



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572


(202) 692-5000

35 NMB No. 61

July 15, 2008

NOTICE

TO: All Carriers and Labor Organizations

FROM: Mary L. Johnson 
General Counsel

SUBJECT: Public Comments on the National Mediation Board's
Representation Manual

The National Mediation Board (Board) intends to revise and/or clarify Sections 2.4, 3.3, 8.2, 9.2, 9.205, 13.304-2 and 19.7 of the Board's Representation Manual (Manual). A copy of these sections is attached with the proposed changes underlined and in bold. Airline carriers, railroad carriers, labor organizations and other interested parties are invited to submit written comments regarding the proposed changes. The Board will evaluate all written comments regarding the revised manual sections.

Comments must be received by the Board no later than **4 p.m. ET, August 15, 2008**. The comments are not to exceed five (5) single spaced pages. All submissions should be directed to Mary L. Johnson, General Counsel at legal@nmb.gov or faxed to 202-692-5085.

-Attachments-

2.4 List of Potential Eligible Voters and Signature Samples

The carrier must serve three (3) copies of a system-wide alphabetized list of potential eligible voters on the Investigator and serve one (1) copy on each participants' representative. Even if a participant is contesting single transportation status (see Section 18.0, and 18.501), they are required to produce a list in conformity with the section. The NMB requires the carrier to provide a copy of the alphabetized list on a disk in Excel spreadsheet format for the NMB's administrative use only.

The list of potential eligible voters must include all individuals in the craft or class with an employee-employer relationship as of the cut-off date. The list must identify each employee's full name, the job title, and the duty station or location.

The carrier's failure to provide a substantially accurate list of potential eligible voters may be considered interference with the NMB's election process and therefore grounds for setting aside the election.

The carrier must also provide the NMB with one (1) copy of legible, alphabetized signature samples for each employee on the list. Examples of acceptable signature samples include tax-withholding forms and employment and insurance applications. The alphabetized signature samples must be in the same order as the names on the list of potential eligible voters.

3.3 Acceptance of Additional Authorizations/Deadline for Intervening

An applicant or intervenor may present the Investigator with additional authorizations up until 4 p.m., Eastern Time, on the day the Investigator receives the applicable list and signature samples. **The delivery of an applicable list and signature samples ends the opportunity for the applicant to supplement its authorization cards.**

The Investigator will not accept applications or additional authorization cards from intervenors after 4 p.m., Eastern Time, on the day an applicable list of potential eligible voters and signature samples are delivered.

8.2 Challenges and Objections

An original and two (2) copies of all challenges or objections must be filed in writing, with the Investigator. All challenges or objections should be summated in a clear and concise manner. Similar groups of individuals, i.e. part-time employees, employees on leaves of absence, management officials, or employees with the same job titles, etc. should be listed together. All challenges or objections **will be resolved by** substantive evidence. **Examples of substantive evidence include, but are not limited to: official carrier records; payroll statements; human resources forms; and, sworn declarations attesting to specific facts. When considering eligibility of employees and personnel matters, substantial weight will be given to the carrier's evidence as it maintains the official records relating to benefits, salary, payroll records, and job descriptions. Unsupported allegations will not be considered.** Questions or issues concerning craft or class objections must be supported by NMB case citation. Agreement by the participants regarding employee eligibility is not determinative.

9.2 Eligibility

All individuals working regularly **and continuously** in the craft or class on and after the cut-off date are eligible to vote in an NMB representation election. Employees may not vote in more than one election at the same time.

A trainee will be considered eligible if the Carrier provides substantive evidence that the individual is on the payroll, receives benefits, accrues seniority, and has performed work in the craft or class prior to the cut-off date. In the absence of demonstrated evidence of performance of work subject to the direction of the Carrier, accrual of seniority and receipt of pay and benefits will not be determinative of eligibility. Carriers should identify any trainees upon submission of the List of Potential Eligible Voters.

9.205 Leave of Absence

Employees on authorized leaves of absence including military leave, leave for labor organization activities, or authorized sick leave **are eligible if they retain an employee-employer relationship and have a reasonable expectation of returning to work.** Employees receiving disability payments are eligible if they retain an employee-employer relationship and have a reasonable expectation of returning to work. Employees working in another craft or class, working for the carrier in an official capacity, or working for another carrier are ineligible.

13.304-2 Void Votes

The following votes are void and will not be counted:

- (1) votes cast for a carrier or carrier official;
- (2) votes where the voter's intent is unclear;
- (3) votes indicating no desire for representation, such as "write-ins" indicating "No" or "No Union;"
- (4) votes where the voter has "written in" "self," "self representation" or the equivalent, and;
- (5) **votes for a current political candidate or other widely known individual, where it is clear that the voter does not intend for that individual to represent the craft or class for purposes of collective bargaining under the RLA.**

19.701 **Where there is a certified representative on one of the affected carriers but no certified representative on the other(s), the Board will exercise its discretion and extend the certification only where there is more than a substantial majority, as determined by the Board. Authorization cards may only be used to supplement the showing of interest necessary to trigger an election; they may not be used towards getting a certification extended.**