

MEDIATION & ADR

The Office of Mediation and Alternative Dispute Resolution Services (OMS) 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 OMS offers voluntary dispute resolution programs to the parties including facilitation, grievance mediation, training, and other dispute resolution efforts.

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 website at 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

MEDIATION HIGHLIGHTS

Mediation activity for collective bargaining agreements was robust in FY 2015, and in a wide range of cases. Mediators effectively used their skills to assist parties in finding ways to bridge their disputes and reach agreement. Agreements were mediated in the airline sector with mainline, regional and low cost carriers, and in the rail sector with freight and commuter lines. Challenges at the bargaining table included consolidating agreements after mergers; working with limited public funding; and dealing with health care changes.

Settlements

In the airline sector, settlements were reached between Alaska Airlines and AFA and at Southwest Airlines with the IAM. In the rail sector, the Long Island Railroad and Metro North Railroad reached agreements this year with their unions, as did the Grand Trunk Western Railroad and SMART, and SEPTA and the BLET.

Pending Cases

We continue to work with United and IBT mechanics and related classifications and United and its AFA Flight Attendants on merged collective bargaining agreements, as well as on contracts with UPS and its IPA pilots and mechanics. On the rail side, Metra, MAP, BRS, IAM, IBEW, NCFO, SMART, and other Class II Railroads continue to bargain with unions on their properties.

MEDIATION CASES

START PENDING



NEW



SUM



CLOSED



END-PENDING



*The Mediation Department completed a changeover from a manual to an automated case management system in Fiscal Year 2015. After the changeover was complete, the audit revealed an error in the old system which resulted in incorrect case numbers

ADR OVERVIEW

In addition to statutory mediation and arbitration services under Sections 3 and 6 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 website at www.nmb.gov

ADR HIGHLIGHTS

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.

Training

ADR Services has seen interest grow in its pre-negotiation training and in mediation skills training for internal organization self-help use. Skill at instructing has been a by-product of the Agency's partnership with Dominican University where teaching mediation and negotiation courses turns into a learning opportunity for the mediators who teach the courses. In FY 2015, mediator teams developed and delivered three presentations on mediation models at the Association of Conflict Resolution Conference.

Facilitation

Mediators have been active on several properties using facilitation to help parties reach resolution to their disputes. United and AFA initially used a facilitated approach to merge their agreements, facilitation was used at CSX with the BRS to align multiple regional agreements, and at Virgin America as it negotiates an initial agreement with its TWU represented flight attendants. With each experience, the NMB's knowledge base grows, and best practices from the process increase to the parties' benefit.

Grievance Mediation

Interest in Grievance Mediation continues to grow with the parties we serve in both the air and rail sectors. Activity in the rail sector has helped reduce the case load in the NMB's Arbitration Department, and serves to quicken the resolution of grievances. Grievance Mediation has served to solve problems before they become grievances, and helped to clarify issues ahead of bargaining.

Online Dispute Resolution

In cooperation with the Arbitration Department and the Dispute Resolution Program at Dominican University, a new Info Series is now on line that highlights areas of interest to the railroad industry. As each session is completed, it is being uploaded to the NMB's Lyceum (online training site) accessible through the NMB website at <http://www.nmb.gov/services/nmb-lyceum-center/>. The first two sessions are now available; "Hearing Expectations of Arbitrators" and "How Arbitrators are Selected by the Parties."

Partnerships

In partnership with Dominican University, the ADR staff designs and delivers trainings and presentations that provide quality training and complement 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.

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