

**GENERAL ORDINANCE NO. 9-2008
OF THE INDIANAPOLIS AIRPORT AUTHORITY
CONCERNING THE ESTABLISHMENT OF A SYSTEM TO PERMIT
REPRESENTATION OF CERTAIN EMPLOYEES BY UNIONS (EMPLOYEE
ORGANIZATIONS) FOR PURPOSES OF LIMITED COLLECTIVE
BARGAINING**

WHEREAS, the Indianapolis Airport Authority ("IAA" or "Authority") was established as a municipal corporation by the Indiana General Assembly in 1962 to own and operate public airports and facilities known as the Indianapolis International Airport, the Eagle Creek Airport, the Downtown Heliport, the Mount Comfort Airport, Gordon Graham Field and Metropolitan Airport and such other facilities that may be established or maintained by the Authority from time to time pursuant to law ("Airports"), and is empowered by virtue of I.C. § 8-22-3-11 with the powers to, *inter alia*: adopt administrative procedures, rules, and regulations; determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise; and to employ personnel that are necessary to carry out the duties, functions and powers of its board.

WHEREAS, the Board of IAA ("Board") is empowered pursuant to I.C. § 8-22-3-3 to exercise the executive and legislative powers of the Authority; and

WHEREAS, it is the policy of the Board to receive and consider suggestions and advice from employees of IAA and to advance the interests of IAA by promoting orderly and constructive relationships between IAA and its employees subject, however, to the rights of the taxpayers and the citizens served by the Airports to have high quality, uninterrupted service provided through safe and efficient operations; and

WHEREAS, the rights of employees, independently, to associate themselves, whether that association is known as a union or by some other name, is recognized in Indiana, and there is no legal bar to their collective presentation of their employment interests to the officials charged with the duty of fixing the terms of employment; and

WHEREAS, subject to the law and the paramount requirements of public service, the interests of IAA and the Airports may be best served by provisions for orderly methods and procedures for the collective presentation of employee employment interests, if employees so desire; and

WHEREAS, effective employee organization and management cooperation in airport-employee relations require a clear understanding of the respective rights and obligations and duties of employee organizations, IAA administration, and the Board;

NOW THEREFORE, the Board of IAA adopts the following procedures for the recognition of employee organizations and the consideration of collective presentation of their views, suggestions and employee interests. These provisions shall not be construed as a relinquishment by IAA or its Board of any of their obligations, responsibilities, and

authorities, conferred upon them by the people through legislative statutes to govern, set policy and act in final judgment on the institutional affairs in the public interest, nor as recognition by IAA or the Board of a right to strike by employees of IAA, or of a right to take any other concerted action to impede, or to threaten to impede, the Board, IAA, the Airports or administrative officials in the operation of IAA and the Airports.

SECTION 1 – DEFINITIONS

(A) When used in this Ordinance --

(1) The term "employer" shall mean the Indianapolis Airport Authority ("IAA" or "Authority").

(2) The term "employee" shall include any full-time employee of the Authority or any part-time employee of the Authority regularly scheduled to work more than ten (10) hours per week, provided that "employee" shall not include anyone employed by the Authority as a supervisor, confidential employee, professional employee, or managerial employee, as IAA understands and interprets such terms.

(3) The term "representatives" includes any individual or employee organization.

(4) The term "employee organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment, *provided* that (a) such organization has no officers or other elected persons who have been convicted of a felony involving a crime of moral turpitude or theft or other misappropriation of funds, as determined in the sole discretion of the Authority, and (b) such organization does not discriminate with regard to the terms and conditions of membership because of race, color, religion, color, sex, creed, national origin, age, disability, sexual orientation or gender identity or any other legally protected classification, and *provided further* that as a condition of being recognized as a labor organization under this ordinance, the organization must pledge in writing never to engage in, authorize, or permit employees represented by it to engage in, a strike or other act against the Authority prohibited by Section 8 hereof.

(5) The term "supervisor" means any individual having authority, in the interest of the Authority, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(6) The term "professional employee" means--

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(7) The term "managerial employee" means any individual who: (a) participates in the formulation of policy; (b) is significantly engaged in executive or management functions; (c) is charged with the responsibility of directing the implementation of management policies, procedures, or practices; or (d) is involved in administration of human resources or personnel decisions, including but not limited to, staffing, reductions, reorganizations, hiring, discipline, evaluations, pay, assignments, transfers, promotions or demotions.

B. In determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

SECTION 2 – RIGHTS OF EMPLOYEES

A. Employees shall have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all such activities.

B. The rights described in this Section 2 do not extend to participation in the management of an employee organization, or acting as a representative of any such organization, where such participation or activity would result in a conflict of interest or be otherwise incompatible with law or with the official duties of an employee.

C. Administrative officials of IAA shall take appropriate action to advise all employees of the rights referred to in this Section 2 and to assure such employees that they may exercise such rights without fear of penalty or reprisal and free from interference, restraint, coercion, or discrimination by IAA, or its officers or employees, or by any employee organization, or its officers or members.

SECTION 3 – REPRESENTATIVES GENERALLY

A. The Board shall grant recognition to employee organizations meeting the selection and election procedures and requirements set forth herein, and that meet all of the other requirements of this Ordinance, provided that no recognition shall be granted to any employee organization which the Board considers to be subject to corrupt influences or influences opposed to basic democratic principles or which, in the judgment of the Board, has engaged in any conduct inconsistent with the provisions of this Ordinance.

B. An employee organization seeking recognition under the procedures set forth herein shall submit concurrent with its request for recognition to the Authority a roster of its current officers and representatives, a copy of its current constitution and by-laws, and a statement of its objectives.

C. When an employee organization has been recognized according to the procedures set forth herein, recognition continues so long as the organization continues to meet the requirements of this section, this Ordinance, and is not voted out by decertification or replaced by a rival union as set forth in Section 4 or so long as recognition is not otherwise withdrawn by the Authority.

D. Recognition shall not preclude any employee or group of employees, regardless of employee organization membership, from bringing matters of personal concern to the attention of appropriate administrative officials of the Authority in accordance with applicable rules, regulations or established policy, or from choosing his/her or their own representatives in a grievance or other action.

E. Every employee organization requesting recognition shall acknowledge the paramount interest of the people of the State of Indiana in the safe and efficient operation of the Airports and shall thereby pledge to refrain from encouraging or participating in any acts or practices that are inconsistent with such paramount interests or with the provisions of this Ordinance.

F. The Authority retains the right to withdraw recognition from an employee organization for reasons the Authority deems to be in the best interests of the Authority and its constituents. In the event the Authority does so, all rights and privileges granted to the employee organization by this Ordinance shall terminate.

SECTION 4 – PROCESS FOR SELECTION OF EMPLOYEE ORGANIZATIONS

A. The Board shall accord recognition to an employee organization when the organization has been selected in a secret ballot election by a majority of any craft or class of employees in an appropriate unit as set forth below. The Board shall make the determination of the appropriate unit and shall resolve any and all disputes respecting the inclusion or exclusion of employees in the appropriate unit, provided that in any case, the appropriate unit shall be the broadest possible unit of employees with interests the Authority deems to be sufficiently in common so as to serve the dual goals of effective

representation of employee concerns and avoidance of undue proliferation of bargaining units. In making such determination, the Authority shall consider whether a petitioned-for unit is more appropriately an accretion to a then-existing unit for bargaining or should be permitted to exist on its own, subject to the provisions of Part E, below. No unit shall be deemed appropriate if it includes, together with other employees, any individual employed as a guard, as such term is determined and interpreted by the Authority, to enforce against employees and other persons rules to protect property of the Authority or the Airports or to protect the safety of persons on the Authority's or Airports' premises; further no employee organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

B. Any employee organization desiring recognition which establishes to the satisfaction of the Board through submission of authorization cards that it represents at least 30% of the eligible employees in an appropriate unit may request that the Board hold an election to determine whether the requesting employee organization is entitled to recognition. Any determination of whether an employee organization is entitled to recognition shall be decided by secret ballot election, at the time and in the manner directed by the Board. Any authorization cards requesting representation must be signed by an eligible employee and dated not more than sixty (60) days prior to the date they are presented to the Board. The Board may also, on its own initiative, direct that an election by secret ballot be conducted if, in its judgment, there are substantial reasons for an election in the best interests of the employees and the Authority. No more than one election may be conducted among or concerning/involving employees in the same unit or any part thereof whether as its own unit, as part of a larger unit, or as a different unit within any twelve (12) month period, except that no such election bar shall apply in the case of a unilateral withdrawal of recognition by the Authority pursuant to Section 3(F), Section 8 or as otherwise allowed by the terms of this Ordinance.

C. All elections shall be held and conducted under the supervision of the Indiana Department of Labor or other entity as designated by the Board, but in such manner as the Board shall determine. Each employee eligible to vote shall be provided the opportunity to choose the employee organization he or she wishes to represent him or her from among those on the ballot or to choose "no union." Elections may be held to determine whether: (1) a particular employee organization should be recognized as the representative of employees in a unit; (2) an employee organization should replace another employee representative as the representative of the employees; or (3) an employee organization should cease to be the representative of employees. In the event that more than one employee organization is involved in the election, there shall be no recognition unless one (1) of the employee organizations obtains a majority of votes among those eligible to vote.

D. No less frequently than every three (3) years, the Authority shall notify represented employees that they may, upon submission of a showing of interest of 30% of the employees in the affected unit, petition the Authority for an election to determine if

they wish to continue to be represented by the employee organization that then represents them. If such a petition is filed, an election will be conducted as provided in B and C, above. If the majority of employees eligible to vote in such election vote for "no union" recognition of such employee organization shall be deemed immediately withdrawn.

E. Bargaining Units: It is the Board's policy to determine appropriate bargaining units for IAA employees. However, the Board is concerned with the possible proliferation of bargaining units each made up of a different segment of IAA employees. It is the determination of the Board that such proliferation would affect the efficient administration of the Airports and IAA and create awkward and destructive competition among employee organizations representing different groups of employees for the same source of funds. In addition, it is the Board's determination that proliferation of employee organizations may adversely affect control and supervision of employees. It is therefore the Board's determination that it shall consider as an appropriate unit only the following units for representation of IAA employees:

(1) Authority Law Enforcement Officers: The appropriate unit for representation for this unit shall consist of all full and part-time law enforcement officers, as such term is understood and interpreted by the Authority. Organization of this unit shall be required in its entirety.

(2) Authority Fire Rescue Personnel: The appropriate unit for representation for this unit shall consist of all full and part-time fire rescue personnel; as such term is understood and interpreted by the Authority. Organization of this unit shall be required in its entirety.

(3) Other IAA Employees: The appropriate unit for representation for this unit shall consist of all full and part-time employees of the Authority not otherwise excluded by the terms of this section or Section 1, above, and to be defined on an ad hoc basis from time to time by the particular order of the Board relating to any part, parcel or whole of such unit. Organization by an employee organization of this unit may be undertaken in whole or in part, subject to the Board's determination in its sole and absolute discretion, that the portion of such unit sought to be represented constitutes a unit appropriate for recognition and bargaining.

Only the three units defined above shall be recognized by the Board. This limit on recognition of employee units is not a derogation of the Board's recognition of any particular employee organization. Rather, it shall be interpreted to mean that in the event of any original organization, or further/future organization, of any particular unit, such organization must be undertaken by an employee organization within the confines of the particularly described units set forth above, and any organizational effort within the above-described units must encompass the entirety of the such unit previously organized for such purpose in addition to any additional portion(s) of the unit sought to be organized.

The recognition, and the continuing recognition, of any unit or representative employee organization of any unit, as subject to the procedures set forth herein, shall be in the sole and absolute discretion of the Board.

SECTION 5 – BARGAINING AND AGREEMENTS

A. Any bargaining to be conducted with any units recognized as set forth above shall take place in a manner and at a time consistent with the approval of funding for the continued operation of the Airports and IAA. The collective bargaining agreements entered into as a result of such bargaining shall be limited to a maximum term of thirty-six (36) months, and expiration of same must be consistent with the funding process. They shall also be subject to automatic reopener discussions in the event that such funding is altered or changed due to economic other circumstances the Authority deems detrimental to the IAA or the Airports, and that any collective bargaining agreement entered into shall not become or remain effective in the event that any such funding is in any way decreased; provided, however, that the no-strike and management rights provisions set forth in Sections 6 and 8 of this Ordinance shall remain in full force and effect in the event of any such change.

B. Any agreement that may be entered into between the Board and an employee organization is subject to the following requirements:

(1) Administrative officials retain the right and responsibility (a) to direct employees of the Authority, (b) hire, promote, transfer, assign and retain employees in positions, and to suspend, demote, discharge, or take other disciplinary action against employees, (c) to relieve employees from duties because of lack of work, financial exigency, discontinuance or curtailment of an activity or for other legitimate reasons, as determined in the Authority's sole discretion, (d) to maintain the efficiency of the operations entrusted to them, (e) to determine the methods, means and personnel by which such operations are to be conducted, (f) to select and maintain health and other employee benefit plans and policies (including plans and policies relating to health, welfare, retirement and other employee benefits as determined by the Authority in its sole and absolute discretion), and (g) to take whatever actions may be necessary to carry out the mission of the Authority.

(2) Administrative procedures for the handling of employee grievances shall contain the following provisions and conditions: (a) any grievance and mediation procedure shall extend only to the interpretation or application of Authority policy and not to changes in or proposed changes in Authority policy; (b) the aggrieved employee or employees shall have the right to have a representative of his or her own choosing speak for his or her interests; and (c) procedures established may include provisions for the mediation of grievances which (i) shall be advisory in nature with any decisions or recommendations subject to the approval of the Board, (ii) shall be invoked only with the approval of the individual employee or employees concerned, and (iii) the cost thereof shall be shared equally by the parties.

(3) The duration of the agreement may not exceed thirty-six (36) months and the terms of any such agreement are expressly conditioned upon receipt and maintenance of not less than the approved budget. If the overall budget of the Authority is reduced during the term of the agreement, any existing agreement shall be subject to immediate reopening,

upon request of the Authority only, for renegotiation consistent with the terms of such reduction in budget or otherwise as determined by the Authority.

(4) Nothing in any agreement shall require an employee to become or remain a member of, or pay representation fees to, any employee organization, whether to obtain or maintain employment or otherwise.

C. In the event that an agreement is not reached on the terms of a new agreement ___ days prior to the date for budget submission, the issues unresolved in the bargaining between the Board/Authority and the labor organization(s), the Board/Authority shall determine the terms of the agreement for the upcoming budget cycle.

SECTION 6 – RIGHTS AND OBLIGATIONS OF RECOGNIZED EMPLOYEE ORGANIZATIONS

When an employee organization has been recognized as the representative of employees in an appropriate unit, it shall be entitled (1) to act on behalf of all the employees in the recognized unit and shall be responsible for representing the interests of all of the employees in the recognized unit in a manner consistent with this Ordinance, without discrimination and without regard to employee organization membership; and (2) to be given the opportunity, upon request of the employees, to be represented at discussions between administrative officials or their representatives and employees or employee representatives concerning grievances or personnel practices. Provided, however, that the employee organization privileges herein provided shall not be construed either directly or indirectly to extend, without limitation, to such areas of discretion and policy as (i) the mission of the Authority, (ii) its budget, (iii) the organization and assignment of Authority employees, (iv) the means, methods, processes or technology of performing the work of the Authority, (v) any matters governed by federal, state or local government law or regulation, including those set forth in the statutes governing the creation and authority of the Authority, and (vi) any of the rights or responsibilities retained by the Authority as set forth in Section 5 and as otherwise set forth in this Ordinance.

SECTION 7 – USE OF OFFICIAL TIME

Solicitation of support, membership, dues or engaging in any other employee organization activities are not permitted when any of the employees involved are on duty. Officially requested or approved consultations or meetings between administrative officials and representatives of recognized employee organizations shall, whenever practical, be conducted on official time, but the Board may require that such meetings be conducted during the non-duty hours of the employee organization representatives involved. Consultations or meetings that take place on official time shall be without pay for the employees involved in such meetings unless the employee(s) elect(s) to use accrued paid leave to pay for such time.

SECTION 8 – STRIKES AND OTHER ACTS PROHIBITED

A. No employee and no employee organization shall have the right to participate in, conduct, or threaten any strike, slowdown, work stoppage or other type of action or interruption or interference with the activities of the Authority, the Airports or the Board, or to act in concert with other employees to abstain in whole or in part from the full, faithful, and proper performance of their duties for the Authority. The Authority reserves the right to deal with any such activity by any lawful means, including discharge or suspension without pay of any participating employee.

B. Upon a finding by the Board that any of the actions prohibited in this section have occurred:

(1) A court of competent jurisdiction shall be petitioned to restrain and enjoin any individuals or organizations from engaging in such actions and award to the Authority its costs and reasonable attorneys' fees, and any and all other appropriate money damages and other relief;

(2) The Authority may terminate immediately any employee who has violated this section. In the event that such a termination is made subject to review under a dispute resolution procedure contained in an agreement between the Authority and the employee organization, the Board or its designee reviewing the termination must determine only whether an employee has violated this section to properly uphold the termination. A person separated from employment for violating the above conditions may, subsequent to such violation, at the sole discretion of the Board, or its designated representatives, be appointed or reappointed, employed or reemployed, but only on the following conditions: (i) such person shall be on probation for a period of two years following such appointment or reappointment, employment or reemployment, during which period he or she shall serve at the pleasure of the administrative officials of the Authority without recourse to grievance procedures; (ii) such person shall be considered a completely new employee for purposes of vacation allowance, sick leave accrual, and all other benefits related to a length of service, except retirement benefits as established from time to time by law.

(3) Any employee organization determined to have violated this section shall cease to be accorded recognition under this Ordinance, shall cease to receive any dues or fees collected by paycheck withholding and shall not be accorded recognition or receive any dues or fees collected by paycheck withholding for a period of one (1) year, after which time a new showing of interest and election, if supported by an adequate showing of interest, shall be required.

SECTION 9 – AUTHORITY EXPRESSION OF VIEWS

Nothing of this Ordinance shall operate or limit or restrain the Authority or Authority administration from exercising its right to express or disseminate, whether in written,

printed, graphic or visual form, any views, argument or opinion with respect to an employee organization or matters related thereto.

SECTION 10 – OTHER ACTIONS

The Board, its members and officers, the Director of the Authority and _____ are hereby authorized and directed to take all actions as may be necessary or desirable to carry out the intent of this Ordinance.

SECTION 11 – NO CONFLICT AND EFFECTIVE DATE

All ordinances or policies or parts thereof in conflict with the provisions of this Ordinance 9-2008 are, to the extent of such, hereby repealed.

This Ordinance 9-2008 shall take effect immediately upon passage.

Approved and adopted this _____ day of _____, 200__.

INDIANAPOLIS AIRPORT AUTHORITY

Randall L. Tobias, President

Lacy M. Johnson, Vice-President

Alfred R. Bennett, Secretary

N. Stuart Grauel, Treasurer

Kelly J. Flynn, Member

Shirley M. Haflich, Member

Michael B. Stayton, Member

Robert H. Voorhies, Member

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

I, Alfred R. Bennett, the duly elected, qualified Secretary of the Indianapolis Airport Authority, Indianapolis, Indiana, do hereby certify that the foregoing is a full, true and complete copy of an Ordinance adopted by the Board of the Indianapolis Airport Authority at a regular/special meeting of said Board held at its offices at Indianapolis International Airport on _____, and that said Ordinance has not been amended, rescinded or revoked.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE INDIANAPOLIS
AIRPORT AUTHORITY this _____ day of _____, 200__.

Alfred R. Bennett, Secretary