

**An Overview of
The National Mediation Board**



Presented by:

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Office of Legal Affairs**

The National Mediation Board

- **Stems from the Railway Labor Act of 1926
and the Board of Mediation**
- **NMB Established by 1934 Amendments**
- **Independent Federal Agency**

Read Van de Water
Chairman



Elizabeth Dougherty
Member



Harry R. Hoglander
Member



NMB Mission:

to minimize work stoppages by:

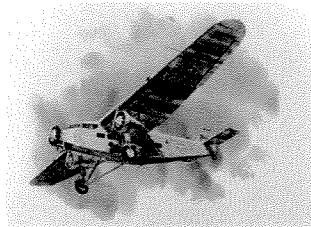
- **MEDIATION & ADR:**
 - Resolving disputes arising out of the negotiation of or for collective bargaining agreements;

- **REPRESENTATION:**
 - Effectuating employee rights of self-organization where a representation dispute exists; and

- **ARBITRATION & ADR:**
 - Resolving disputes over the interpretation or application of existing agreements.

Jurisdiction of the NMB

U.S. Railroads



U.S. Airlines

Subject to the Railway Labor Act

Representation under the Railway Labor Act



RAILWAY LABOR ACT OF 1926

- **Jointly crafted by the rail Labor & Management**
- **Legislation passed without amendment**
- **Signed into law on May 20, 1926 by President Calvin Coolidge**
- **Oldest continuous Federal Bargaining legislation in the nation**

Historical Perspective of the RLA

- **Great Railroad Strike of 1877**
- **States and later Fed. Gov't enacted legislation authorizing voluntary arbitration of disputes**
- **1918-1920 Federal Control of Railroads**
 - **WW I**
 - **Creation of U.S. Railroad Administration**

Results of Federal Control of Railroads

- **General recognition of labor unions**
- **Central handling of grievances**
- **Uniform classification of work throughout the country**
- **Nationwide standardization of wages and hours of work**

Key NMB / NLRB Differences

NMB does not:

- **have authority to adjudicate or remedy unfair labor practices (Statutory Rights)**
- **have authority to seek enforcement of Rep. Certifications**
- **have a formal decertification procedure**

NLRB does not:

- **mediate negotiation disputes**
- **provide arbitration for Collective Bargaining or Grievances**

A word about ULPs

- **NMB administers the RLA in part**
- **The NMB does not have authority to adjudicate or remedy unfair labor practices (Statutory Rights)**
- **Airline and Railroad employees under the RLA cannot file charges with the NMB**
- **Recourse re Statutory Rights is through the parties or the courts**

A word about “Decertification”

- **Unlike NLRA, no formal decertification procedure under the RLA**
- **Any organization or individual may file an application supported by a majority showing of interest.**
- **The group becomes unrepresented if**
 - **Less than a majority vote for representation****or**
 - **The certified representative disclaims interest**

**Federal Labor-Relations Agencies
-- a basic functional perspective**

	NMB	NLRB	FMCS
Mediation	✓		✓
Arbitration	✓		✓
Representation	✓	✓	
Unfair Labor Practices	courts	✓	

Office of Legal Affairs
and
Representation

About the Office of Legal Affairs

- **Representation**
- **Legal Advice to the Board**
- **Agency Litigation**
- **Compliance: Freedom of Information Act**
- **Compliance: Gov. in the Sunshine Act**
- **Government Ethics**
- **Presidential Emergency Boards**

Jurisdiction

Initial determination of jurisdiction in one of two ways:

- **After a receipt of Application for Investigation of Rep dispute**
- or
- **After a referral from the NLRB**

Scope of Bargaining Unit (i.e., Craft or Class)

- **System-wide**
- **Not by location or units**
- **Standard crafts or classes**

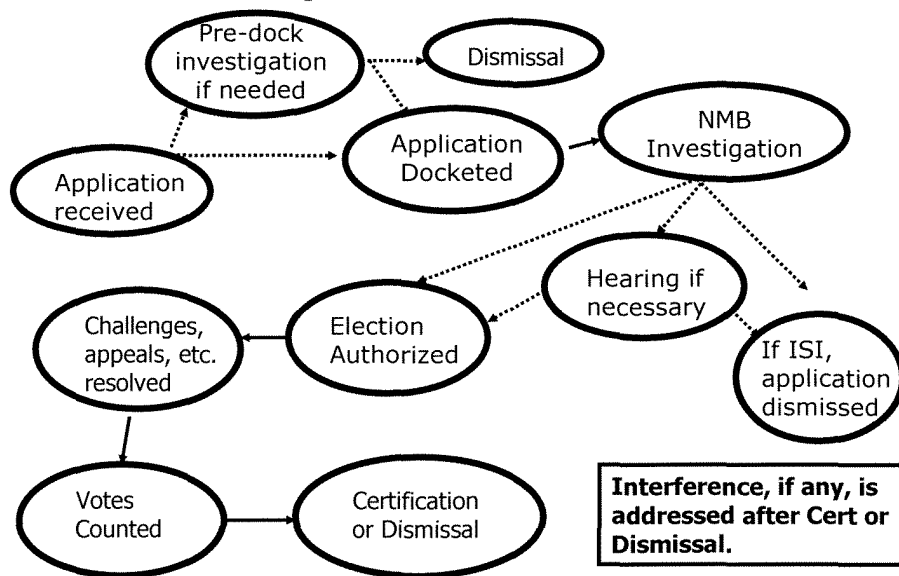
How Representation Occurs under the RLA

- **Voluntary Recognition**
- **NMB Certification**

The NMB Representation Program

- **Investigating Representation Applications**
- **Conducting Representation Elections**
- **Investigating Claims of Interference**

The Representation Process



If an election is authorized

- Auth Wire will be sent out and request address labels.
- Next day “Challenge and Objection letter” will be sent out. Sets dates for samples and instructions and Tally date.
- Investigator rules on any challenges and objections
- (Opportunity for appeal to Board prior to tally).

Eligibility issues

- ***Section 9 of Rep Manual***
- ***All individual working regularly in the craft or class on and after the cut-off date***
- ***Management Officials are not eligible; subordinate officials are. Section 151 of RLA.***
- ***Furloughees are eligible if they retain and employee/employer relationship with the Carrier***
- ***Dismissed employees are eligible if they have an appeal of their dismissal pending***

Election process

- Telephone Electronic Voting (TEV).
- Internet Voting added October 1, 2007.
- The votes are tallied electronically. The results of the tally are provided to the union(s) and the carrier in writing.
- All NMB voting is by secret ballot.
- Certification or dismissal is usually issued next business day after the tally.
- No Decertification Petition
- Cert. based on majority of eligible voters, not just who actually voted.

Interference

- "totality of the circumstances"
- Usually investigate allegations after the ballot count
- Employee should report questionable conduct to the organization conducting the campaign or to the carrier, as appropriate.

Suspect Carrier Conduct

- questionable surveillance of employees;
- interrogates employees;
- discharges or disciplines employees;
- confers benefits on employees,
- solicits or collects ballots; and
- misrepresents NMB Procedures

Union Interference

The NMB has found election interference where the union has:

- solicited or collected ballots.
- misrepresented NMB Procedures

Interference Remedies

- **Shorten the Application Bar Period**
- **Re-run election**
- **Using Laker or Key ballot**
- **Notice**
- **Certification**

A Word about Mergers

- **Carrier Mergers**
 - Manual Section 19
- **Union Mergers**
 - transfers of certification
 - Generally regarded as internal union matter
 - Board determinations USAir Passenger Service / AFA-CWA 2004 cases.

Mediation, ADR & Arbitration

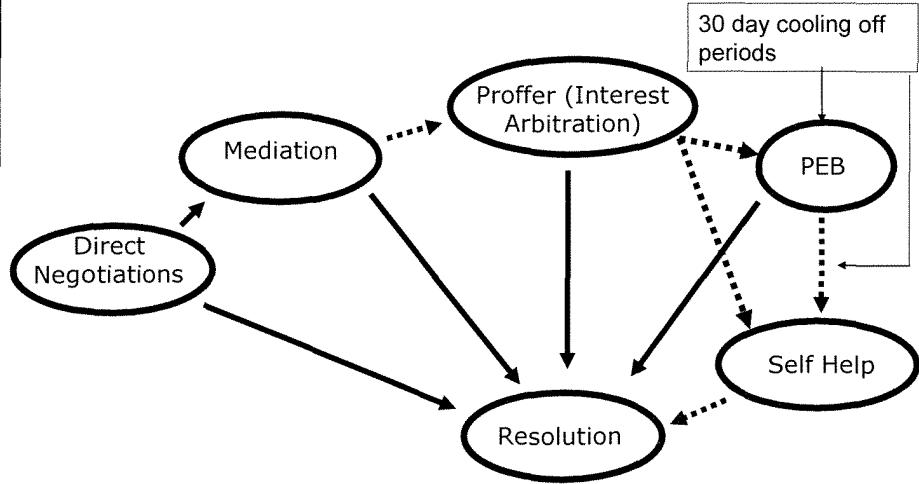
Under the Railway Labor Act



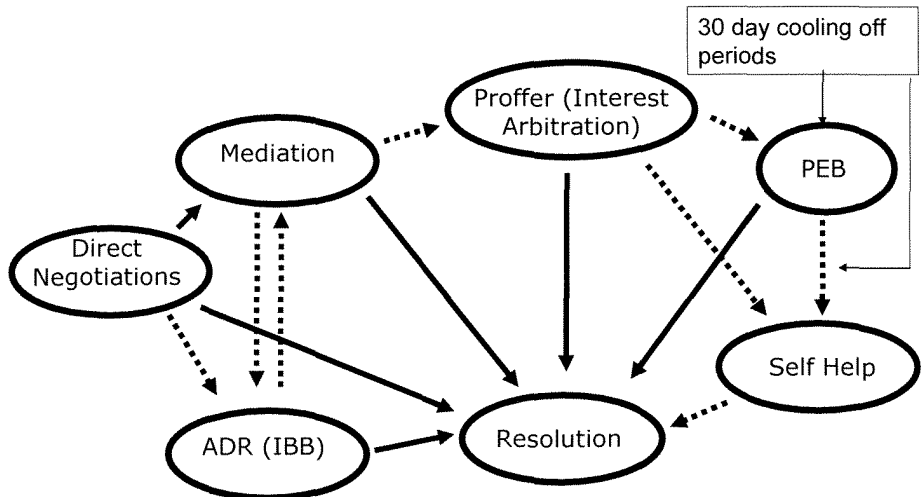
NMB Mediation

- **12 Mediators (cover both industries)**
- **Over 670 Mediation Cases since FY-2001**
- **Only 5 Work Stoppages since FY-2000**
- **7 Decades of Successful Negotiations**
- **Historically, over 97% Success Rate**
- **99.5% Success Rate since FY-2000**

Traditional Mediation Process



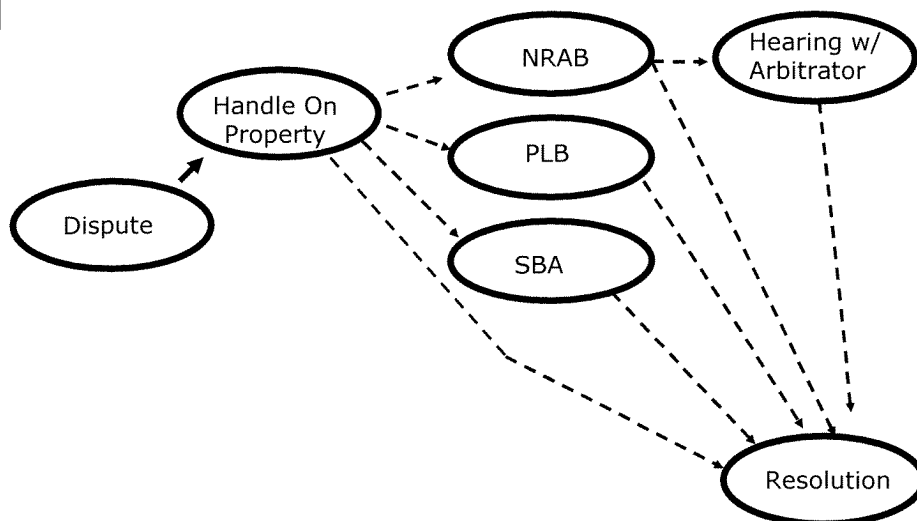
The ADR Component



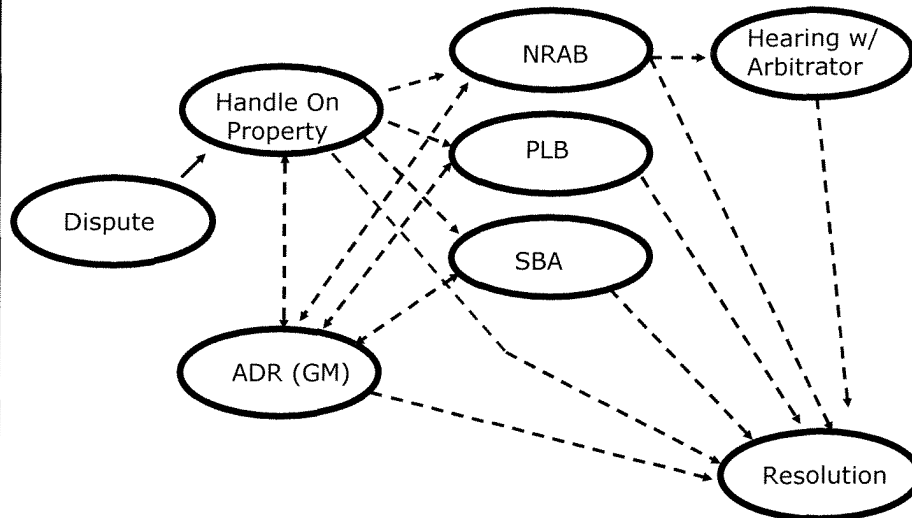
Impact of NMB Mediation

- **Mandatory (i.e., no self help w/o NMB mediation)**
- **NMB determines when to release the parties from mediation**
- **Public Interest Mediation**

Traditional Arbitration Process



The ADR Component



NMB Contacts and Resources

Eileen Hennessey: 202-692-5040, hennessey@nmb.gov

NMB Website: www.nmb.gov

NMB Help Desk: www.nmb.gov

NMB Hot Line: 202-692-5050

Note: NMB website has FAQs in each Program area of Mediation, ADR, Representation and Arbitration.