed to reducing any possible impact to its employees during this unprecedented time.

To support these efforts, and as described above, TSA has expanded the use of Weather and Safety Leave for employees who work at airports with reduced staffing needs or that may stop operations completely. With no interruption to pay, this will maintain our nationwide capabilities through this crisis and ensure we are only staffing the personnel needed as passenger volumes continue to decline for the near future. Employees who are approved for either Weather and Safety Leave or Excused Absence continue to receive their regular rate of pay.

a. As passenger volume continues to decrease, is TSA minimizing staffing to the greatest extent possible to reduce the spread of the virus? If so, are TSA employees who are directed to stay home continuing to be paid without having to use accrued annual or sick leave? Under what leave category are they being paid?

TSA continues to evaluate staffing requirements as volume decreases while also considering the impact on its employees. Employees may be granted Weather and Safety Leave if a Federal Security Director, or their designee, releases employees due to airport/checkpoint closures or reduced passenger volume associated with COVID-19.

b. How has TSA communicated its plans for reduced staffing and paid leave to the workforce? Please provide the Committee copies of all workforce communications regarding the coronavirus and related plans.

TSA has used a variety of methods to communicate with and update its workforce regarding COVID-19, guidance to protect their families and themselves, and the agency's response to the pandemic. Since the start of COVID-19 response operations, TSA has created the following products to inform its employees and posted these documents on its intranet site:

- March 22: Broadcast: Updates on Information Related to Coronavirus (COVID-19)
- March 18: Administrator Pekoske Hosts Virtual Townhall on COVID-19

- March 17: Posted Coronavirus HCAM Update and Telework and Leave Flexibility Q&A documents
- March 17: Provided a Template - Notice of Weather and Safety Leave for Higher Risk Employees, Non-Telework Eligible
- March 16: Published Administrator COVID-19 Update video
- March 16: Posted Rev. 3: Human Capital Administrative Message (HCAM) on use of Administrative Leave for Coronavirus Disease (COVID-19)
- March 16: Published a Supervisor Decision Matrix
- March 16: Published Frequently Asked Questions Related to Telework and Leave Flexibilities
- March 13: Posted Rev. 2: HCAM on use of Weather & Safety Leave for employees who cannot telework, but are in CDC-identified higher risk populations
- March 12: Published Administrator COVID-19 Update video
- March 12: Posted HCAM on use of Unscheduled Telework and Weather and Safety Leave in response to the Novel Coronavirus Disease (COVID-19)
- March 12: Provided a Template - Employee Notice - Weather and Safety Leave
- March 12: Provided a Template - Paid Administrative Leave/Excused Absence
- Feb 18: Published TSA Situational Summary on COVID-19
- Feb 10: Published Administrator COVID-19 Update video
- Jan 31: Published a COVID-19 Update Broadcast email from the Administrator
- Jan 27: Published COVID-19 FAQs
- Jan 27: Published TSA Occupational Health Bulletin

A copy of these materials is enclosed.

4. **TSA employees interact more intimately and frequently with the traveling public than any other workforce, yet TSA has done little to provide its employees with health care benefits and other protections to recognize the risk employees face during a pandemic. You have touted that the unique personnel management authorities afforded the TSA Administrator allow you to respond effectively during a crisis, yet 13 TSA employees have now contracted the coronavirus, with more likely to follow. How have you used your unique authorities to protect the frontline workforce during the COVID-19 outbreak?**

As previously noted, TSA has been in constant communication and coordination with DHS, the Centers for Disease Control and Prevention (CDC), other federal agencies, and several local and state public health officials to ensure the safety and health of our employees. TSA is exercising its authorities as aggressively as possible to protect both its workforce and the traveling public. As it relates to promoting social distancing and incentivizing potentially exposed or vulnerable individuals to stay home, I have authorized maximizing the use of flexibilities afforded by the *Aviation and Transportation Security Act* to ensure our employees do not have to use personally accrued leave for absences resulting from perceived or confirmed exposure to someone positive for COVID-19. This also applies to individuals who self identify into CDC's higher risk categories for contracting COVID-19, whom I have authorized to use telework or Weather and Safety Leave. Additionally, I have approved the use of Administrative Leave/Excused Absence for employees who have tested positive for COVID-19 rather than sick leave, which has been the direction for Title 5 agencies.

- a. **How have you sought input from the TSA workforce on its unique needs and concerns at this time? How have you engaged with the American Federation of Government Employees (AFGE), the exclusive labor representative of the workforce?**

As described above, TSA has used a variety of communication tools to provide and receive information from its workforce throughout the COVID-19 response. Such efforts have also included recurring calls with Field Leadership, AFGE, and Council 100. In fact, TSA had conversations with AFGE leadership on March 20, 2020 and also on March 23, 2020 to discuss COVID-19 and its impact on the workforce.

- b. TSA has directed employees who must self-quarantine after exposure to someone who has tested positive for COVID-19 to use safety leave, which allows them to continue getting paid without affecting accrued leave. Is TSA also allowing older employees, pregnant employees, or other employees at a high risk of infection to use safety leave? Is TSA allowing employees who care for or live with high-risk people to use safety leave?**

Weather and Safety Leave and Excused Absence has been extended to employees in the following scenarios specific to COVID-19:

- Asymptomatic employees with perceived or real exposure to a person positive for COVID-19 are approved for telework or Weather and Safety leave, depending on the employees telework eligibility.
- Symptomatic employees who are awaiting COVID-19 test results are granted Weather and Safety leave while awaiting further medical documentation, to include test results.
- An employee with a positive COVID-19 diagnosis, will be placed on administrative leave/excused absence.
- If an employee is higher risk, pregnant, or breastfeeding, and is not telework eligible, requests Weather & Safety Leave, they also may be approved for it. Higher risk employees include older adults and employees with chronic serious health conditions such as heart disease, lung disease, high blood pressure, diabetes, and those with compromised immune systems.
- Additionally, weather and safety leave may be approved for a period not to exceed 24 hours to allow non-telework eligible employees to coordinate personal affairs (e.g. transportation, child/dependent-care, elder-care) given the closure of schools, other local businesses, and transportation interruptions.

Outside of the scenarios outlined above, considering operational impact, TSA has not extended Weather and Safety Leave to employees who care for or live with high risk individuals. However, if an employee is healthy but prefers to stay home and be in a non-working status, supervisors have been encouraged to be flexible in approving unscheduled leave requests as it relates to operational needs. If an employee requests time off for personal reasons, the employee must take personal leave or paid time off (e.g., annual leave or sick leave to care for a family member) in accordance with agency policy.

- c. Under the Federal Employees' Compensation Act and Office of Workers' Compensation Programs processes, it can be difficult for employees to prove that a sickness or injury was caused by their work. Will you commit to providing a presumption of workplace causation for any TSA employees unable to telework during the pandemic?**

Yes, TSA is committed to a presumption of workplace causation for non-telework eligible employees. TSA will provide Federal Employees' Compensation Act (FECA) benefits to employees, as described in chapter 81 of title 5. TSA plans to provide supporting information to the Department of Labor (DOL) when an employee files a workers' compensation claim for a COVID-19 diagnosis directly resulting from the performance of duty. DOL makes the final determination in adjudicating workers' compensation claims.

- d. Last year, TSA ceased paying a full share of health care insurance premiums for part-time employees. You have stated that this decision aligns with how other public and private employers handle health care insurance costs for part-time employees. Your position ignores that part-time workers at TSA face unique exposure to public health risks. Will you immediately reverse your decision and provide part-time workers with full-time health care benefits for the full Fiscal Year? If so, will you also provide employees with an immediate open season so that those who switched to insurance plans offering less coverage due to increased costs can switch back to better plans?**

Consistent with the direction provided through our FY2020 annual appropriation, our current options for health care benefits align with what is offered across the rest of the Federal Government. Part-time employees are afforded the same benefits as full time employees at a different premium comparable with part-time employees across the Federal Government. I will continue to review this issue.

- e. Will you provide hazardous duty pay for all employees who regularly interact with the traveling public to recognize the risks they assume by continuing to report to duty during a global pandemic?**

TSA is evaluating what additional pay flexibilities, including options for a form of hazardous duty pay, could be implemented as we continue our COVID-19 response.

- 5. The Committee has been notified that TSA may be requiring some employees to sign a Non-Disclosure Agreement (NDA) regarding employees who have tested positive for COVID-19. Has TSA required any employees to sign an NDA for any reason related to the pandemic or employees affected by it?**

TSA has not issued any direction for using NDAs in connection with the pandemic and is unaware of their use by Federal Security Directors at any airport for that purpose. If TSA learns that NDAs have been or are being used, the agency will order that their use cease and will advise the Committee accordingly.

- 6. Last year, TSA also ceased paying for airport janitorial services at security checkpoints. Since TSA now relies on airport owners and operators to provide janitorial services, how is TSA ensuring appropriate sanitation in high-traffic areas during a global pandemic?**

- a. How often are checkpoints currently required to be cleaned? Will TSA provide or require airports to provide increased cleanings of checkpoints?**

TSA relies on local airport authorities for cleaning and disinfecting passenger and baggage screening areas. Although TSA has no control over the checkpoint space conditions, and has no lease

or written agreement in place regarding the checkpoint space, TSA has provided financial assistance to airports that requested support to maintain the checkpoint areas. In the past, TSA funded janitorial agreements at 131 airports. The remaining airports absorbed the checkpoint janitorial expense within their overall airport cleaning funding. In cases where TSA only reimbursed janitorial service cost, the service scope was delivered per the airports' cleaning standard. At airports where TSA entered into a third party agreement with a vendor, the janitorial service providers clean the checkpoint area floor and screening tables daily, remove trash in the passenger area twice per day, and in the baggage area once per day. Janitorial providers dust, clean divestiture bins, and mop the baggage screening floor weekly, shampoo carpets every two weeks, and clean carpets using hot water extraction monthly.

At airports where janitorial service agreements are currently in place with a period of performance that has not yet expired, TSA will fund TSA's share of additional costs that arise from an increased cleaning scope generated from a local health department requirement surrounding the COVID-19 pandemic. Currently of the 131 original agreements, 39 have already expired, or will expire at the end of the month.

- b. The Occupational Safety and Health Administration recommends limiting, if not discouraging, shared use of work tools and equipment to limit the spread of the virus. Since TSOs rotate positions regularly, how is TSA keeping workstations and equipment clean?**

In response to COVID-19, TSA provided specific guidance related to the importance of keeping workstations and equipment clean. For checkpoint equipment and technology, TSA provides appropriate cleaning materials for screening equipment and recommends routine cleaning of frequently touched surfaces using 70% isopropyl alcohol or bleach-containing wipes. TSA recommends that employees, when using the supplied cleaning materials, follow manufacturer's instructions for safe and effective cleaning product use, ensure adequate ventilation when cleaning, if desired, wear TSA standard issue nitrile gloves, and wash hands after cleaning and removing gloves.

- 7. Has TSA conducted a risk analysis to weigh the risks of a terrorist attack against a passenger flight against the risks posed by the transmission of the coronavirus in the midst of a global pandemic? If so, please provide the results of such an analysis to the Committee.**

TSA has not conducted such a risk analysis. Noting such, TSA's risk analysis group has been actively involved in assessing impacts associated with procedural changes in response to COVID-19.

- 8. After the number of TSA employees that have tested positive has quadrupled in one week, how will TSA adjust its checkpoint Standard Operating Procedures to reduce human-to-human contact? Has TSA considered methods to increase remote screening and reduce patdowns and Explosive Trace Detection swabbing while maintaining security?**

Standard Operating Procedures: In an effort to ensure the safety of our officers and reduce human-to-human contact, TSA has adjusted a number of our Standard Operating Procedures to help reduce transmission of the virus. These changes were reviewed from a risk perspective to balance the goal

of providing enhanced safety to the officers and the passengers without compromising security effectiveness.

We mandated that all TSA personnel wear gloves at all passenger screening checkpoints, checked baggage locations, and other applicable screening locations when screening individuals and their property. We also reviewed procedures of all of our passenger touchpoints in an effort to increase social distancing and reduce direct contact with those who may be infected, whether or not they are symptomatic. Some examples of procedural changes include:

- Officers are encouraged to attempt to maintain a distance (6 feet where able) from passengers and provide verbal advisements as to what to remove from the person's property and carry-on property.
- Officers are metering passengers to maintain a 6 ft. gap between individuals while moving through the screening process. One best practice includes coordinating with security stakeholders at the airport to place markers on the floor, such as tape or security stanchions, to serve as a visual reminder of appropriate spacing.

To reduce pat downs, we made the following revisions to our passenger screening protocols:

- Officers are placing extra emphasis on advising passengers of proper divestment protocols before entering into the Advanced Imaging Technology to help minimize unnecessary pat-downs and manage a safe flow of passengers. Additional divestment opportunities are being afforded to passengers throughout the screening process to minimize the number of patdowns.
- TSA has implemented further procedural modifications to maximize the use of Explosives Trace Detection and Hand-Held Metal Detectors to reduce the need for patdowns during the alarm resolution process.
- We have also revised unpredictable screening protocols to minimize the officers and passengers physical contact.

To address concerns of cross-contamination by using Explosive Trace Detection swabs multiple times between passengers and property, TSA implemented a one-time use of swabs. The swabs must be disposed of upon completion of any on-person screening, carry-on property screening, or checked baggage screening. The screening of multiple passengers, carry-on property, or checked baggage with the same swab is prohibited.

Remote Screening: Where infrastructure for remote screening exists and staffing allows, airports are using a method to remotely review carry-on property scanner images, moving officers off the checkpoint floor and increasing their distance to passengers. At this time, this infrastructure only exists at a limited number of checkpoints. Airports that have automated screening lanes with multiplexing, where an officer can review scanner images on a lane other than the scanner currently

screening bags, are using the feature to allow officers to review from an alternate lane and increase social distancing within the same checkpoint. TSA continues to work with airports and terminal operators to increase the automated screening lane capability and the availability of remote screening rooms. Officers at checkpoints that do not have automated screening lanes with multiplexing or remote screening rooms will continue to maintain proper social distancing and cleaning protocols. In the future, TSA plans to increase automation, and ultimately combine with automated prohibited item detection, further reduce human-to-human contact at the checkpoint.

Self-Service Credential Authentication: TSA is exploring ways to leverage and revise the existing Credential Authentication Technology (CAT) construct to support a passenger self-screening concept of operation. The focus is on rapid production and deployment of a touchless version of CAT, building on the biometrically-enabled CAT prototype. This approach will allow passengers to present their own identity documentation to the device, and reduce unnecessary contact between officers and passengers.

Additional Technology Solutions: TSA is aggressively exploring other ways to make the checkpoint even more touchless. TSA wants to expedite development and deployment of additional passenger screening technologies that will reduce or eliminate the need for alarm resolution pat downs and exploration of contactless alarm resolution technology.

9. Congress has vested in the TSA Administrator significant authority to take such actions necessary to protect the security of transportation systems, including the authority to immediately issue security directives and emergency amendments (SD/EAs) to security programs, which carry the full force of regulations. We understand you have issued SD/EAs to enforce restrictions on international travel to the United States from certain high-risk countries to attempt to limit the spread of the coronavirus. What factors are you considering as you determine whether to issue additional SD/EAs to further restrict travel, including, if necessary, limiting or prohibiting domestic air travel?

Consistent with TSA's broad statutory and regulatory authority, I have issued a number of COVID-19 related Security Directives (SD) and Emergency Amendments (EA) for flights inbound to the U.S. from overseas and revised them as circumstances change. For instance, our most recent SDs and EAs denied boarding to foreign nationals, with some exceptions, entering or seeking entry into the United States from the Schengen Area, United Kingdom, or Ireland if those foreign nationals were in any of those areas in the 14 days preceding an entry attempt. Additionally, the SD and EA require that air carriers deliver admissible passengers only to 13 arrival airports designated by CBP. I issued similar SDs and EAs related to China and Iran. These SDs and EAs implemented Presidential Proclamations and followed elevated travel advisories announced by the State Department and United States Centers for Disease Control and Protection (CDC). In addition, South Korea is still covered by an SD and EA that requires carriers to conduct exit health screening of passengers if those measures are not performed by the Host Government. Before any of these directives took effect, my staff consulted with interagency partners and industry stakeholders.

a. Under statute, you have the authority to issue security directives even "without prior approval of the Secretary" of Homeland Security. Are you prepared to take whatever

actions you deem necessary to protect transportation even if not directed by the Secretary or President?

My staff and I are engaged with several interagency partners and are providing TSA support as part of the federal government's response to COVID-19. The Department of Health and Human Services (HHS) and the CDC are the federal entities responsible for public health matters and I will continue to rely on their expertise to inform TSA's actions and policies. In short, I will continue to exercise my authorities to the greatest extent possible to protect the American public against the evolving COVID-19 public health threat.

I appreciate the time you have taken to share your concerns and I hope this information is helpful. An identical letter has been provided to Chairman Correa.

Sincerely yours,



David Pekoske
Administrator

Copy: The Honorable J. Luis Correa, Chairman, Committee on Homeland Security Transportation and Maritime Security Subcommittee.