TEAMSTER AVIATION PROFESSIONAL

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Happy Holidays from All of Us at the TAMC

2017 was full of challenges. The outpouring of support from all of you for the victims of hurricanes Harvey, Irma and Maria shows that the true spirit of giving is not just reserved for the holiday season – it continues throughout the year. These disasters proved once again that no matter what our differences, we are able to set them aside to help those in need. Best wishes to all of you for a safe and prosperous 2018.

Allegiant Air Mechanics File For Teamster Representation

Petition Filed with Overwhelming Support of Mechanics and Related Technicians

On December 14, Allegiant Air mechanics and related technicians filed a petition for representation by the International Brotherhood of Teamsters with the National Mediation Board (NMB).

The petition is supported by an overwhelming majority of the eligible workers, more than meeting the 50 percent interest threshold established by the NMB. It is expected to trigger an election to determine the workers' collective bargaining representative. Under the Railway Labor Act, it will be a secret ballot election.

Allegiant Air employs about 350 mechanics and related technicians, primarily in Las Vegas and in Sanford, Florida, but also in 10 other stations throughout the country. The Teamsters already represent pilots and flight dispatchers employed by Allegiant Air.

"We're expecting the National Mediation Board to set a date for the election sometime in the next two months," said Capt. David Bourne, Director of the Teamsters Airline Division. "The mechanics at Allegiant Air recognize the power that Teamster representation brings to their coworkers as well as mechanics at companies like United Airlines and UPS Air Cargo, and they want in on the action."

FAA Removes Additional Layer of Safety

Earlier this year, the Federal Aviation Administration (FAA) removed yet another layer of safety by allowing Singapore to conduct surveillance and inspections.

The TAMC, since our inception in 2007, has fought for more FAA oversight at foreign MROs. Many of us have seen firsthand the poor and often dangerous repairs that come from these minimally-inspected repair stations. The FAA signed a milestone Maintenance Agreement Guidance (MAG) in July with the Civil Aviation Authority of Singapore (CAAS). The agreement allows for mutual surveillance conducted on certified repair stations located abroad for each of the agreement partners.

The MAG provides guidance for the implementation of the previously agreed-upon Maintenance Implementation Procedures (MIP). In cases where there are sufficient certificated facilities in both partner countries, MIPs may reduce the number of surveillance activities, free up inspector resources for the authorities and reduce the regulatory burden on the industry. There are 58 FAA-approved repair stations located in Singapore.

The MAG furthers the MIP agreement signed by FAA Administrator Michael Huerta and the CAAS on February 16, 2016. That agreement was the first of its kind in Asia and it reduces costs by allowing the reciprocal acceptance of Singapore and the United States' surveillance of maintenance work.

The ratio of non-certified to certified technicians at foreign repair stations is a staggering 23 to one. Many of the folks perfrming these maintenance functions have a limited ability to read, write or speak English as is required by the FARs. Compare that ratio with the U.S. majors ratio of 0.13 to one, and it's easy to see why FAA surveillance of foreign repair stations is essential.

Safety is expensive, but cost should not be a priority when it comes to protecting the flying public. One only need look back at prior Inspector General reports to see that the FAA has been failing at oversight. Making a decision to farm out oversight will only further exacerbate the problem. Here are links to the prior reports they can also be found at Teamster.org under the TAMC drop down menu.

We need to fix the FAA – not farm it out!

AV 2015-066: *https://www.oig.dot.gov/library-item/32565*
AV 2013-066: *https://www.oig.dot.gov/library-item/29179*
AV 2008-090: *http://teamsterair.org/sites/teamsterair.org/files/file-attachments/2003_review_of_air_carriers_use_of_aircraft_repair_stations.pdf*

On the Job Injuries are No Walk in the Park

Workplace Injuries Can Have Grave Consequences for your Career As a Mechanic

An On the Job Injury (OJI) is no holiday.

Being injured is no fun, but being injured at work can lead to lost wages, suspension and even termination. In far too many shops, being disciplined for a workplace injury is the norm. Being punished for a legitimate injury is against the law. Furthermore, your employer cannot dissuade you from reporting an injury, and your employer cannot create programs that will incentivize non-reporting.

This letter from OSHA commonly referred to as the Fairfax letter spells out what the employer can and cannot do when it comes to reporting an OJI. Please take a minute to share this with your co-workers.

The best possible situation is never to sustain an injury at work. Unfortunately, things happen. If you are injured at work, report it and know that you have rights. Workers compensation laws vary from state to state so don't forget to contact your state office as soon as possible if you find yourself injured at work.

MEMORANDUM FOR: REGIONAL ADMINISTRATORS, WHISTLEBLOWER PROGRAM MANAGERS

SUBJECT: Employer Safety Incentive and Disincentive Policies and Practices

Section 11(c) of the OSH Act prohibits an employer from discriminating against an employee because the employee reports an injury or illness. 29 CFR 1904.36. This memorandum is intended to provide guidance to both field compliance officers and whistleblower investigative staff on several employer practices that can discourage employee reports of injuries and violate section 11(c), or other whistleblower statutes.

Reporting a work-related injury or illness is a core employee right, and retaliating against a worker for reporting an injury or illness is illegal discrimination under section 11(c). Other whistleblower statutes enforced by OSHA also may protect employees who report workplace injuries. In particular, the Federal Railroad Safety Act (FRSA) prohibits railroad carriers, their contractors and subcontractors from discriminating against employees for reporting injuries. 49 U.S.C. 20109(a)(4).

If employees do not feel free to report injuries or illnesses, the employer's entire workforce is put at risk. Employers do not learn of and correct dangerous conditions that have resulted in injuries, and injured employees may not receive the proper medical attention, or the workers' compensation benefits to which they are entitled. Ensuring that employees can report injuries or illnesses without fear of retaliation is therefore crucial to protecting worker safety and health.

There are several types of workplace policies and practices that could discourage reporting and could constitute unlawful discrimination and a violation of section 11(c) and other whistleblower protection statutes. Some of these policies and practices may also violate OSHA's recordkeeping regulations, particularly the requirement to ensure that employees have a way to report work-related injuries and illnesses. 29 C.F.R. 1904.35(b)(1). I list the most common potentially discriminatory policies below. OSHA has also observed that the potential for unlawful discrimination under all of these policies may increase when management or supervisory bonuses are linked to lower reported injury rates. While OSHA appreciates employers using safety as a key management metric, we cannot condone a program that encourages discrimination against workers who report injuries.

1. OSHA has received reports of employers who have a policy of taking disciplinary action against employees who are injured on the job, regardless of the circumstances surrounding the injury. Reporting an injury is always a protected activity. OSHA views discipline imposed under such a policy against an employee who reports an injury as a direct violation of section 11(c) or FRSA. In other words, an employer's policy to discipline all employees who are injured, regardless of fault, is not a legitimate nondiscriminatory reason that an employer may advance to justify adverse action against an employee who reports an injury. In addition, such a policy is inconsistent with the employer's obligation to establish a way for employees to report injuries under 29 CFR 1904.35(b), and where it is encountered, a referral for a recordkeeping investigation should be made. Where OSHA encounters such conduct by a railroad carrier, or a contractor or subcontractor of a railroad carrier, a referral to the Federal Railroad Administration (FRA), which may conduct a recordkeeping investigation, may also be appropriate.

2. In another situation, an employee who reports an injury or illness is disciplined, and the stated reason is that the employee has violated an employer rule about the time or manner for reporting injuries and illnesses. Such cases deserve careful scrutiny. Because the act of reporting the injury directly results in discipline, there is a clear potential for violating section 11(c) or FRSA. OSHA recognizes that employers have a legitimate interest in establishing procedures for receiving and responding to reports of injuries. To be consistent with the statute, however, such procedures must be reasonable and may not unduly burden the employee's right and ability to report. For example, the rules cannot penalize workers who do not realize immediately that their injuries are serious enough to report, or even that they are injured at all. Nor may enforcement of such rules be used as a pretext for discrimination. In investigating such cases, factors such as the following may be considered: whether the employee's deviation from the procedure was minor or extensive, inadvertent or deliberate, whether the employee had a reasonable basis for acting as he or she did, whether the employer can show a substantial interest in the rule and its enforcement, and whether the discipline imposed

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appears disproportionate to the asserted interest. Again, where the employer's reporting requirements are unreasonable, unduly burdensome, or enforced with unjustifiably harsh sanctions, they may result in inaccurate injury records, and a referral for a recordkeeping investigation should be made.

3. In a third situation, an employee reports an injury, and the employer imposes discipline on the ground that the injury resulted from the violation of a safety rule by the employee. OSHA encourages employers to maintain and enforce legitimate workplace safety rules in order to eliminate or reduce workplace hazards and prevent injuries from occurring in the first place. In some cases, however, an employer may attempt to use a work rule as a pretext for discrimination against a worker who reports an injury. A careful investigation is needed. Several circumstances are relevant. Does the employer monitor for compliance with the work rule in the absence of an injury? Does the employer consistently impose equivalent discipline against employees who violate the work rule in the absence of an injury? The nature of the rule cited by the employer should also be considered. Vague rules, such as a requirement that employees "maintain situational awareness" or "work carefully" may be manipulated and used as a pretext for unlawful discrimination. Therefore, where such general rules are involved, the investigation must include an especially careful examination of whether and how the employer applies the rule in situations that do not involve an employee injury. Enforcing a rule more stringently against injured employees than noninjured employees may suggest that the rule is a pretext for discrimination against an injured employee in violation of section 11(c) or FRSA.

4. Finally, some employers establish programs that unintentionally or intentionally provide employees an incentive to not report injuries. For example, an employer might enter all employees who have not been injured in the previous year in a drawing to win a prize, or a team of employees might be awarded a bonus if no one from the team is injured over some period of time. Such programs might be well-intentioned efforts by employers to encourage their workers to use safe practices. However, there are better ways to encourage safe work practices, such as incentives that promote worker participation in safety-related activities, such as identifying hazards or participating in investigations of injuries, incidents or "near misses". OSHA's VPP Guidance materials refer to a number of positive incentives, including providing tee shirts to workers serving on safety and health committees; offering modest rewards for suggesting ways to strengthen safety and health; or throwing a recognition party at the successful completion of company-wide safety and health training. See Revised Policy Memo #5 - Further Improvements to VPP (June 29, 2011). Incentive programs that discourage employees from reporting their injuries are problematic because, under section 11(c), an employer may not "in any manner discriminate" against an employee because the employee exercises a protected right, such as the right to report an injury. FRSA similarly prohibits a railroad carrier, contractor or subcontractor from discriminating against an employee who notifies, or attempts to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury. If an employee of a firm with a safety incentive program reports an injury, the employee, or the employee's entire work group, will be disqualified from receiving the incentive, which could be considered unlawful discrimination. One important factor to consider is whether the incentive involved is of sufficient magnitude that failure to receive it "might have dissuaded reasonable workers from" reporting injuries. Burlington Northern & Santa Fe Railway Co. v. White, 548 U.S. 53, 68 (2006). In addition, if the incentive is great enough that its loss dissuades reasonable workers from reporting injuries, the program would result in the employer's failure to record injuries that it is required to record under Part 1904. In this case, the employer is violating that rule, and a referral for a recordkeeping investigation should be made. If the employer is a railroad carrier, contractor or subcontractor, a violation of FRA injury-reporting regulations may have occurred and a referral to the FRA may be appropriate. This may be more likely in cases where an entire workgroup is disqualified because of a reported injury to one member, because the injured worker in such a case may feel reluctant to disadvantage the other workgroup members.

Please contact the Office of Whistleblower Protection Programs at (202) 693-2199 if you have further questions.

NEGOTIATIONS ROUNDUP

NetJets

NetJets aircraft technicians and related employees ratified a new six-year collective bargaining agreement with the Columbus-based business jet operator. The International Brotherhood of Teamsters, the Teamsters Airline Division and Teamsters Local 284 represent 212 aircraft mechanics, maintenance controllers, stock clerks, aircraft fuelers and aircraft cleaners at the company. "After more than six years of negotiations, our members secured a new contract with major improvements, including an immediate 20 percent wage increase, additional pay increases every year of the contract, premium-free health insurance that can't be cut or reduced, retirement improvements and many other benefits," said Capt. David Bourne, Teamsters Airline Division Director. "The union and its members stand ready to work with NetJets to help ensure a successful company and the highest standards of air safety now and in the future." More than 94 percent of the members voted on the proposed contract. Which went into effect on December 16. NetJets will pay signing bonuses of up to $30,000 by the end of the month. NetJets workers are also eligible for employer matching contributions if they direct some or all of their bonus into their 401(k) accounts. "The new labor agreement was made possible by membership solidarity and the support of unionized NetJets pilots, flight attendants and dispatchers, as well as the hard work and dedication of a long line of Teamsters representatives at every level of our union who pulled out all the stops for these men and women," said Local 284 President Mark Vandak. "This contract demonstrates what strong unions can accomplish for working people across the United States." The new contract runs through December 2023. NetJets has the right to extend the contract for an additional two years if it provides additional wage increases, hires additional aircraft technicians at its Columbus maintenance facility and satisfies other negotiated requirements.

ExpressJet ERJ

The International Brotherhood of Teamsters (IBT) and ExpressJet ERJ have successfully concluded negotiations, resulting in a tentative agreement. The agreement covers approximately 500 mechanics, technicians and tool room attendants that are members of Teamster Locals 19, 210, 781, 783 and 964. The IBT negotiating team was comprised of Teamsters Airline Division representatives, representatives from each of the locals and rank and file committee members. It contains significant improvements in wages while maintaining current benefit levels. An agreement in principle was reached on December 6. The final contract language agreed upon by the union and ExpressJet ERJ will be put before the membership for a ratification vote beginning on Jan. 4, 2018, and the agreement will become amendable one year after the date of ratification. "I am pleased that the ExpressJet ERJ Negotiating Committee was able to reach an agreement with the company that improves standards while also being amenable to all parties involved," said Captain David Bourne, Director of the Teamsters Airline Division.

Atlas Air Atlas

Air, Inc. and Polar Air Cargo Worldwide, Inc.'s request for a preliminary injunction against the International Brotherhood of Teamsters, the International Brotherhood of Teamsters, Airline Division, and Local Union No. 1224 (collectively, the "IBT") has been granted. The decision by the U.S. District Court for the District of Columbia requires the IBT to stop its work slowdown. The IBT continues to negotiate with the company for a joint contract for Atlas and Southern Air crewmembers in connection with the pending merger. The company claims that it remains committed to completing the bargaining process in a timely manner and in the best interests of all parties.

UPS Air Cargo

As the holiday shipping season moves into high gear, UPS aircraft mechanics and related employees who maintain the company's massive air cargo fleet are launching a

NEGOTIATIONS ROUNDUP continued

nationwide advertising campaign to warn customers about the troubles brewing at UPS. The multibillion-dollar logistics giant is trying to severely cut its aircraft mechanics' health care benefits, causing growing unrest and instability within the approximately 1,300-person workforce. Starting Tuesday and continuing through the holiday season, the aircraft mechanics are running advertisements on the worsening situation in editions of USA Today and the Seattle Times in seven of UPS' biggest markets: Washington, Atlanta, the greater Cincinnati area, New York, Los Angeles, Chicago and Seattle. The advertisement is also running on Facebook and Instagram nationwide. It states: "What every American should know before they ship with UPS during the holidays: UPS wants to make deep cuts to its aircraft mechanics' health care benefits. That's why the 1,300 aircraft mechanics who keep UPS planes running during the holiday season are ready to strike." "Health care is the last thing UPS CEO David Abney and his executives have to worry about this holiday season, but they can't say the same thing for the employees who keep UPS running," said Doug Davis who is based in Louisville, Ky. and has been with UPS for 16 years. "I'm worried about being able to give my daughter the health care she needs even though I work at one of the biggest and most successful companies in the world. It shouldn't be that way. Our customers should know what UPS is trying to do to our families and know that UPS aircraft mechanics are ready to do whatever it takes to protect our health care benefits." UPS mechanics are stationed at more than 90 airports across the country and work around the clock to maintain the company's cargo aircraft. For the third quarter of 2017, UPS again exceeded earnings estimates and made billions in revenues due in part to the back-breaking work of its aircraft mechanics. The workers do physically demanding and often dangerous work around jet engine aircraft and equipment and toxic chemicals and exhaust. Despite continued growth and multibillion dollar plane purchases, UPS continues to call for massive reductions in health benefits for the 1,300 workers. "The holiday shipping season is UPS' busiest and most critical time, and before our customers ship with UPS, we want them to know about the instability in our already distressed workforce," said Tim Boyle, President of Teamsters Local 2727. "The aircraft maintenance workforce is united and won't let UPS executives gamble with our families' health care." The workers have voted overwhelmingly to authorize a strike should it become necessary. They recently filed a request with the federal National Mediation Board (NMB) asking to be released from mediated contract negotiations with UPS. The request stated that additional mediation will only "drain the limited, taxpayer-funded resources of the NMB and the likewise limited resources of the union, all while UPS simply plays the waiting game and continues to reap year after year of record profits."

TAMC ONLINE

Check out previous issues of the *Teamster Aviation Professional* at **www.teamsterair.org/tamc/newsletter.**

You can also find us at **aviationmechanics.org** and **https://www.facebook.com/theaviationmechanicscoalition.**

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