

# NATIONAL RAILROAD ADJUSTMENT BOARD

## UNIFORM RULES OF PROCEDURE

(Revised June 23, 2003)

These Uniform Rules of Procedure are effective with Notices of Intent dated on or after July 1, 2003. In instances where Circular No. 1 issued October 10, 1934, differs from these Uniform Rules of Procedure, these Uniform Rules of Procedure will govern.

1. (a) A Notice of Intent to file a Submission, which will contain a full Statement of Claim, must be filed with the appropriate Division of the Board. A separate copy of the Notice of Intent must be furnished to the Respondent by the Petitioner. A 75-day period within which to file a Submission will begin on the date of the Board's letter to the parties acknowledging the Notice of Intent. The Arbitration Assistant will designate the date the Submissions are due. No request for a time limit extension will be granted.

(b) Each party must file one copy of its Submission with the Board in the manner set forth in Paragraph 9. Upon receipt, the Arbitration Assistant will assign a Docket No. and notify the parties to exchange their Submissions in the manner set forth in Paragraph 9. Each party will be responsible for providing copies of the Notice of Intent and both Submissions to its respective partisan member.

(c) In those disputes in which an individual appeals a grievance without the assistance of a Labor Organization, each party to the dispute will file four paper copies of its Submission with the Board. Upon receipt, the Arbitration Assistant will assign a Docket No. and notify the parties to exchange paper copies of their Submissions. The Arbitration Assistant will furnish one paper copy of each Submission to the respective Chairman and Vice Chairman of the Division.

(d) In discipline cases, the Investigation Transcript shall be furnished to the Board as an Exhibit to the Carrier's Submission.

(e) When excerpts from Awards are quoted within a Submission from First Division Awards 1 through 21867, Second Division Awards 1 through 6327, Third Division Awards 1 through 19195, and Fourth Division Awards 1 through 2677, only the Statement of Claim and Findings or Opinion must be included as an Exhibit. All other Awards that are quoted within a Submission must be included in their entirety as an Exhibit.

2. Upon prompt receipt of advice from the Arbitration Assistant that the Submission of one or both of the parties has not been received by the designated date, the Chairman and Vice Chairman of the appropriate Division may jointly authorize the Arbitration Assistant to advise the parties that the final date for receipt of their Submissions will be the tenth business day from the date of the Board's letter.

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**3. (a) In cases involving a Third Party, the Board will order the Petitioner and the Respondent to furnish copies of their Submissions to the Third Party within ten days of the Board's Order. Copies of the parties' transmittal letters to the Third Party must be sent to the Board. The Board will concurrently advise the Third Party that it may file a Third Party Response within 30 days of its receipt of the parties' Submissions. No request for a time limit extension will be granted.**

**(b) Upon receipt of the Third Party's Response, the Board will order the Third Party to furnish a copy of its Third Party Response to the Petitioner and the Respondent within ten days of the Board's Order and grant them 30 days from date of receipt to file an Answer to the Third Party Response. A copy of the Third Party's transmittal letter to the Petitioner and the Respondent must be sent to the Board. Upon receipt, the Board will order the Petitioner and the Respondent to furnish the Third Party a copy of any Answer filed within ten days of the Board's Order. No request for a time limit extension will be granted.**

**(c) The Petitioner and the Respondent will be responsible for providing copies of Third Party Responses and any Answer filed to its respective partisan member.**

**4. When the Chairman and Vice Chairman of the First Division jointly determine that a Rules case is being advanced by an Organization that does not hold the Schedule Agreement on which the claim is based, the Board will afford the Organization holding the Schedule Agreement an opportunity to comment whether, in its view, the claim before the Board "is" or "is not" supported by the Schedule Agreement. The Board will order the Petitioner and the Respondent to furnish a copy of their Submissions to the Organization holding the Schedule Agreement within ten business days from the date of the Board's letter. A copy of each party's transmittal letter to the Organization holding the Schedule Agreement must be sent to the Board. The Board will concurrently advise the Organization holding the Schedule Agreement that it may file a copy of its "Yes/No" Response within 30 calendar days of its receipt of the parties' Submissions. No request for a time limit extension will be granted.**

**5. (a) In cases involving a change in seniority status (not including discipline cases) notice will be given to all concerned of the pendency of the dispute. Thirty days will be allowed for a response to such notice. No request for a time limit extension will be granted.**

**(b) Parties to the dispute will be given 30 days to respond to the Concerned Party's Submission. No request for a time limit extension will be granted.**

**(c) The Petitioner and the Respondent will be responsible for providing copies of any Concerned Party's Submission and any Answer filed to its respective partisan member.**

**6. There will be no Letters of Objection.**

**7. Oral Hearings before the Board (without a Referee present) will be granted upon written request of any party involved in a dispute.**

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8. When cases are deadlocked by the Board, notice will be given to all parties, with the advice that if they desire a Referee Hearing before the Board (with a Referee present) they must request the same in accordance with Circular No. 1.

9. (a) Any and all Submissions, including Exhibits, Third Party Responses, Answers to Third Party Responses, Answers to Concerned Party Submissions and the like that are filed with the Board must be furnished to the Board on a properly labeled compact disc (CD) in "read-only" format. Exhibits must be facsimiles of the originals contained in graphic files which, when printed, yield an actual copy of the original. No more than one Submission may be stored on a CD and it must be accessible through a current version of Adobe Acrobat Reader.

(b) Individuals will be permitted to file their documents either in paper or compact disc (CD) format.

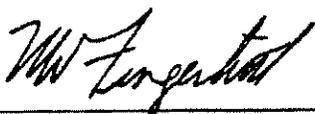
(c) In hardship cases, Carriers and/or Organizations will be permitted to file their documents in paper format instead of a compact disc (CD) provided they receive advance written authorization from the Chairman and Vice Chairman of the involved Division.

10. If and when a Referee is assigned, the Board will order the Petitioner (unless the Petitioner is an individual) and the Respondent to furnish the Referee two copies of their Submissions (one CD and one paper copy) as well as a copy of any Third Party Responses, Answers to Third Party Responses, Concerned Party Submissions and Answers to Concerned Party Submissions, within ten business days from the date of the Board's letter. A copy of each party's transmittal letter to the Referee must be sent to the Board. The Petitioner must also include a copy of its Notice of Intent, which is capable of being copied and pasted within the Award so as to obviate the need to type the Statement of Claim. In cases involving an individual, the Board will furnish the Referee the Notice of Intent, the Submissions of both parties and all other documents, if any.

11. All time limits will be governed by the postmark date or its equivalent in the absence of a postmark.

12. The same format for Awards will be maintained on all Divisions. The effective date of Orders will be on or before 30 days following the postmark date the Award is transmitted to the parties.

Approved this 23<sup>rd</sup> day of June 2003



Martin W. Fingerhut, Chairman  
National Railroad Adjustment Board



William R. Miller, Vice Chairman  
National Railroad Adjustment Board



(202) 692-5000

NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

MEMORANDUM

TO: Members of the Section III Committee

FROM: Magdalena G. Jacobsen, Chairwoman  
Roland Watkins, Director, Arbitration Services *RW*

SUBJECT: Minutes of Section III Meeting and Agenda for Section III Subcommittee

DATE: June 18, 1999

Attached for your information is a copy of the Minutes from the Section III Committee meeting which was held on June 3<sup>rd</sup> in New Orleans, LA. The next Section III Committee meeting is scheduled for Wednesday, September 29, 1999, at the Board's offices in Washington, D.C., commencing at 9:30 a.m.

The Agenda for the Section III Subcommittee meeting is also attached. The next Subcommittee meeting is scheduled to be held at the Board's offices on Friday, July 23, 1999, at 10:00 a.m.

-Attachment-

*[Faint stamp]*  
JUN 21 1999

Exhibit B



(202) 692-5000

NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

MINUTES OF THE JUNE 3<sup>RD</sup>  
MEETING OF THE SECTION III COMMITTEE  
NEW ORLEANS, LA.

Attendees

NMB: Ms. Maggie Jacobsen  
Mr. Ernest W. DuBester  
Mr. Steve Crable  
Mr. Roland Watkins

Section III Committee:	Mr. Bob Allen	NRLC
	Mr. Daniel S. Anderson, Jr.	NCFO/SEIU
	Mr. Byron Boyd	UTU
	Mr. Don Buchanan	SMWIA
	Mr. Bill Clifford	ATDD-BLE
	Mr. Stu Collins	UTU
	Mr. John Czuczman	TWU
	Mr. Larry Davis	UTU
	Mr. Edward Dubroski	BLE
	Mr. Martin Fingerhut	NRLC
	Mr. Mac Fleming	BMWE
	Mr. Ken Gradia	NRLC
	Mr. J.R. Hurtubise	IBEW (Alternate)
	Mr. Dave Lee	NRLC
	Mr. Michael C. Lesnick	NRLC
	Ms. Patricia Madden	CSXT
	Mr. John Marchant	UPRR
	Mr. Gary Maslanka	TWU
	Mr. W.R. Miller	TCU
	Mr. W.B. Murphy	NJ Transit Rail
	Mr. Joel Myron	BMWE
	Mr. Charlie McGraw	BRS
	Mr. Joel Parker	TCU
	Mr. Ken Peifer	CSXT
	Mr. Dan Pickett	BRS
	Mr. Steven Powers	BMWE
	Mr. Rick Radek	BLE
	Mr. Bob Spenski	NS
	Mr. Joe Stinger	IBB
	Mr. Paul Varga	NRLC
	Mr. David Volz	ATDD-BLE

The Section 3 Committee, Section 3 Subcommittee and a number of representatives who are involved in processing of grievances discussed several issues and heard reports on a variety of matters.

First order of business was a report on the Fiscal Year 2000 budget process by Chairwoman Jacobsen. The NMB met with the staff of the House Appropriations Committee early in the process and informed them of the mission and operations of the NMB. The initial contact with staff plus the effective use of charts showing the vast entities under the jurisdiction of the NMB in the presentation before the Appropriations Subcommittee resulted in a very favorable hearing for the agency.

The supplemental appropriations request by unions and carriers is at the Appropriations Committee. A question was raised at the meeting as to whether there should be any involvement in the Congressional budget process by the members of the Section 3 Committee, and if so, when should the involvement occur and what form should it take. It was decided that for now the members of the Committee should touch base with the Congressional staff by phone and around the time when the mark-up will occur, probably late July, a joint face to face meeting with the proper House individuals. The NAAR is reluctant to lobby as it might be seen as self-serving.

The Committee discussed an increase in the compensation to neutrals. It was decided that the Committee would seek an increase if the payment procedure is changed and the arbitrator is paid upon receipt of the award. Input from the arbitrators is needed. Steve Crable and Roland Watkins will coordinate this matter with the Subcommittee and the arbitrators.

Roland Watkins reported on the audit process which began last November and reported upon data collected. There is an agreement that an audit of all cases on record with the NMB will take place each November. The schedule and forms for future audits were finalized.

Mr. Watkins then reported on the Norfolk Southern/BLE pilot public law board. The board has been established and a neutral has been selected. A new approach will be used for neutral compensation in which the neutral will be paid per case.

The Committee then heard a report on the Union Pacific training and grievance mediation project. Jeffrey MacDonald, Assistant Chief of Staff, met with members of the UP's labor relations staff and will shortly be finalizing the program to be used on their property. The Union Pacific expects to have three or four grievance mediation pilot programs with about three other labor organizations in place very soon.

The Committee heard a report on the status of the Conrail cases inherited by Norfolk Southern and CSX. The carriers are presently evaluating the grievances and will be working with labor to determine the best way to deal with this substantial backlog. The Board indicated an interest in receiving status reports on this subject.

Several matters involving the National Railroad Adjustment Board were discussed. There continues to be a difference of opinion about causes of the backlog at the NRAB with the emphasis from labor on the lack of sufficiency of employer members and appropriate funding at

the NRAB and the carriers' emphasis on lack of sufficient screening which allows for the accumulation of cases which are of questionable merit or redundant. The Board indicated that all carrier slots are filled on paper and it has no authority to fill "vacancies" under the circumstances. After much discussion, the carriers agreed to consider a closer look and possibly a supplemental board. Mary Fingerhut will bring some ideas on how to structure such an approach on the Third Division to the Subcommittee meeting in July.

The Joint Committee's recommendation that any case deadlocked at the NRAB be assigned to a neutral after six months was discussed. Once again, this issue revolves around the backlog issue and affects all organizations. There is no simple solution to the problem. Further efforts will be made to find answers at the July meeting. The Board indicated that it does not have the authority to require the NRAB to adopt such a procedure. The Board again offered assistance through grievance mediation.

An issue which was raised by the unions at a TTD meeting with Steve Crable concerning the 12 month rule was discussed by the Committee. Evidently, both parties use this mechanism which allows one to remove cases which have been filed at the adjustment board after one year and schedule them for a public law board. There was no consensus that this is an issue, and if it is an issue what can be done. The Board suggested that the Subcommittee investigate the practice, history and the rationale for the removal of these cases to determine whether there is any viable approach to clearly identifying when there is a problem and how to solve that problem. The Board stated that it does not have authority under the RLA to eliminate this practice.

Roland Watkins reported on efforts underway to deal with the concern expressed that there might not be enough space for the NRAB hearings. Roland will confer with Marty Fingerhut and Bill Miller, the Chairman and Vice-Chairman of the NRAB, respectively, concerning the matter.

The Committee next considered New York Dock arbitration panels. The Committee discussed a method of giving the NMB feedback concerning arbitrators on these matters as well as cases in general. The suggestion was made that the Board survey the neutrals to ascertain their continued interest in rail work and level of activity in rail cases over the past few years, and perhaps other inquiries where the Committee believes information is needed. There was also interest in obtaining published awards of neutrals unfamiliar to the parties prior to selection. Roland will look into the Academy guidelines on such a disclosure and report back to the Subcommittee. The Subcommittee will review these matters in July.

The next meeting of the Section 3 **Subcommittee** is scheduled for Friday, July 23, 1999, at 10:00 a.m., at the NMB's offices in Washington, D.C. The next Section 3 Committee is scheduled for Wednesday, September 29, 1999, at 9:30 a.m., in Washington, D.C.



NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

(202) 692-5000

AGENDA FOR THE SECTION III SUBCOMMITTEE MEETING  
WASHINGTON, D.C.  
July 23, 1999

- I. NRAB - Marty Fingerhut - approaches for reducing backlog - Third Division... includes possibility of a supplemental board
- II. Discuss survey for neutrals to update availability, interest, discuss obtaining samples of awards from neutrals
- III. Discuss payment system for compensation of neutrals when decisions issue
- IV. Old Business
  - A. Joint Committee recommendation on assignment of neutral after six (6) months. Any new ideas?
  - B. Discuss Board suggestion for analysis of cases pulled down after 12 months (Study history, practice, rationale)

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**844 N. Rush Street**

**Room 944**

**Chicago, Illinois 60611-2092**

**(312) 751-4688**

**June 24, 2004**

**Mr. Roland Watkins  
Director of Arbitration Services  
National Mediation Board  
1301 K Street, NW  
Room 250 East Tower  
Washington, D.C. 20572-0002**

**Dear Mr. Watkins:**

**The Members of the Third Division, National Railroad Adjustment Board, in accordance with Section 153, First, Paragraph (l) of the Railway Labor Act, have selected Mr. Gerald E. Wallin, P. O. Box 12608, Reno, Nevada, 89510-2608 to sit with the Division as a Member thereof and render Awards on the 38 deadlocked cases listed below:**

<b>MW-36085</b>	<b>MW-36089</b>	<b>MW-36095</b>	<b>MW-36112</b>	<b>SG-36887</b>	<b>SG-36890</b>
<b>SG-36900</b>	<b>SG-36901</b>	<b>SG-36902</b>	<b>SG-36903</b>	<b>SG-36908</b>	<b>MW-36931</b>
<b>SG-36932</b>	<b>SG-36944</b>	<b>SG-36945</b>	<b>SG-36946</b>	<b>SG-36964</b>	<b>MW-37183</b>
<b>CL-37341</b>	<b>TD-37439</b>	<b>CL-37445</b>	<b>TD-37603</b>	<b>CL-37604</b>	<b>TD-37617</b>
<b>TD-37629</b>	<b>TD-37649</b>	<b>CL-37680</b>	<b>CL-37741</b>	<b>CL-37742</b>	<b>CL-37803</b>
<b>CL-37804</b>	<b>CL-37847</b>	<b>MW-37881</b>	<b>CL-37913</b>	<b>MW-37947</b>	<b>MW-37952</b>
<b>MW-38039</b>	<b>MW-38116</b>				

**Mr. Wallin has been contacted, has agreed to serve and contemplates handling this assignment in Chicago, Illinois, commencing on Tuesday, August 24, 2004.**

**It is, therefore, requested that the National Mediation Board issue a "Certificate of Selection" officially designating Mr. Wallin as Referee to sit with the Third Division as a Member thereof and render Awards on the 38 dockets listed above.**

**Respectfully yours,**

**William R. Miller**

**William R. Miller, Chairman**

**Michael C. Lesnik**

**Michael C. Lesnik, Vice Chairman**

**Copy: Referee Wallin**

**Exhibit C**



NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

**NRAB THIRD DIVISION  
APPOINTMENT**

(202) 692-5000

July 21, 2004

Mr. Gerald E. Wallin  
P.O. Box 12608  
Reno, NV 89510-2608

Dear Mr. Wallin:

This will constitute your official certificate as referee on the Third Division of the National Railroad Adjustment Board (NRAB).

This certificate is issued for the purpose of sitting with the Third Division as a member to make awards on six (6) cases listed in the Division letter dated June 24, 2004, copy attached.

The certificate is issued on the basis of:

Selection by the Division

Appointment by the National Mediation Board

The Division will arrange for time and place of hearing. All compensable service must be authorized in writing, in advance, by completing NMB Form No. 6, Official Travel/Referee Compensation Authorization Form, and submitting it to the Arbitration Services, NMB, by the first day of the month preceding the month covered by the request when compensable service and travel is to be performed. Failure to obtain prior approval will result in non-reimbursement. All awards must be rendered within six (6) months of the date of hearing. If you have cases heard and not decided within six (6) months, you will not be able to hear additional cases.

THE PARTIES PROVIDING THE INITIAL SUBMISSIONS ARE RESPONSIBLE FOR FURNISHING A COPY OF THE SUBMISSIONS AND EXHIBITS TO THE REFEREE FOR CASES LISTED. THE CARRIER AND UNION OFFICIALS ARE LISTED BELOW.

BY DIRECTION OF THE NATIONAL MEDIATION BOARD.

Roland Watkins, Director-Arbitration Services

I, \_\_\_\_\_, hereby accept this appointment subject to the NMB's administrative requirements applicable thereto. All cases will be rendered within six (6) months of the date of hearing.

Accepted: \_\_\_\_\_  
Signature Date

Attachment

cc: Chairman, Third Division, NRAB  
V/Chairman, Third Division, NRAB  
Arbitration Assistant, NRAB

Mr. James C. Amidon  
Ms. Danielle Farley  
Mr. W. E. Naro  
Mr. Robert A. Scardelletti  
Mr. John W. Reynolds  
Mr. Freddie N. Simpson

Exhibit D