

## MEDIATION AND ADR

MICHAEL KELLIHER, DEPUTY CHIEF OF STAFF

The Office of Mediation and Alternative Dispute Resolution Services (OMAS) manages mandatory Mediation of collective bargaining disputes pursuant to statutory authority under Section 6 of the Railway Labor Act (RLA), which is applicable to both the airline and railroad industries. The ADR component of OMAS offers voluntary dispute resolution programs to the parties including facilitation, grievance mediation, training, and other dispute resolution efforts.

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## MEDIATION OVERVIEW

The RLA requires labor and management to exert every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct Negotiation between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement or to narrow their differences. Should parties fail to reach agreement during direct negotiations, either party or the parties jointly may apply to the NMB for mediation. Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. An application for NMB Mediation Services may be obtained from the Agency's web site at [www.nmb.gov](http://www.nmb.gov).

The NMB is obligated under the Act to use its "best efforts" to bring about a peaceful resolution of the dispute. If such efforts do not settle the dispute, the NMB advises the parties and offers Interest Arbitration (proffers arbitration) as an alternative approach to resolving the remaining issues. If either party rejects this offer of binding arbitration, the NMB releases the parties from formal mediation. This release triggers a thirty-day Cooling Off period, during which the Agency continues to work with the parties to achieve a consensual solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period and the President of the United States does not establish an Emergency Board, the parties are free to exercise lawful self-help, which includes carrier-imposed working conditions or a strike by the union/organization.

A flow-chart of mediation procedures can be found in the Mediation section of the NMB website at [www.nmb.gov](http://www.nmb.gov).

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## MEDIATION HIGHLIGHTS

OMAS saw considerable activity during FY 2014. Mediators used their skills to assist carriers and organizations in finding common ground, and other provisions of the RLA served to help parties reach agreements. Difficult situations, such as consolidating agreements after mergers, and limitations on public funding as well as issues such as health care and compensation provided the grist for negotiations.

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### Settlements

Representative settlements in FY 2014 in the airline sector were between United/PAFCA, USAirways/IAM, Alaska/IAM, and Piedmont/AFA. In the rail sector Wisconsin Central/BMWED, DM & IR/TCU, AMTRAK/PRLBC and METRA/BLET reached agreements this year.

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### Presidential Emergency Boards (PEB)

The commuter railroad sector generated three PEB's in FY 2014: PEBs 244 and 245 at the Long Island Railroad and PEB 246 at Southeastern Pennsylvania Transportation Authority (SEPTA). There was a one-day strike at SEPTA in June prior to the creation of the Board. In July the parties at LIRR averted a strike by reaching agreement within days of their ability to exercise self-help. For more information on Emergency Boards, see the PEB section of this annual report.

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### Remote Facilitation

At Hawaiian Airlines a mediator is successfully using web-based video technology to facilitate a new collective bargaining agreement with the Clerical, Office, Passenger and Fleet Service, and Stores Employees (COPFS) group. At all of these sessions the parties are in Hawaii and the mediator is facilitating from the DC metro area, using technology to progress the case while reducing the cost of facilitation in time and dollars.

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### Pending Cases

We continue to work with United and its flight attendant union on a merged collective bargaining agreement. On the railroad side, the Class I Railroads will start bargaining with their unions in early FY 2015 and we anticipate that our mediators may be involved in that process sometime in the new fiscal year.

## MEDIATION CASES

### START PENDING



### CASES DOCKETED



### CASES CLOSED



### END-PENDING



## ADR OVERVIEW

In addition to statutory mediation and arbitration services under Sections 6 and 3 of the RLA, the NMB provides voluntary Alternative Dispute Resolution (ADR) services. ADR Services include facilitation, training, grievance mediation, and an Online Dispute Resolution (ODR) program, applying technology to the dispute resolution process.

The primary goal of the NMB's ADR program is to assist the parties in learning and applying more effective, less confrontational methods for resolving disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention, and to use appropriate ODR technology to increase the efficiency and reduce the cost of dispute resolution efforts for the parties.

The NMB established its ADR Services program with the conviction that use of ADR and ODR methods would result in fewer cases progressing to statutory mediation, reducing and narrowing the issues that the parties bring to mediation, and positively affecting working relationships among the parties.

A complete description of and an application for ADR Services may be found on the Agency's web site at [www.nmb.gov](http://www.nmb.gov).

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## ADR HIGHLIGHTS

Alternative Dispute Resolution (ADR) personnel continued to develop and deliver a wide range of services, including training (T cases), facilitation (F cases), grievance mediation (GM cases), Facilitated Problem Solving (FPS) and Online Dispute Resolution (ODR). These services included training programs and facilitation efforts outside of, and in addition to traditional grievance mediation work.

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### Training

Training activity was regular and robust in FY 2014, ranging from smaller groups to large, for carriers and organizations alone, and in joint sessions in preparation for negotiations or ongoing grievance mediation. ADR Services trained parties in System Board of Adjustment work, grievance mediation, and Interest Based Bargaining and launched its newest program, Problem Solving for One (PS1), designed to give direction when only one party to a dispute wishes to engage in problem solving.

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### Facilitation

The use of Facilitation in negotiating contracts has been successful in recent work between carriers and unions as they blend multiple books into joint collective bargaining agreements after mergers. With each experience, the NMB's knowledge base grows, and best practices from the process increase to the parties' benefit.

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### Grievance Mediation

Interest in Grievance Mediation continues to grow with the parties we serve in both the air and rail sectors. There has been a noticeable increase with the railroads and rail organizations, helping to reduce the case load between the parties for the Arbitration Department, and quickening the resolution of grievances. Grievance Mediation has had some unintended consequences as well, solving problems before they become grievances, and clarifying issues ahead of bargaining.

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### Online Dispute Resolution

The promotion of the use of ODR tools and training has increased demands for ADR services such as Online Video Conferencing, and programs in conjunction with the Office of Arbitration including online arbitrations and "submissions only" arbitrations. Additionally, a new Info Series is being developed that video records areas of interest to the railroad industry in conjunction with the Arbitration Department. As each session is completed, it is being uploaded to the NMB's Lyceum (online training site) accessible through the NMB website at [www.nmb.gov](http://www.nmb.gov).

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### Partnerships

In partnership with Dominican University, the ADR staff designed and delivered a number of trainings and presentations that provided quality training and complemented employee's and student's career development alike. The partnership has successfully created shared value for all participants. The NMB's Info Series on Arbitration is one example of shared value with Dominican University. The NMB provides content, and Dominican handles the video and editing. Both share use of the videos developed.

## ADR CASES

