

JAN04'10 PM 3:44 NMB

December 5, 2009

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW
Suite 250 East
Washington, DC 20005

Reference Docket Number C-6964

Dear NMB Members,

I am in full support of this proposed change, and ask the Board to please take proper action to insure fair collective bargaining representation.

The current railroad and airline voting procedures are unfair and antiquated. No other organization, not even the President of America, is voted into office using these guidelines.

My position is that if you do not vote then you are not interested in the outcome at all. The outcome should be determine like every other election, by a majority of the people who voted. The winner of an election should always be the side or person that gets the most votes not the side that had the greatest number of people NOT voting.

Please give this matter your careful thought and please make the railroad and airline employes just like everyone else where the majority of votes cast determine the outcome.

Sincerely,



Thomas G. McCallie
Locomotive Engineer – Norfolk Southern Railway

JAN 04 10 PM 8:59 AM

National Mediation Board
Suite 250 East
1301 K Street, N.W.
Washington, D.C.

The Honorable Elizabeth Dougherty – Chairman
The Honorable Harry Hoglander – Member
The Honorable Linda Puchala – Member

Re: Proposed rule change for Railway Labor Act elections

12.30.09

Dear Chairman Dougherty; Members Hoglander and Puchala:

My name is Tom Mannion, and I am a 23-year employee of United Airlines in San Francisco.

I am writing today to ask you to support the proposed rule change to Railway Labor Act elections that would base RLA elections on a majority of those workers voting, versus the current system requiring a majority of the work unit to cast ballots. The current system counts workers who choose to not vote as “no” votes, which is fundamentally undemocratic.

Thank you for taking the time to consider my views.

Sincerely,



Tom Mannion
232 Crescent Court
Brisbane, CA 94005

JAN04'10 PM 3:37 NMB

BRADLEY A. LEHTO

2001 Wheeler Street North ~ Roseville, Minnesota 55113
Home Telephone 651-644-1092

December 28, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington, DC 20005-7011

**Re: Proposed NMB Rule Change for Union Representation Elections – Docket
No. C-6964**

Dear Ms. Daugherty, Mr. Hoaglander & Ms. Puchala:

I am registering my strong support for a change in the National Mediation Board's (NMB) policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries. This is the case in all other industries. The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation.

Under current NMB rule, if less than fifty percent of the workforce participates in the election, non-voters are counted as "NO" votes and union representation is lost regardless of the number of employees who actually voted in favor of the union. Airline and railroad management are rewarded for suppressing employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system. America's general elections provide that a majority of votes cast determines the outcome – regardless of the number of voters that participated in the election.

The NMB's policy – first applied 75 years ago (1934) – may have been born of concerns concerning communications with employees in distant locations. This is no longer valid in the modern era. With today's multiple means of electronic communications and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation. The Board's policy should be updated to become more democratic in meeting the need and realities of the 21st Century.

Again, I support the "Proposed NMB Rule Change for Union Representation Elections – Docket No. C-6964." Thank you for your time and consideration.

Respectfully,



Bradley A. Lehto

Association of Passenger Service Agents
CWA Local 6001
1001 W. Eules Blvd. Suite 204
Eules, TX 76040
817-868-9933 cwa4aa@sbcglobal.net

December 29, 2009

The undersigned are officers of the Association of Passenger Service Agents/CWA Local 6001, an organizing local for the agents of American Airlines. We are, or were, employees of the carrier; and we would like to add our voices, and the voices of the agents on the attached petitions, to those who have already spoken on the proposed changes in voting procedures to the RLA under docket number C-6964.

Under the RLA, carriers are supposed to remain neutral during a campaign for representation. However, they do not do so. You heard from Delta Flight Attendant Marianne Bicksler about the "aggressive union avoidance tactics" instituted at Delta while she was an in-flight supervisor.

Ms. Bicksler described a multi-track strategy:

- A. suppress the vote of active employees
- B. pad the list to create more NO votes
- C. make the list of eligible voters inaccessible to stifle communication among them

This mirrors American Airlines tactics during our 1998 campaign.

Since that time, the agent ranks at American Airlines have shrunk by about 50% due to retirements, leaves, station closings, and station conversions to American Eagle. Some of these lost agents have recall rights for 10 years so remain eligible to vote. Having gone on to new lives and perhaps new locations, they are unlikely to return a ballot, if one even finds them; so they are automatic NO votes under current procedures, possibly running into the thousands.

In fact, under current procedures, even the deceased can vote NO, as happened in a recent Delta election. However, under the proposed procedural changes this contentious issue becomes moot. Value would not, and indeed should not, be assigned to an abstention.

We urge you to let both YES and NO ballots be counted and the majority of those who choose to participate rule. After 75 years, this will finally level the playing field and leave us with a fair election process in line with democratic principles.

Richard Shaughnessy



President

Sandy Josephson



Secretary

Michael P. Lo Vuolo



Treasurer

December 22, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Pachula, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington DC 20005-7011

Dear NMB Members:

I strongly support the National Mediation Board's proposed change to the rules for voting in representative elections. As an airline captain for the largest regional airline in the country, I have experienced first hand how biased the current representative election voting procedures are.

In November, 2007, the pilots at SkyWest airlines had the opportunity to participate in a secret ballot election to determine if they would be represented by the Airline Pilots Association as their collective bargaining agent. Prior to this election, the SkyWest pilots were unrepresented. Not only are we the largest regional airline, but the SkyWest pilots remain the largest unrepresented airline pilot group in the United States.

The SkyWest pilots lost the election by only receiving 911 votes for union representation out of a total of 2,611 pilots. The 1,700 pilots that did not vote, by default, supported the company's position of remaining unrepresented. While I'm sure some of these pilots did not want union representation, many apathetic pilots either did not care or did not wish to be involved in the process.

The demographic of SkyWest pilots in 2007 was a unique mix and warrants discussion. During 2007, SkyWest was rapidly expanding and hiring a large number of new pilots in a short period of time. For most of these pilots it was the first airline they had ever worked for and they were just starting their professional aviation career. Many were fresh out of college or aviation trade school and had never been exposed to the airline business, let alone an industry that is highly unionized. In November 2007, almost 40% of SkyWest pilots had been with the company less than two years.

In addition to the sheer number of new pilots, the pilots themselves were dispersed in 17 different domiciles across the country, from California to Chicago. Many of these new employees were forced to either move to a new city or take on a temporary residence in their domicile. While seemingly unrelated to a union drive, this further complicated communication with new pilots by the fact that many did not hold permanent residence, have a place to receive mail, or a stable phone number to be contacted.

Of historical note is the fact that this representation election was the largest union drive for a pilot group in at least 10 years, according to NMB records. A union drive of this magnitude has not happened more than a handful of times in NMB history, and never when modern technology and communication tools have been so prevalent.

With all of these factors in mind, the SkyWest pilots representation election in 2007 was a perfect storm of issues leading to involuntary support to SkyWest's effort to remain a non-union company. Specifically, I have identified four major reasons why SkyWest pilots did not vote in the election. With the current NMB rules, the percentages of pilots that fell into each of these categories will never be known.

1. Pilots who did not want representation

2. Fear of reprisal or intimidation from management, directed at probationary pilots
3. Lack of knowledge or education with respect to union representation
4. True indifference or apathy. Pilots that just did not care and were willing to go along with a majority decision.

Taking into account the number of pilots that fell into categories two through four above, I feel that the current NMB voting rules directly impacted the SkyWest pilots' abilities to conduct a fair and impartial secret ballot election.

The proposed rule change will effectively eliminate the effect of disinterested, fearful, and uninformed employees on the union representation process. No one can argue that an employee that simply does not care about the outcome of an election should have a direct effect. In addition, an employee that does not have enough information to make an informed decision and decides not to participate in the election is deferring the decision to others that are more informed and that choose to make a decision for or against union representation. This rule change would give employees a way to abstain from the voting process, which they should be entitled to do.

Opponents of the rule change cite that this will cause instability with labor relations in the airline industry. In my opinion, I think the contrary. If individuals know that their yes or no votes will truly be counted, I believe more people will be involved in the representation election process and work to become more informed. This rule change will eliminate the true "apathetic" voters from the entire process and have the individuals that care enough to make informed decisions the only valid participants. This should add credibility to the outcome of representation elections.

In the NPRM, the board cites the fact that "company sponsored unions" have been abolished since the 1940s. While most of them have been abolished, I argue that my company is a modern example of company sponsored unions at work. SkyWest has established several "employee councils" for each major employee group. These councils are not recognized under the RLA as a collective bargaining unit. These groups operate much like a traditional collective bargaining unit does at other airlines. They hold elections to elect "representatives" of the employees, negotiate work rules with the company, and even produce manuals signed by the council and the company just like a collective bargaining agreement. The company funds, organizes, and to a certain extent, influences the actions of these councils.

I believe this rule change will serve to eliminate this modern round of company sponsored unions once and for all. The confusion created within a large unrepresented company by having these company sponsored committees is, by itself, a deterrent for employees to be involved with the union representation process.

For these reasons, I support the Board's intent to move forward with the proposed rule change as submitted in the NPRM.

Sincerely,

Captain David Boehm
SkyWest Airlines

685 Aberdeen Drive
Placentia CA 92870



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December 29, 2009

The Honorable Elizabeth Dougherty
Chairman, National Mediation Board
1301 K Street, NW, Ste. 250
Washington, DC 20005

The Honorable Harry Hoglander
Member, National Mediation Board
1301 K Street, NW, Ste. 250
Washington, DC 20005

The Honorable Linda Puchala
Member, National Mediation Board
1301 K Street, NW, Ste. 250
Washington, DC 20005

Re: Comment on Proposed Rule Revising NMB Procedures for Determining Monopoly Bargaining Representatives, Docket No. C-6964

Dear Chairman Dougherty and Members Hoglander and Puchala:

INTRODUCTION: The National Right to Work Legal Defense Foundation, Inc., opposes the hastily advanced and fatally flawed rule change, published at 74 Federal Register 56,750 (Nov. 3, 2009), that a two-member majority of the National Mediation Board has proposed at the behest of the AFL-CIO Transportation Trades Division to change the way that workers under the Railway Labor Act choose or reject union monopoly representation.

If the NMB majority's politically-motivated proposal becomes final, the NMB will have discarded 75-year-old election procedures in order to maximize the unionization of workers in the railway and airline industries, without regard to the limits of its own statutory power or the views of a true majority of employees.

The Foundation is a nonprofit, charitable organization that provides free legal assistance to individual employees who, as a consequence of compulsory unionism, suffer violations of their Right to Work; freedoms of association, speech, and religion; right to due process of law; and other fundamental liberties and rights guaranteed by the Constitution and laws of the United States and

of the states. Since its founding in 1968, the Foundation has provided free legal assistance in all of the United States Supreme Court cases involving employees' right to refrain from joining or supporting a labor organization as a condition of employment, some of which arose under the RLA. *E.g.*, *Davenport v. Washington Educ. Ass'n*, 551 U.S. 177 (2007); *Air Line Pilots Ass'n v. Miller*, 523 U.S. 866 (1998) (RLA); *Lehnert v. Ferris Faculty Ass'n*, 500 U.S. 507 (1991); *Communications Workers v. Beck*, 487 U.S. 735 (1988); *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986); *Ellis v. Railway Clerks*, 466 U.S. 435 (1984) (RLA); *Abood v. Detroit Bd. of Educ.*, 431 U.S. 209 (1977). Many cases brought by employees through the Foundation's litigation program have directly concerned the RLA or the NMB's procedures, including *Russell v. NMB*, 714 F.2d 1332 (5th Cir. 1983); *Masiello v. US Airways*, 113 F. Supp. 2d 870 (W.D.N.C. 2000); *Dean v. TWA*, 924 F.2d 805 (9th Cir. 1991); and *Klemens v. Air Line Pilots Ass'n*, 736 F.2d 491 (9th Cir. 1984).

The Foundation's attorneys regularly represent individual employees in litigation challenging the abuses of compulsory unionism arrangements and advise employees about their rights in proceedings involving the imposition of union monopoly bargaining in their workplaces. Therefore, the Foundation is uniquely qualified to comment on the AFL-CIO's proposal for an extraordinary change in the NMB's long-standing election procedures.

REASONS THE PROPOSED RULE SHOULD BE REJECTED: No employee should be subjected to the "representation" of union officials whom they have not *individually* chosen to represent themselves. Although they fall far short of this basic principle of individual liberty, the NMB's current election rules at least ensure that unions receive the extraordinary power of "exclusive representation" only when a true majority of all employees in a given craft or class actually desire such representation. Indeed, Congress mandated certification of only true majority representatives when it decreed that "[t]he majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this chapter." 45 U.S.C. § 152, Fourth (emphasis added).

Requiring a showing of true majority support is appropriate given the unbridled and often abused privileges inherent in the exclusive representation regime imposed by, and enforced under, the RLA. These special union privileges include the powers to: a) dictate the terms and conditions of employment for even unwilling nonmembers, denying them freedom of contract; and, b) force an employee's discharge for nonpayment of compulsory union dues, even in the twenty-two Right to Work states.

Because the RLA grants such unbridled power to unions, it is particularly inappropriate for "exclusive representation" to be imposed in the railway and airline industries by a mere majority of employees voting in an election. This is so for four reasons.

First, the Board lacks the statutory authority to make the proposed change. Congress mandated certification of only true majority representatives when it decreed that “[t]he majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this chapter.” 45 U.S.C. § 152, Fourth (emphasis added), not the majority of employees voting in a representation election. As Chairman Dougherty correctly noted in her dissent from the proposed change, “[s]erious questions exist about the Board’s statutory authority to make the rule change and its ability to articulate a rationale for change that complies with the Administrative Procedures Act.” 74 Fed. Reg. 56,752 (Nov. 3, 2009).

Although the federal courts have recognized NMB authority to control the format of the ballots in a representation election, they have not clearly interpreted the RLA as allowing for less than true majority certifications. See *Brotherhood of Ry. Clerks v. Ass’n for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965); *Virginian Ry. Co. v. Sys. Fed’n No. 40*, 300 U.S. 515 (1937). At least one prior NMB considering various ballot change proposals has acknowledged this lack of statutory authority. 43 Fed. Reg. 22,529 (June 13, 1978). Given the NMB’s 75-year history of requiring true majority elections, only Congress can change the law at this very late date. Cf., e.g., *Flood v. Kuhn*, 407 U.S. 258 (1972) (only Congress can change a longstanding interpretation of the anti-trust law in which it has readily acquiesced for over fifty years).

Second, the Board applies the term “craft or class” under the RLA on a system-wide basis. E.g., *Delta Air Lines Global Servs.*, 28 N.M.B. 456 (2001); *American Eagle Airlines*, 28 N.M.B. 371 (2001). This results in the creation of huge, nationwide bargaining units in which employees in the same craft or class are scattered around the country at different locations, on different shifts, and with little or no ability to communicate with each other. The existence of such huge, nationwide units makes it extremely difficult, if not impossible, for individual employees opposed to unionization to organize against a union’s well-funded and professionally orchestrated campaign to win the monopoly bargaining privilege.

This inability of workers to organize effectively against unionization is compounded by the current lack of any simple and inexpensive administrative mechanism under the RLA for them to challenge union officials’ often abusive organizing techniques. In contrast, the National Labor Relations Act does at least provide some minimal such protections. See 29 U.S.C. §§ 158(b), 160 (defining, and providing an administrative procedure for preventing, union unfair labor practices); 29 U.S.C. §§ 159(c)(1)(A)(ii), 159(e) (explicitly requiring elections to decertify monopoly bargaining agents and to rescind compulsory unionism provisions of collective bargaining agreements); *Dana Corp.*, 351 N.L.R.B. 434 (2007) (employees faced with an employer’s voluntary recognition of a

monopoly bargaining agent through an abusive “card check” can petition the NLRB for a decertification election).¹

The proposed rule change would further stack the deck against railway and airline employees opposed to unionization.

Third, the burden of demonstrating majority status would be unfairly and improperly reduced significantly for the union hierarchy seeking the monopoly representation privilege, while new burdens would be placed on the targeted employees, who may wish to remain union free, like the Delta Airlines flight attendants who testified against the rules change at the NMB’s hearing on December 7, 2008. Under the AFL-CIO’s proposed radical change, employees who are not union activists, who have expressed absolutely no interest in unionization, and whose jobs frequently require traveling and/or work at odd hours, would be forced to take *affirmative action* to vote against a union. Otherwise, their inaction would make it easier for union monopoly bargaining to be imposed upon them.

This problem is highlighted by the unions’ push for internet voting through hyperlinks controlled by the unions themselves. Under a recent proposal pressed by the Association of Flight Attendants (AFA/CWA), unions would be allowed to use technology to track which employees have accessed the NMB’s voting website. That information would make it easier for unions to threaten or coerce individuals into voting. On December 1, 2009, the NMB agreed to re-establish a voting “hyperlink” on its own website but rejected the AFA/CWA’s request to set up a similar hyperlink on its website. 37 N.M.B No. 11 (Dec. 1, 2009). However, the mere fact of AFA/CWA’s proposal shows the lengths that unions will go to destroy employees’ right to anonymity and silence on the issue of unionization. This concern is not imaginary or overstated, as union officials have long used such coercive tactics in representational proceedings. *See, e.g., Randell Warehouse*, 347 N.L.R.B. 591 (2006) (union surveillance and photographing of employees taints a representation election).

Fourth, it is extremely difficult for employees to remove a union once it is certified as their monopoly bargaining agent. This is particularly true under the RLA, because the NMB has refused to establish a formal process for decertification, despite the United States Court of Appeals for the Fifth Circuit’s holding in *Russell v. NMB* in 1983 that the RLA requires the Board to process an application for an election to terminate a union’s monopoly bargaining privilege. 714 F.2d at 1346. The Board betrays the RLA’s intent and the rights of employees to freely choose or reject a union by considering only this one-sided, AFL-CIO proposal, while ignoring a federal appellate court’s admonition and the many calls to establish formal decertification procedures.

¹ However, the only fully adequate protections against union coercion of employees who wish to refrain from union association are Right to Work laws and prohibitions of monopoly bargaining.

Accordingly, the Board should reconsider and reject the AFL-CIO's attempt to game the system to "grease the skids" for union organizers. The NMB has previously, indeed, as recently as 2008, considered and rejected the AFL-CIO's proposed change, and should do so again. Changes in the partisan political climate in Washington, DC, do not warrant radical changes in the NMB's time-tested election procedures, which are more consistent with the RLA's "statutory mandate to allow employees their right to full and free expression of their choice regarding collective representation, including the right to reject collective representation." *Id.* at 1341.

In fairness, if the Board is to make any change in its "exclusive representation" certification rules, it should implement the RLA's mandate as explicated in *Russell* and establish procedures for the decertification of unions. The Board's previous failure to do so should be remedied, because the RLA's stated policy of freedom of association includes, of necessity, the freedom of non-representation and the freedom to decertify an unwanted union. *See* 45 U.S.C. §§ 151a, 152, Fourth; *Russell*, 714 F.2d at 1343-46.

Finally, the Foundation again strongly urges the Board to reject the proposed amendment of its rules as an unwarranted diminution of the rights and choices of individual railway and airline employees.

Thank you for your consideration of these views.

Respectfully submitted,



Raymond J. LaJeunesse, Jr.

BEFORE THE
NATIONAL MEDIATION BOARD

Representation Election Procedure

Docket No. C-6964
RIN 3140-ZA00

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS

These comments on behalf of the American Federation of Labor and Congress of Industrial Organizations are submitted in response to the National Mediation Board's notice of proposed rulemaking with regard to the NMB's representation election procedure. 74 Fed. Reg. 56750 (Nov. 3, 2009). The NMB has proposed amending the Board's representation election procedure "to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative." *Id.* at 56750. As part of this change in the representation election procedure, the Board proposes to change the representation election ballot to "provide employees with an opportunity to vote 'no' or against union representation." *Id.* at 56752. The AFL-CIO supports the proposal to change the NMB representation election procedure and ballot for the following reasons and for those stated in the comments filed by the AFL-CIO Transportation Trades Department and various TTD affiliates.

1. The NMB's current representation election procedure allows employees to select a collective bargaining representative by voting for one of the individuals

or organizations appearing on the ballot or writing-in the name of another individual or organization. *See* 29 CFR §§ 1206.2 & 1206.5 (describing the showing of interest required for an individual or organization to appear on the ballot). If a majority of eligible voters cast valid ballots, the organization or individual receiving a majority of the votes is certified as the representative of the voting craft or class. NMB Representation Manual §§ 13.304-1 & 14.305-2. If no individual or organization receives a majority of the votes cast in a “valid” election – i.e., an election in which a majority of the potential voters cast valid ballots – a run-off election is held between the two individuals or organizations receiving the most votes, without any opportunity to write-in a third choice. 29 CFR § 1206.1.

“Under the existing election procedure, there is no opportunity for an employee to vote ‘no’ or cast a ballot against representation.” 74 Fed. Reg. at 56752. Rather than providing a place on the ballot for voting against representation, “[a]bstaining from voting, for whatever reason, is counted by the Board as a vote against representation.” *Ibid.* Thus, “the failure or refusal of an eligible voter to participate in an NMB-conducted election is the functional equivalent of a ‘no-union’ vote.” *Ibid.*

The NMB’s current representation election procedure was designed to resolve representation disputes in which two or more organizations are vying to be the collective bargaining representative of a craft or class. But the current

procedure was *not* designed to resolve the increasing common representation dispute in which an organization seeks to become the collective bargaining representative of a currently unrepresented craft or class. As a result, the current procedure presents the question of whether or not the employees are to be represented at all in a convoluted manner that seems likely to confuse the potential voters and to misrepresent their true desires in that regard.

By counting all abstentions as votes against representation, the current procedure is virtually certain to exaggerate the number of employees who oppose having a representative. In any election, a certain number of potential voters will deliberately choose not to cast a ballot, because, for one reason or another, they do not feel capable of making an informed choice among the alternatives presented. Other potential voters will neglect to vote for any of a number of reasons having nothing to do with the choice they would have made if they had voted. Counting the first group as voting against representation defeats the wish of those potential voters to refrain from being counted on one side or the other in the dispute over representation. And counting the second group as voting against representation attributes a choice to those potential voters that they have not made for themselves.

The proposed change in the representation election procedure would correct this serious defect in the current procedure. That change would “specify that in secret ballot elections conducted by the Board, the craft or class representative will

be determined by a majority of valid ballots casts” in an election in which the ballot “provide[s] employees with an opportunity to vote ‘no’ or against union representation.” 74 Fed. Reg. at 56752. There can be little doubt that this proposed procedure would provide the fairest and soundest method for presenting the choice of a representative or the choice of no representative to the group of potential voters.

2. The principal argument against the proposed change is *not* that it will result in a less fair or less sound method of determining the majority choice with regard to representation but rather that the “current election rules have a long history and are supported by important policy reasons.” 74 Fed. Reg. at 56752 (Chairman Dougherty dissenting). While certain aspects of the current election rules do have a long history, those long-standing aspects were adopted in response to an industrial reality that no longer pertains.

The NMB’s original representation election ballot provided only a *choice among* representatives without any mention of there being a choice of whether to be represented at all. The original ballot’s exclusive focus on choosing among potential representatives is explained by the circumstances that faced the Board when it first began conducting representation elections and for many years thereafter. At that time, virtually the entire rail workforce was represented either by independent trade unions or employer-formed “system associations.” Lecht,

Experience Under Railway Labor Legislation 75 (1955). Thus, the vast majority of representation elections conducted by the NMB during its early years involved disputes between independent national trade unions and system associations. *Id.* at 155. In that context, it made sense for the representation election ballot to focus on the employees' choice of a representative rather than on the question – not seriously in dispute – of whether to have a representative at all.

It is very much to the point here that the National Labor Relations Board, faced with a different industrial reality, established a representation election procedure that was quite different from that originally adopted by the NMB but very similar to that now proposed by the Board. By contrast with the highly organized state of rail labor relations, the organized portion of the general workforce had shrunk to levels not seen since the First World War. Bernstein, *The New Deal Collective Bargaining Policy 2* (1950). Thus, the principal question presented in most NLRB-run representation elections was not who would be the collective bargaining representative but whether or not there would be a collective bargaining representative at all. In this context, the NLRB concluded that “a free expression of the desires of the majority of the employees in the unit found appropriate . . . demands that the ballot provide for a space in which employees may indicate that they do not desire to be represented by [any] of the named organizations.” *Interlake Iron Corp.*, 4 NLRB 55, 62 (1937). In choosing a form

of ballot that included a choice of “no union,” the NLRB expressly rejected “forcing employees who disapprove of the nominees to adopt the rather ambiguous method of expression involved in casting a blank ballot, when their choice can be clearly indicated by providing a space therefor.” *Id.* at 61-62.

For its first thirty years, the NMB paid most attention to how employees should choose which representative to have and little, if any, attention to how employees might effectively vote on whether to have a representative at all. Indeed, the NMB explained that its “ballot was drafted to permit the employees to secure some form of representation.” *Administration of the Railway Labor Act by the National Mediation Board, 1934-1957* 19 (1958). When the original ballot was first challenged in *Brotherhood of Railway & S.S. Clerks v. Assoc. for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965), on the ground that it did not provide employees with a choice of voting against union representation, the Solicitor General – who at the time was Archibald Cox, an expert on the NLRA – persuaded the NMB to modify the ballot by adding an explanation that “[i]f less than a majority of the employees cast valid ballots, no representative will be certified.” Brief for the NMB 14. *See id.* at 30 (“The Board, upon considering the representation of the Solicitor General that in his opinion the old ballot was unfair, promulgated a new form of ballot which, at the very moment of voting, plainly advises each and every employee how to express a preference for no collective

bargaining.”).

The representation election context faced by the NMB today is more like that faced by the NLRB than that initially faced by the NMB. In the vast majority of representation elections now conducted by the NMB, the principal question is whether or not the employees will have a collective bargaining representative at all. *See NMB Annual Performance and Accountability Report BY 2009* Appendix B, pp. 93-96. It is, thus, time for the NMB to complete the revision of its election procedures begun during the *ABNE* litigation and adopt a ballot and voting procedure similar to that long used by the NLRB for resolving disputes over whether employees wish to be represented in collective bargaining.

3. The only other argument against adopting the proposed changes to the NMB representation election procedure is that the Board may lack “authority to certify a representative where less than a majority of the eligible voters participates in an election.” 74 Fed. Reg. at 56753 n. 2 (Chairman Dougherty dissenting), citing *Virginian Railway Co. v. System Federation No. 40*, 11 F.Supp. 621, 625 (E.D. Va. 1935). That argument is without merit.

The *Virginian Railway* case did *not* concern a representation election in which employees were given the option of casting a ballot *against* having a representative. Rather, the election in that case followed the usual NMB practice of providing only a choice among the potential representatives appearing on the

ballot, with invalid ballots and abstentions effectively treated as votes against representation. *See* 11 F.Supp. at 626 n. 1. In that context, it made sense that no certification would result where a majority of the craft or class were deemed by the election authority – the NMB – to have voted against representation by refraining from casting valid ballots.

Where the ballot provides an opportunity to cast a vote not only on the question of which individual or organization will be the representative but also on whether or not to have a representative at all, it is proper to follow the normal rule for elections by which “[t]hose who do not participate are presumed to assent to the expressed will of the majority of those voting.” *Virginian Railway Co. v. System Federation No. 40*, 300 U.S. 515, 560 (1937) (quotation marks and citation omitted). And, that is so even if less than a majority of the potential voters cast ballots, since those voting will have been allowed to cast a ballot against representation. Indeed, as the NLRB explained in an early decision, to invalidate an election in which the ballot presents an opportunity to vote on the full range of choices – both whether to be represented and which representative – on the ground that fewer than a majority cast ballots would allow a minority to thwart the will of the majority by engaging in tactical abstentions. *See RCA Mfg. Co.*, 2 NLRB 159, 176 (1936) (“Minority organizations merely by peacefully refraining from voting could prevent certification of organizations which they could not defeat in an

election.”).

The district court opinion in *Virginian Railway* could be understood to read § 2, Fourth as stating a quorum requirement by providing that the “*majority of any craft or class* of employees shall have the right to determine who shall be the representative of the craft or class.” 11 F.Supp. at 627-28, quoting with emphasis 45 U.S.C. § 152, Fourth. But that would clearly be a misreading of the statutory language.

The Supreme Court, in its *Virginian Railway* opinion found “[i]t is significant of the congressional intent that the language of § 2, Fourth, was taken from a rule announced by the United States Railroad Labor Board . . . [in] Decision No. 119, *International Association of Machinists v. Atchison, T. & S.F. Ry.*, 2 Dec. U.S. Railroad Labor Board, 97, 96, par. 15,” and that “[p]rior to the adoption of the Railway Labor Act, this rule was interpreted by the Board, in Decision No. 1971, *Brotherhood of Railway & S.S. Clerks v. Southern Pacific Lines*, 4 Dec. U.S. Railway Labor Board 625.” 300 U.S. at 561.

In Decision No. 1971, the Railroad Labor Board *rejected* the carrier’s argument that the reference to the “majority of any craft or class . . . determin[ing] who shall be the representative” in principle 15 of Decision No. 119 meant that “representation should only be definitely determined by an expression from the majority of all of the employees involved.” Decision No. 1971, *Brotherhood of*

Railway & S.S. Clerks v. Southern Pacific Lines, 4 Dec. U.S. Railway Labor Board 625, 626 (1923). Rather, the Board construed the “majority” language from principle 15 to mean that “where all employees eligible to vote have been given an opportunity to vote a majority of the total vote cast will decide the question of representation.” *Id.* at 625. The Board explained its construction of the relevant portion of principle 15 as follows:

“The board had previously in principle 15 of Decision No. 119, ruled that ‘the majority of any craft or class of employees *shall have the right to determine* what organization shall represent members of such craft or class’ in negotiating agreements.

“The purpose of the Railroad Labor Board was to give all the employees to be affected the privilege of expressing their choice. The board could not force any employee nor all of the employees to vote. It could only give all a fair opportunity.

“It was obviously the meaning and the purpose of the board that a majority of the votes properly cast and counted in an election properly held should determine the will and choice of the class.” *Id.* at 629 (emphasis in original).

Especially in light of that background, it could not be clearer that § 2, Fourth’s reference to a “majority of any craft or class . . . determin[ing] who shall

be the representative” follows the general election rule by “requiring only the consent of the . . . majority of those participating in the election.” *Virginian Railway*, 300 U.S. at 560.

* * *

The NMB’s proposal to modify its representation election procedure by “provid[ing] employees with an opportunity to vote ‘no’ or against union representation” and “specify[ing] that in secret ballot election conducted by the Board, the craft or class representative will be determined by a majority of valid ballots cast,” 74 Fed. Reg. at 56752, clearly would result in a more accurate reflection of the majority will regarding the basic issue of whether to be represented at all. Since the question of whether to be represented is currently the most important issue in the vast majority of NMB elections and since there is no legal impediment in the way of adopting the more accurate voting procedure, the Board should amend its representation election procedures in the manner proposed.

Respectfully submitted,

Lynn K. Rhinehart
General Counsel

James B. Coppess
Associate General Counsel

American Federation of Labor and
Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5337

DEC23'09 PM 1:35 NMB

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011
December 17, 2009

Re: Proposed National Mediation Board (NMB) Rule Change for Union Representation Elections

(Docket No. C-6964)

Dear NMB Members:

I am writing to express my approval of the National Mediation Board's proposed change for union representation elections.

The proposed rule change would allow union representation by the majority of those that choose to vote. We should not be concerned that the change would make it more democratic for employees. **Our primary concern is those that choose not to vote are considered a vote against representation.** Is it fair and democratic to allow those that do not vote, determine the outcome? All voting in Presidential and primary elections as well as elections within the scope of the National Labor Relations Act are determined by the majority of those that vote.

For many decades employees have enjoyed improved wages and work rules. This came about due to organized labor. This benefited both non-union and union work groups worldwide. Over the last 20 years however many workers have left the unions. Many leaving with the idea that the new way of doing business proposed by the corporate executives would lead to better prosperity. Later, they found that without association they had no rights. Further, executive greed was used to increase profits at the expense of wages and contract benefits.

In addition to this, the IAM and AFA recently withdrew their filings for representation elections at Delta. This took place over a year after the Delta/Northwest merger. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA were considered to be "repugnant" by one Delta Human Resources executive.

Delta and Northwest Airlines took advantage of existing and out-dated rules by filing for bankruptcy just days prior to those laws changing. It appears that Delta and corporate America want to have their cake and mine as well. There is no excuse for employers to continually take advantage and exploit employees that do not have representation. Delta has singled out the Unions for delaying a representation vote. According to Delta

management "this leaves employees in limbo" and that simply is not true. We deserve to have representation and elections controlled democratically; just as the rest of our legal system allows.

An example of business and rule change would be, i.e. you are purchasing a new home and lock in at a 6.5% loan rate. You are scheduled to close next week. Prior to closing you hear about a new government subsidy to assist with high interest rates. This program would subsidize your interest rate by 1.5% however it will not take affect until next month. Would you close next week at the higher rate or wait until next month for the new program rate? You would wait because "it's just business".

The phrase "it's just business" reflects on unionization and corporate America under the Railway Labor Act (RLA).

I strongly urge you to continue with the proposed change and not be intimidated by the threat of litigation by those opposed to this rule change.

Thank you.



Thomas E. Barry
Delta Airlines
Customer Service Representative
Cincinnati/Northern Kentucky International Airport
Hebron, KY 41048

December 22, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Pachula, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington DC 20005-7011

Dear NMB Members:

I strongly support the National Mediation Board's proposed change to the rules for voting in representative elections. As an airline captain for the largest regional airline in the country, I have experienced first hand how biased the current representative election voting procedures are.

In November, 2007, the pilots at SkyWest airlines had the opportunity to participate in a secret ballot election to determine if they would be represented by the Airline Pilots Association as their collective bargaining agent. Prior to this election, the SkyWest pilots were unrepresented. Not only are we the largest regional airline, but the SkyWest pilots remain the largest unrepresented airline pilot group in the United States.

The SkyWest pilots lost the election by only receiving 911 votes for union representation out of a total of 2,611 pilots. The 1,700 pilots that did not vote, by default, supported the company's position of remaining unrepresented. While I'm sure some of these pilots did not want union representation, many apathetic pilots either did not care or did not wish to be involved in the process.

The demographic of SkyWest pilots in 2007 was a unique mix and warrants discussion. During 2007, SkyWest was rapidly expanding and hiring a large number of new pilots in a short period of time. For most of these pilots it was the first airline they had ever worked for and they were just starting their professional aviation career. Many were fresh out of college or aviation trade school and had never been exposed to the airline business, let alone an industry that is highly unionized. In November 2007, almost 40% of SkyWest pilots had been with the company less than two years.

In addition to the sheer number of new pilots, the pilots themselves were dispersed in 17 different domiciles across the country, from California to Chicago. Many of these new employees were forced to either move to a new city or take on a temporary residence in their domicile. While seemingly unrelated to a union drive, this further complicated communication with new pilots by the fact that many did not hold permanent residence, have a place to receive mail, or a stable phone number to be contacted.

Of historical note is the fact that this representation election was the largest union drive for a pilot group in at least 10 years, according to NMB records. A union drive of this magnitude has not happened more than a handful of times in NMB history, and never when modern technology and communication tools have been so prevalent.

With all of these factors in mind, the SkyWest pilots representation election in 2007 was a perfect storm of issues leading to involuntary support to SkyWest's effort to remain a non-union company. Specifically, I have identified four major reasons why SkyWest pilots did not vote in the election. With the current NMB rules, the percentages of pilots that fell into each of these categories will never be known.

1. Pilots who did not want representation

2. Fear of reprisal or intimidation from management, directed at probationary pilots
3. Lack of knowledge or education with respect to union representation
4. True indifference or apathy. Pilots that just did not care and were willing to go along with a majority decision.

Taking into account the number of pilots that fell into categories two through four above, I feel that the current NMB voting rules directly impacted the SkyWest pilots' abilities to conduct a fair and impartial secret ballot election.

The proposed rule change will effectively eliminate the effect of disinterested, fearful, and uninformed employees on the union representation process. No one can argue that an employee that simply does not care about the outcome of an election should have a direct effect. In addition, an employee that does not have enough information to make an informed decision and decides not to participate in the election is deferring the decision to others that are more informed and that choose to make a decision for or against union representation. This rule change would give employees a way to abstain from the voting process, which they should be entitled to do.

Opponents of the rule change cite that this will cause instability with labor relations in the airline industry. In my opinion, I think the contrary. If individuals know that their yes or no votes will truly be counted, I believe more people will be involved in the representation election process and work to become more informed. This rule change will eliminate the true "apathetic" voters from the entire process and have the individuals that care enough to make informed decisions the only valid participants. This should add credibility to the outcome of representation elections.

In the NPRM, the board cites the fact that "company sponsored unions" have been abolished since the 1940s. While most of them have been abolished, I argue that my company is a modern example of company sponsored unions at work. SkyWest has established several "employee councils" for each major employee group. These councils are not recognized under the RLA as a collective bargaining unit. These groups operate much like a traditional collective bargaining unit does at other airlines. They hold elections to elect "representatives" of the employees, negotiate work rules with the company, and even produce manuals signed by the council and the company just like a collective bargaining agreement. The company funds, organizes, and to a certain extent, influences the actions of these councils.

I believe this rule change will serve to eliminate this modern round of company sponsored unions once and for all. The confusion created within a large unrepresented company by having these company sponsored committees is, by itself, a deterrent for employees to be involved with the union representation process.

For these reasons, I support the Board's intent to move forward with the proposed rule change as submitted in the NPRM.

Sincerely,

Captain David Boehm
SkyWest Airlines

685 Aberdeen Drive
Placentia CA 92870

November 28, 2009

Elizabeth Daugherty, Chair
Harry Hoagland, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N. W.
Suite 250 East
Washington, D.C. 20005-7011

DEC23'09 PM 1:22 NMB

Re: **Proposed NMB Rule Change For Union Representation Elections –
Docket No. C-6964**

Dear NMB Members:

I am writing to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority to worker who cast ballots to determine the outcome of union representation in the airline and railroad industries as is the case in all other industries. The NMB is alone amount governmental agencies in requiring of an airline or railroad in order to win union representation. Thus, under the current rule, if less than fifty percent of the work force participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. If the current union representation voting rules were adapted to non-airline/railroad elections, it could have tragic consequences.

A hypothetical example of this is an election to increase police presence around a school. A school district has a severe problem with speeders and major traffic violations around one of its elementary schools. The city and school board decide to let the citizens decide if additional police officers should be assigned to patrol the area around the school. The city recently adapted their elections to model those of the airline industry and union elections. Less than 50 percent to the registered voters voted due to various reasons. It did not matter how many of the voters voted yes, due to the number of no votes because of non-voters, the measure does not pass. Just a few hours after the results are announced in the morning paper, a small child is hit by a speeding car and killed on the south side of the school because the police officer assigned to the area is on the north side of the school and did not see the speeding car.

This is an extreme example and probably would not happen, however it can be related to the airline industry. Someone would not physically die, but the way of life may. If by the current rule a union is not voted in. The company says that they no longer need a certain department or office and get rid of it. All of the employees in that office or depart are just out of a job. There is no option to go somewhere else in the company. With a union, employees can move to a different office or a different department. With no union, all those workers go without pay. Their families possibly go without food, housing, vital medications, or heat in their homes that they are barely able to keep.

The NMB's unfair policy first applied in 1934, more than seven decades ago, which may have been born of concerns with communications with employees in distant locations. This is no longer valid in today's modern era. With today's multible means of electronic and telenhonic communications and

the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century. By changing the rules, we do not reward the airline and railroad management for suppressing employees' participations in and NMB-sponsored elections. We also do not give the power to all those employees that do not care to vote, are too scared to vote, or just cannot vote due to family, school, and work restraints. The voting rules for airlines and railroads need to catch up with all of the other elections that are conducted that are decided by the majority of those who voted and decided on the total number of registered voters.

Respectfully,

A handwritten signature in black ink that reads "Amy Vickery". The signature is written in a cursive, flowing style with a large initial "A".

Amy Vickery

20 December, 2009

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington, DC 20056

DEC28'09 PM 1:35 1818

Re: Proposed NMB Representation Rulemaking – Docket #C-6964

Honorable NMB Members,

I am writing to express my strongest support of the proposed rule change for the voting procedures under the Railway Labor Act. You should be commended for recognizing the blatant unfairness in the current process, and taking steps to correct it.

I recently traveled to Washington, DC from Memphis TN, to attend the November 7 hearings and sat through the testimony of over 30 speakers, both for and against the rule change. It was motivating to hear those speakers who supported the rule change. However, as someone who is in favor of the change, I had already considered similar versions of those arguments and positions in my own mind.

To be honest, the reason I traveled to the hearing was to hear the arguments opposing the rule change. My curiosity was piqued when the hearing was announced; I could not resist the opportunity to hear their reasoning to continue the current arcane and undemocratic voting procedures. What would be their argument?

At the completion of many hours of oral presentations opposing the yes/no ballot I have concluded there are only three arguments against the change. They are as follows:

1. The emotional argument. The belief that a 'union' is some sort of evil entity whose only goals are to cause trouble and collect dues.
2. The timing is suspect and the process has become political.
3. The Board lacks the legal authority to make such a change.

The emotional argument is juvenile and irrelevant. Decisions of this magnitude should not be made based on emotion. The timing and politics argument is feeble and also irrelevant. The Board is a politically appointed entity and since its inception has been scrutinized for making decisions along political lines. One only has to review the Board's decisions during the Bush administration for blatant examples of politically based decisions.

My research shows that the legal argument of the Board having the authority has already been decided by the Supreme Court. Admittedly I have not been to law school, so I will leave those final determinations to the legal venues. I am confident that there may very well be legal challenges if there is a change to a yes/no ballot. It will be interesting to see the final outcome of the process if and when it reaches the federal court system.

Glaringly absent from the opposition's argument was what I had traveled to DC to hear: How is the current process fair? Surely you noticed that not one of the speakers opposing the rule change even attempted to delineate how the current process is fair and truly democratic. One can only conclude there is no valid argument that could illustrate that point.

The fact is that the current process is unfair and should have been changed decades ago. Again, please accept this as my strongest possible support for a change in the current voting procedures simply because it is the right thing to do. It is never too late to do the right thing.

Respectfully,



Shawn Fivecoat
Flight Attendant - 20 years
Delta Air Lines (pre-merger Northwest)

[DATE]
Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

DEC 17 '09 PM 3:25 PMS

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my objection to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a small fraction of employees, so the fate of an entire workgroup could be dictated by the decision of a few. I am most concerned that under this proposal, once a union has been voted in, it might never have to stand for re-election. If the election rules are changed to what the unions call a more "democratic" process, they must include an equal opportunity for employees to petition to become non-union if that is our choice. It's not fair or democratic to make it easier to vote a union in, and then not allow us an equal way to change our minds.

The unions say there is a process to become non-union, but I understand it is so complicated it is just about impossible to do in a large group such as ours.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern. There is no good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay and left waiting in limbo. We deserve to have representation issues resolved and behind us.

I strongly urge you to reconsider the proposed rule change. The long-standing majority voting rules have worked well for employees, unions and airlines for 75 years and were written to ensure unions have the support of the majority of employees. We want to continue to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way.

Though this may be a form letter written by Delta, I totally agree with it. In addition, I wish to convey how absurd this new voting process would be. Our last vote against the union was an approximate 60/40 split. Now, with the voting rule changed, imagine 40% vote "yes", 40% vote "no" and 20% are apathetic or unable to decide. When it comes to a strike or other standoff with management 60% either won't strike or must be blackmailed to do so. This is a very realistic possibility. Most of the F/A's I work with are against the AFA. It's going to be a close vote and we can't afford for the undecided to change our history of direct communication with management.

In my 31 years here with Delta, it's always been true that we are the best airline to work for. It's our culture of unity instead of the "us against them" mentality a union creates that makes it so. While they fight, we win with rewards for remaining union free. When times are hard, Delta wins with the flexibility of being able to act now instead of spending a year or two in negotiations.

Bringing in the new culture of a union should require overwhelming support from the employee group. To allow anything else would also require allowing an equal voting process to dismantle the union. How silly that would be to have unions voted in and out every 5 years or so?

Please stop support for this unfair idea.
Thank you for your attention.

Sincerely,
Susan K. Bailey



LYNDON B. JOHNSON SCHOOL OF PUBLIC AFFAIRS
THE UNIVERSITY OF TEXAS AT AUSTIN

*Audre & Bernard Rapoport Centennial Chair in Economics and Public Affairs
Ray Marshall Center · 3001 Lake Austin Blvd., Suite 3.200 · Austin, Texas 78703
ray.marshall@mail.utexas.edu*

December 2, 2009

Honorable Elizabeth Daugherty, Chairman
National Mediation Board

Re: Docket Number C-6964

Dear Chairman Daugherty:

I strongly support the National Mediation Board's proposed election procedure, enabling a majority of those voting to prevail. Whatever the original justification for requiring the winner to receive a majority of eligible voters, this requirement makes no sense under present conditions and is an unfair barrier to employees who wish to exercise their fundamental right to collective bargaining. The present procedures also violate basic election fairness by encouraging the creation of bogus eligibility lists and pressuring employees not to exercise their right to vote for or against union representation.

Thank you for your consideration.\

Sincerely,

Ray Marshall

Ray Marshall

11/21/09

NOV30'09 PM 4:03 NMB

Ms Elizabeth Dougherty, Chairman
Mr. Harry Hoglander, Member
Ms Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

Re: Docket # C-6964, Proposed NMB Rule Change for Union Representation Elections

Dear NMB Members:

I am one voice among many of concerned employees within Delta Airlines who objects to the National Mediation Board's proposal to revise the existing and currently equitable voting rules for representative elections.

A change in the rules, as proposed, could serve to permit the desires and interests of a few to control the outcome and will of the far greater majority. This is not in keeping with the concept or practice of years of majority rule, a fundamental function of any election process.

Subsequent to this proposed change is the concern once a union is certified, the framework in place to petition a return to non union status is monumental in scope relative to the exercise to obtain the organized status.

I respectfully request the Board reconsider this proposed rule change which does not support balance in the election process. This change is a departure from the time tested voting rules designed to enact equity and fairness in the pursuit of representation that reflects the opinions of a majority. Equity can only be ensured when the majority of a group supports such change, not a redefined segment of the group claiming majority status.

Thank you for your time and review of my concerns.

Sincerely,



Doris W Gamble
Delta Airlines Inc.

November 12, 2009

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington DC 20005-7011

Re: Proposed NBM Rule Change for Union Representation Elections
(Docket No. C-6964)

NOV30'09 PM 3:44 NMB

Dear NMB Members:

I am writing to express my support to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a correct number of employees, which is a more fair representation as in similar public elections. A majority of the people who are voting.

I have worked in the Airline industry for over 22 years. I have worked at America West, Express Air, Northwest Airlines, and now Delta Airlines. I feel that this change is long past due and would finally give workers a fair way to elect a union.

I strongly urge you to support the proposed rule change. The long-standing majority voting rules have not worked well for employees and unions, and is basically an unfair election standard. Please adopt the changes so that workers will be represented in a fair way, once and for all.

Thank you for your time.

Robert Warmuth
15679 N Buck Lake Rd
Nashwauk MN 55769

November 23, 2009

Eunice DePinto
731 Jason Ave. N.
Kent, WA 98031

Harry Hoglander, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington, D.C. 20005

Re: Docket No. C-6964

Dear Mr. Hoglander:

I am a 30 year pre-merger Northwest Flight Attendant. I am writing to express my **FULL SUPPORT** for the proposed NMB rule change and I commend the NMB Board for taking action to ensure all railroad and airline employees will now have the opportunity to be able to participate in a fair and democratic election process. With a new rule of Yes or No, with the majority vote ruling, I look forward to the election on the new Delta Airlines property.

Sincerely,



Eunice DePinto

November 23, 2008

Elizabeth Dougherty, Chair
National Mediation Board
1301 K. St., N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV30'09 PM 3:23 NMB

Re: Proposed NMB Rule Change for Union Representation Elections/Docket No. C-6964

Dear Ms. Dougherty:

As a 30 year Flight Attendant who has been a union member for my entire career, I cannot comprehend how the union representation election process has been conducted inequitably for so many years. I totally support the Rule Change for Union Representation Elections/Docket No. C-6964. The Yes/No ballot is the democratic, fair and equitable election process. We, the Northwest/Delta Flight Attendants deserve the right to vote yes/no for a union and have our voices heard honestly and democratically.

Sincerely,



Pamela Lopez-Lewis
Northwest Flight Attendant
131 Vista del Lago
Los Gatos, California 95032

November 22, 2009

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington, D.C. 20005-7011

RE: Proposed NMB Rule Change For Union
Representation Elections (Docket No. C-6964)

Dear NMB Members

My name is Claudia Graef and I am a pre-merger Northwest Airlines Flight Attendant with 26 years of seniority now part of Delta Airlines. I am writing to express my strong support for the National Mediation Board's proposal to change the long-standing voting rules for representation elections. The proposed rule change would allow a union member to vote in a democratic process, so the voice of the active employees that are for or against is truly heard. This change would update the process to mirror every other democratic voting process being held today in America

Thank you for your leadership in this matter.

Claudia Graef
Delta Employee #074214400
Seattle Base

NOV 30 '09 PM 4:22 NMB

November 21, 2009
Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW
Suite 250 East
Washington, DC 20005

NOV 30 '09 PM 4:14 MMB

To : The members of the National Mediation Board

I am writing the National Mediation Board to urge them to change the current rules about union elections and the voting process. This board has a unprecedented chance to change the status quo of elections in regards to voting practices and regulations. It would be a shame if any members of this panel would vote against the basic principles of this country in regards to voting democracy. With the way the National Mediation Board voting system is set up currently it creates injustice for all members of the rail and airline transportation sector.

I strongly urge this panel on the National Mediation Board to reconsider the current status quo and leaving the system the way it is currently. It would allow people who fail to vote to count as a no vote. It would penalize all employees who are looking for an unbiased voting practices that we hold dear and sacred. I would urge the board to set up the rules to mirror how the voting practices of today are held.

As I'm sure you are aware the National Mediation Board was created in 1934. During that time many things have changed by the U.S. Congress and States authority with regards to voting practices. Why should our sector the airline and railways be un-fairly punished due to a lack of progress. We want the same rights as the other sectors have had since 1934. A chance to change things for the better and created a true democratic form of voting within the National Mediation Board guidelines. Certainly you must all agree that this would be a step backwards if you were unable to change the current status quo.

I personally believe that one must vote a yes or no to have there voice heard within a democracy. If the board fails to change the current rules then all hope is lost in a equal and unbiased system. If a person fails to vote on an issue such as a union. Why should they be automatically counted as no vote? If this current practice is allowed to continue it would certainly be biased and unjust to the groups of the rail and airline transportation industry who want fair and democratic elections. We need leadership from the National Medication board to bring us into the 21 century. Please I urge you to change the rules in the name of Democracy and Justice.

A few US President said a few things about these topics which can relate to our current situation:
The margin is narrow, but the responsibility is clear. -John F. Kennedy

Even Dwight D. Eisenhower had something to say: The future of this republic is in the hands of the American voter...

Please lead us into the future, a fair vote, a hope for what is right and just.

Sincerely,



William London
Delta Airlines
NYC - Based Flight Attendant

11/16/09

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

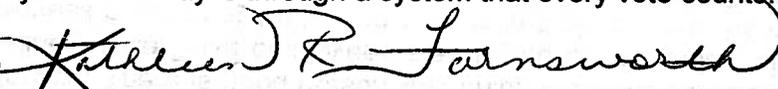
I am writing to express my support to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a Democratic Vote of employees, so the fate of an entire workgroup could be dictated by the decision of those who take the time and effort to vote. I am most concerned that under this proposal, once a union has been voted in, it would be more difficult for such Union unfriendly airlines as Delta to bust the Union and therefore the voice of its employees who are the back bone of their company.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern according to Delta management and specifically Joanne Smith Senior Vice President of In Flight Service. There is good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay, simply put, it allows those employees concern about having a voice in their future to be heard. We deserve to have representation issues resolved and behind us as Joanne Smith Clearly indicates in the letter posted on Deltanet (the employee website for Delta) which is why the AFA has asked Delta management to allow the vote to take place NOW as long as it is a DEMOCRATIC VOTE and not an archaic relic of procedure that was in existence when a flight between New York and Chicago took ten hours.

I strongly urge you to consider the proposed rule change and uphold the concept of true democracy in our country. The long-standing majority voting rules has not worked well for employees and unions for the last 75 years. Why is Delta so strong in its opinion that the rules should not be changed? It is simple, because they want to have total control over their employee group to promise them one thing one day only to take it away the next which has been Delta's true legacy. We want to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way and that way is through a system that every vote counts!

Sincerely,



Kathleen R. Farnsworth DELTA Flight Attendant

November 23, 2009

Elizabeth Dougherty, Chair
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV30'09 PM 2:45 NMB

RE: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)

Dear Ms. Dougherty,

I have been a Delta Air Lines flight attendant for 33 years. I am writing to express support for the National Mediation Board's proposal to change the rules for union representation elections. As it stands, the rule is unfairly weighted against union representation, as it counts an abstained vote as a NO vote.

The outcome of a representation election should be decided by a majority of those who vote, as in every other democratic election in our country. Please make it so in this case.

Sincerely,



Robert M. Knox III
5315 So. Liberty St.
New Orleans, LA 70115
504-891-3839

November 14, 2009

The Honorable Elizabeth Dougherty
Chairperson
The Honorable Harry Hoflander
Member
The Honorable Linda Puchala
Member
National mediation Board
Suite 250 East
1301 K Street, N.W.
Washington, D.C. 2005-7011

Re: Docket Number C-6964

Dear Members of the National Mediation Board:

NOV30'09 PM 3:45 NMB

As members of the NMB I am urging you to change the outdated voting rules dictated by the National Railway Labor Act. Complacency or non-participation should not be counted as a vote.

Delta Airline's management has, in the past, coerced employees not to vote in union elections. They know a non vote is a vote in their favor. A vote cast in a private voting booth can not be influenced by either side. This is why a majority of *votes cast* should determine the outcome of an election.

Winning an election with a majority of votes actually cast is the American standard and the only fair and democratic way to hold an election.

Sincerely,



Patrick Childers

November 22, 2009

National Mediation Board
1301 K Street, NW
Washington, D.C. 20005

Dear National Mediation Board,

Subject: Proposed NMB Representation Rulemaking - Docket Number C-6964

I am a 30 year Northwest Airlines flight attendant and am writing in support of the NMB rule change that has been recently proposed.

Delta Airlines (my future employer) has a long and proud history of suppressing union votes on its property and has proven it has no intention of changing such practices. The fact that the NMB is willing to change such an antiquated rule is very commendable and I am very appreciative of your help. Thank you for realizing the unfairness of the old yes/no voting procedures, and the fact that no other election of any sort takes place in this country using our outdated system of vote counting. I sincerely hope that on January 4, 2010 you will make the final decision to allow this change. Thank you.

Sincerely,



Richard Swisher F/A
Northwest Airlines (pre-merger)
1809 E. Park Drive
Palm Springs, CA 92262

NOV 23 11 50 AM '09

11/23/09

NOV30'09 PM 3:40 NMB

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K St NW
Ste 250 E
Washington, DC 20005-7011

**RE: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

I am writing to express my approval to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a small fraction of employees, which is fair-as I am sure you are aware of this country's problem of "Voter Apathy." Many people don't have an opinion and don't vote, or employees with opinions don't vote anyway. The votes you received to become an elected official did not require 50 percent plus 1, therefore ours shouldn't either.

I have been a member of the IAM for 10 years. I support them, and to be honest, I feel Delta as the "Premier Global Airline" is too big to not have myself and my coworkers represented.

I strongly urge you to stand by the proposed rule change. The long-standing majority voting rules have not worked well for employees, unions and airlines. We want to continue to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way.

Thank you for your time.

Jennifer Varda
IAM Local 1833

13 NW 4th Ave
Chisholm, MN
55719

Attn: National Mediation Board Member: Linda Puchala
 RE: Proposed Changes to Voting Rules for Airline Representation Elections

As a 19 year Flight Attendant in good standing with Delta Air Lines, Inc., I am contacting you regarding the proposed airline election representation voting rule changes. As you are aware, the Association of Flight Attendants (AFA) has attempted to organize Delta Flight Attendants for many years and has failed with each attempt. Now, as a result of the merger between Delta Air Lines and Northwest Airlines, the AFA once again has the opportunity to call for a representation vote. They filed to do so on July 27, 2009 and the matter would have been resolved on November 18, 2009, but instead of staying the course, the AFA withdrew its application to resolve representation.

A labor union claims to be working toward improving the working conditions for its membership, but instead the Delta and Northwest Flight Attendants have become political pawns while the AFA lobbies to change election representation rules for the entire airline industry. We deserve prompt resolution of representation issues under the rules that were in place in July of this year when the AFA concluded that, "Delta and Northwest are a single carrier for representation purposes" and filed for a vote.

Both Delta and Northwest Flight Attendants have been attending classes in order to become trained on the other carrier's airplanes and I believe that both groups would like to settle the representation matter so that we can move forward with our careers. We cannot work together as crews and staff each other's airplanes until the matter is resolved. Personally, I am being negatively impacted because I cannot work a route between Atlanta and Frankfurt, Germany that a Northwest airplane is currently flying.

If the NMB reverses the current election representation rules, you would be changing rules that have been in existence for decades. The current rules have been upheld by the Supreme Court and both Democratic and Republican Administrations. Should a minority of people to speak for an entire workgroup? Absolutely not, the idea is un-American. A political candidate cannot avoid an election run-off in the state of Georgia without 51% of the votes, even if that person has a larger number of votes than his opponent. If changed, the representation rule would permit a minority to choose union representation, and then the work group still has no formal union decertification process in place.

The AFA is using this tactic because they know they do not have enough support to win a representation vote and desperately need the dues monies they stand to gain by organizing our work group. Historically, Delta Flight Attendants have enjoyed a good working relationship with senior management and have been treated fairly by our company and we would like to continue to enjoy that long standing relationship. Thank you for taking the time to hear my comments.

Lori Morley, Flight Attendant
 Delta Air Lines, Inc.
 Post Office Box 20706, Department 611
 Atlanta, GA 30320-6001



Diane R. Quinn
201 Carla Court
Dry Ridge, KY 41035

20 November, 2009

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, DC 20005-7011

NOV23'09 PM 4:38 NMB

To the members of the National Mediation Board:

Re: Docket Number C-6964

I am a Delta Air Lines Flight Attendant based in Cincinnati. I am in full support of the NMB's proposed rule change in how representational Elections are held under the Railway Labor Act. A Democratic YES/NO voting process is the only fair way to conduct an election.

Currently, only those employees who fall under the Railway Labor Act are subject to elections where all votes start off as "no" votes, where those who choose to sit out an election and not vote are counted as "no" votes. This is not only Undemocratic, but it gives companies an unfair advantage with which to fight the unionization effort. In past elections, this has worked to the detriment of the workers' efforts to organize.

Please change this voting rule as soon as possible and allow those governed by the Railway Labor Act to finally have fair and democratic union representation elections.

Thank you,


Diane R. Quinn

Untitled

18NOV09

NOV23'09 PM 4:56 NMB

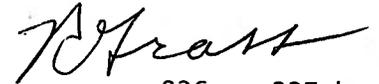
Dear NMB Members:

Thank you for standing up for the working-man's rights.
Too long have the corporations had the advantage in union struggles.
Majority rules - we need the same rules that the majority use.

Thanks for providing us DELta employees with fair election rules.

I hope the-people have a firm majority in our election - bringing
DELTA into the union fold.

Thanks again,
thirty-three years of union work, Rich Grass



826 so 227th

Des Moines, WA 98198

NOV23'09 PM12:08:14

November 22, 2009

National Mediation Board
1301 K Street, NW
Washington, D.C. 20005

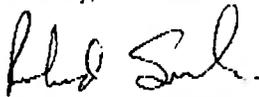
Dear National Mediation Board,

Subject: Proposed NMB Representation Rulemaking - Docket Number C-6964

I am a 30 year Northwest Airlines flight attendant and am writing in support of the NMB rule change that has been recently proposed.

Delta Airlines (my future employer) has a long and proud history of suppressing union votes on its property and has proven it has no intention of changing such practices. The fact that the NMB is willing to change such an antiquated rule is very commendable and I am very appreciative of your help. Thank you for realizing the unfairness of the old yes/no voting procedures, and the fact that no other election of any sort takes place in this country using our outdated system of vote counting. I sincerely hope that on January 4, 2010 you will make the final decision to allow this change. Thank you

Sincerely,



Richard Swisher F/A
Northwest Airlines (pre-merger)
1809 E. Park Drive
Palm Springs, CA 92262

Steven J. Maller
6211 SE 87th Ave.
Portland, OR 97266-5327

November 19, 2009

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW, Suite 250E
Washington, DC 20005-7011

RE: Docket Number C-6964, Representation Election Procedure

Dear Chairman Dougherty and Members Hoglander and Puchala:

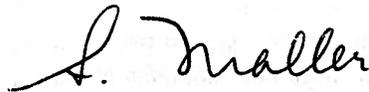
I am writing in support of changing current election procedures which treat non-voters as if they had voted "no." As a flight attendant who assisted Delta Air Lines' flight attendants in their last representation election, I witnessed firsthand the devastating ways existing rules were exploited by Delta management to influence the election.

Delta flight attendants were denied a fair opportunity to join a union because existing rules gave Delta management an unfair opportunity to suppress the vote with their "Give A Rip" campaign (see enclosure.) By illegally interfering in the election process, management essentially guaranteed the representation election would fail because those employees who destroyed their voting instructions, or didn't respond, would be considered "no" votes.

In no other realm of our society are elections held in this manner. It is wrong for us to assume that a person intends to be counted as a "no" vote simply because they don't vote. Indeed, consider your own voting activity...if you missed an election, or didn't vote for a particular ballot measure or initiative, did you intend to be counted as a "no?"

Elections across our country are fundamentally based on recognizing the will of a majority of voters who participate in an election. Non-votes are not counted as favoring one outcome or the other. Delta flight attendants deserve this same democratic process and this should be the practice of the National Mediation Board as well. I appreciate your consideration of my views.

Sincerely,



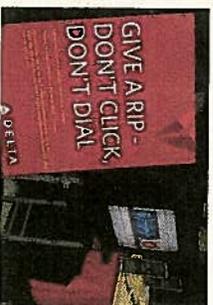
Steven J. Maller

enclosure

Voter Suppression Charged in Delta Election

From the very moment Delta flight attendants began receiving their official voting information in the mail from the National Mediation Board, the federal agency overseeing their election, management has gone out of the way to suppress the vote, urging workers to tear up their ballots.

Just after the election began on April 23 (it ends May 28), Delta posted signs in flight attendants' crew lounges encouraging them to rip up the voting information before even bothering to read about their rights. "Give a Rip. Don't Click,



Poster in a Delta Airlines crew lounge urges flight attendants to rip up their union ballots.

Don't Dial," the posters state. AFA-CWA has slammed Delta for engaging in a campaign of voter suppression and interference during the union election. Dozens of Delta

flight attendants went to Capitol Hill to brief members of Congress about the airline's anti-democratic tactics. "The flight attendants' campaign is all about fairness and winning a democratic voice in the workplace," AFA-CWA President Pat Friend said

adding, "Which is why management's outrageous conduct is so underhanded."

Just a week earlier, Delta's CEO, Richard Anderson, had promised that the airline "was supportive of the democratic process and would not engage in illegal interference." Anderson's promise is contradicted

by the airline's "Give a Rip" campaign and numerous reports of management interference at airports across the Delta system.

Flight attendants are permitted by law to share campaign materials in their crew lounges, but "managers have been tearing down union literature as soon as flight attendants put it up," said Northwest flight attendant Danny Campbell, who is assisting union supporters at Delta. Local managers also have been sharply limiting the areas where union supporters can display materials. A manager in Atlanta pre-

vented the flight attendants from erecting a small table tent in their crew lounge.

"Management will do whatever takes to make sure we do not have a voice," said Delta flight attendant Mara Levene. "But a solid majority of us wanted this election and despite management's fear tactics, bullying and intimidation, we remained determined and are voting for AFA-CWA representation."

An AFA-CWA video about Delta management's hypocrisy can be viewed at www.deltazeta.org.

Date: November 18, 2009

NOV23'09 PM 4:33 NMB

To:

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW
Suite 250 East
Washington, DC 20005

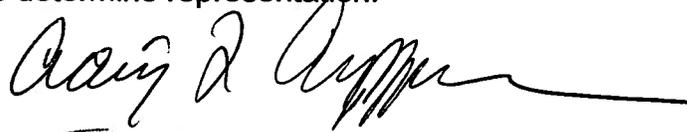
Re: Proposed NMB Representation Rulemaking-Docket Number C-6964

I am writing to express my full support for this proposed change. Thank you for taking action to ensure that all railroad and airlines employees will be able to participate in a FAIR and democratic election process to determine collective bargaining representation.

I believe the current rules are unfair, and out of date. Current rules give management an unfair advantage. Corporate access to funds for high priced media campaigns, use of company communications, management policies, and subtle suggestion and intimidation persuade many employees to tear up NMB ballots or not vote. The proposed change to the voting process would ensure a fair and true election.

I ask that you please amend the current NMB rules to provide a majority of valid ballots cast to determine representation.

Sincerely,



Sara Crippen

Sara Crippen, NWA Flight Attendant
Craig L Crippen, Retired NWA Ground Service Employee
20311 33rd Street East
Lake Tapps, WA 98391

cc Patty Murray

Nov. 3, 2009

NOV23'09 PM 3:22 NMD

The Honorable Elizabeth Dougherty, Chairman
The Honorable Harry Hoglander, Member
The Honorable Linda Puchala, Member
National Mediation Board
1301 K Street N. W.
Suite 250 East
Washington, D. C. 20005-7011

RE: Docket Number C-6964

Dear Members of the National Mediation Board;

I want to take a moment of your time to ask for you to support the rule change proposed by the National Mediation Board, Docket Number C-6964 regarding the way transportation workers covered under the Railway Labor Act (RLA) are required to vote for union certification.

I am a 36 year worker in the airline industry and it is unbelievable the voting method to win union certification. How can it be fair and just for someone who chooses not to vote, to be automatically counted as a vote against joining a union? Couldn't it just as easily be counted in favor of joining a union? The current rules are undemocratic and archaic. And now, just like when the NMB changed the method for casting a ballot in a union certification election by using a telephone or computer, the election process to join a union also needs to be changed.

I urge you to support the rule change and make union certification elections under the RLA easier, fair and more democratic.

Thank you for your time and consideration.

Sincerely,



Mary Sansom
635 7th Ave
Newport, MN 55055

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

November 19, 2009

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

My name is Bobbie (Roberta) Ajax and I am a pre-merger Northwest Airlines Flight Attendant starting 40 years of seniority, now a part of the new Delta Airlines. I am writing to express my strong support for the National Mediation Board's proposal to change the long-standing voting rules for representation elections. The proposed rule change would allow a union member to vote in a democratic process, so the voice of the active employees that are for or against is truly heard. This change would update the process to mirror every other democratic voting process being held today in America.

Thank you for your leadership in this matter.

**Bobbie Ajax
Delta Employee #048802500
Seattle Base, PQ**

NOV 23 09 PM 3:26 NMB

November 14, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington, DC 2005-7011

NOV20'09 PM 3:51 NMB

RE: Proposed NMB Rule Change for Union Representation Elections –
Docket No. C-6964

Dear NMB Members:

As a Delta Customer Service representative from Minnesota, I would like to register my strong support for change in the National Mediation Board's (NMB) policy to allow majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries.

I have been a member of the IAM union for thirteen years, starting as a Northwest Airlines employee. We would all like the opportunity to vote to continue representation, or not. It does not make sense that the employees that do not care, or that are not active, can be counted as no NO vote. Delta is such a huge company and I feel strongly that I want a written contract, just like my managers and heads of the company; so I would like to say to every employee, "Get out and Vote"! If not, it is not important to you. For those that care, one way or the other, the majority opinion will rule.

Thanking you in advance for your consideration, I remain,

Sincerely yours,



Wendy J. Brown
Mountain Iron, MN

TIMOTHY L. BETHKE

6080 Cecil Avenue
Detroit, MI 48210-1537

313-894-8136
313-319-8614C
daltimmy@yahoo.com

NOV 19 '09 PM 4:18 NMB

November 16, 2009

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW
Suite 250 East
Washington, DC 20005-7011

Re: Docket No. C-6964

To members of the National Mediation Board;

I am a pre-merger Delta flight attendant. I am in favor of the proposed voting procedure change and I support a democratic "yes/no" ballot. Thank you.

Sincerely,



Timothy L. Bethke
Delta Flight Attendant

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Bethany
last_name Fitzsimmons
address1
city Atlanta
country
us_state GA
zip
company

No rule change!! NO UNION!!!

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name kevin
last_name minucci
address1 1221 kings rd
city los angeles
country United States
us_state CA
zip 90069
company northwest airlines

i support the national mediation board request to change the way union elections are decided. If an employee does not vote then that vote should not count either way for determining the outcome. Corporations have used the current method to intimidate employees to keep away from poling booths etc. the only fair way is to have employees vote and those that do will determine the outcome. The same rules should apply here as in every other election or voting that takes place in this country. Thank you

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name David
last_name Livingston
address1 5015 Neal Ranch Road
city Colorado Springs
country United States
us_state CO
zip 80906
company Individual

I am employed as a commercial airline pilot. There is no NMB certified Collective Bargaining Agent representing pilots at the company at which I am employed.

I have no specific objection to changing the election process to provide for the certification of a CBA based upon the majority of votes cast. However, I do not want the current rules changed unless there is a corresponding change in the rules that would allow decertification of a CBA on the same terms that provide for certification of a CBA.

I oppose changing the rules regarding certification without establishing equal rules to allow for decertification.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Mark
last_name Peneski
address1
city
country
us_state
zip
company

This proposed RULE CHANGE needs to happen. Nowhere else in America does a "Do Not Vote" equal a "NO" vote. This is blatantly undemocratic and disenfranchises the voter. It's a law that I cannot believe is still in existence. A "Do Not Vote" should mean that the individual chooses not to participate in the election. For this reason alone, the law should be changed.

Corporations will argue that this is a long standing rule/law that has worked effectively for many years and shouldn't be changed. In fact, they will spend millions of dollars lobbying to keep the current law, for it rewards a company for little voter turnout.

Corporations will also argue that the employee is making an active choice not to vote in order to cast a vote of "No." However, if the law was changed to make a "Do Not Vote" equal a cast vote of "YES," a corporation's argument would flip-flop.

This is America. Each citizen should be able to choose how they vote, whether they vote "Yes" or "No" or choose not to vote. A voter's apathy should not reward either side.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Michael
last_name Griggs
address1 353 International Way
city Alpine
country United States
us_state UT
zip 84004
company

Please change the Rules.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Brandon
last_name Tilby
address1
city
country
us_state
zip
company

This is a step in the right direction. The democratic process should apply to union representation in the same fashion as national elections. Apathy should not result in a "No" vote.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name John
last_name Ellickson
address1 420 N. Stevenson St.
city DeForest
country United States
us_state WI
zip 53532
company Delta Airlines

It is very important that the regulations be changed to reflect the true vote of the employees in our upcoming representation election. So many times in the past, unions have not gotten a fair chance at representing employees when failure to vote was counted as a "no".

I urge you to pass this new change so that we, the employees, may have fair and equitable elections for all the separate employee groups at Delta.

Thank you for these important changes.

John Ellickson

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Suzanne
last_name Nasca
address1 2323 S. W. 14 Ave.
city Miami
country United States
us_state FL
zip 33145
company Delta Airlines

The Transportation Trades Department of the AFL-CIO has recently petitioned the National Mediation Board to amend the procedural manual to require a "Yes" or "No" ballot in representation elections.

In a recent failed union election for Delta Airlines Flight Attendants there were many questions regarding the Company employee list used in the election. It was challenged whether the list included management positions, former employees and finally even dead flight attendants. Needless to say Delta Air Lines, the Air Transport Association oppose this change.

I understand that this will be a difficult decision for the Board to amend the Railway Labor Act. Yet a majority rules vote is used in every other democratic election in America and is the most fair election method. I encourage the NMB to seriously consider this change in procedures in order to offer more fairer elections to employees seeking to form a union.

Thank you for your consideration

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Martina
last_name Retherford
address1 603 Sparrow St
city Lynn Haven
country United States
us_state FL
zip 32444
company Delta Airlines

I am opposed to the NMB proposed amendment to the election rules of Railway Labor Act nor does the agency have authorization to make amendments to the RLA without congressional consent.

? This rule has been in existence for decades.
? It has been upheld by the Supreme Court and by both Republican and Democratic Administrations.
? There is currently no formal decertification process; if they change the rule on voting I insist they add a decertification process

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Benjamin
last_name Goudy
address1
city
country
us_state
zip
company Delta Air Lines

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)

Dear NMB Members:

I am writing to express my objection to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a small fraction of employees, so the fate of an entire workgroup could be dictated by the decision of a few. I am most concerned that under this proposal, once a union has been voted in, it might never have to stand for re-election. If the election rules are changed to what the unions call a more "democratic" process, they must include an equal opportunity for employees to petition to become non-union if that is our choice. It's not fair or democratic to make it easier to vote a union in, and then not allow us an equal way to change our minds.

The unions say there is a process to become non-union, but I understand it is so complicated it is just about impossible to do in a large group such as ours.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern. There is no good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay and left waiting in limbo. We deserve to have representation issues resolved and behind us.

I strongly urge you to reconsider the proposed rule change. The long-

standing majority voting rules have worked well for employees, unions and airlines for 75 years and were written to ensure unions have the support of the majority of employees. We want to continue to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Susan
last_name Chambers
address1
city
country
us_state GA
zip
company

I am not in favor of changing the election procedure to use a percentage of votes cast, as opposed to a percentage of the entire workforce. If the current rules of counting a nonvote as NO isn't clear enough, then send the ENTIRE work group a ballot. If it is important to be fair, then the entire group should be canvased. In fairness, it also follows that, if the election procedures change to bring in representation, they should also change to dismiss representation.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Frank
last_name Bowlin
address1
city
country
us_state
zip
company

Passing this rule would, at long last, provide a fair and equitable means for employees of the US transportation industry to seek necessary representation.

I urge the Board to PASS this rule.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Loren
last_name Kreutner
address1 134 Bishop Rd.
city Port Angeles,
country United States Minor Outlying Islands
us_state Wa.
zip 98363
company Private Citizen

To: National Mediation Board:

I would urge you to adopt the rule in Union representation elections that only those voting can be counted, an employee not voting should not be counted as a "no" vote. This seems very fair! Thank You, Loren Kreutner

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Keith
last_name Eyler
address1 33126 Jasper Circle
city Menifee
country United States
us_state CA
zip 92584
company SkyWest Airlines

This rule change will be a fantastic change to an industry that is in ruin. Most of our Pilots have nothing but apathy and could care less or are unwilling to do anything about it. For those of us whom actually care to vote, this will make the election process fair. Why is it that only constituents who vote for an elected official have the right to say yes or no to something, yet those who choose not to vote are purely a non vote, yet in the airline industry those are allowed to count as a "no" vote? This makes no sense, and indeed does need to be changed. I 100% support the modification of the NMB rules to tally only those whom actually vote. It's fair and will encourage more of the work force to go out and have their voices heard.

Thank you

Keith Eyler
Captain, SkyWest Airlines

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Joanne
last_name Nelson.
address1
city
country
us_state
zip
company

I do believe a change needs to be made in how union votes are tallied. As stated in the proposal, votes cast should be the only votes counted. It gives all members a voice and for those that choose not to use their voice, aye or nay, their lack of action i.e. a non-vote counted as a no vote would not adversely affect those who actively chose their representation. The perfect example is the way we choose our leaders in government. I urge you to grant this fair and democratic rule to all organizations that request it.

Regards

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Michael
last_name Dean
address1 102 23 ave SW
city Puyallup
country United States
us_state
zip 98371
company retired american

when it comes to voting for union representation the no show vot
counting as a no vote should be eliminated and counted as a yes vote due
to corporate intimidation

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name ROBERT
last_name SECHRIEST
address1 171 SAWGRASS MANOR DR
city NEWNAN
country United States
us_state GA
zip 30265
company DELTA AIR LINES

PLEASE DO NOT ALLOW THE VOTING RULE CHANGE.THE CURRENT RULES HAVE WORKED
FOREVER . THE UNION HAS BOUGHT OBAMA AND HE IS STACKING THE DECK IN THE
THIER FAVOR, PLEASE CAN SOMEBODY STAND UP AND DO WHAT WE THE PEOPLE
ASK?????????????????????????????????????
I HAVE WORKED FOR DELTA AIR LINES FOR OVER 22 YEARS
AND HAVE BEEN TREATED IN A MORE FAIR AND FRANK MANOR THRU THE LAST 8
YEARS OF AIRLINE TROUBLES THAN ANY UNION MEMBER EVER THOUGHT OF.

IAM NOT....DO NOT CNHANGE THE RULES!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name mike
last_name patino
address1
city
country
us_state
zip
company

I hope you consider to change the anti-democratic rules governing the certification elections. I can not imagine any candidate running for office in this great land of ours knowing that by the potential voter just not showing up - his opponent would get their votes. Now, does that seem fair to you? Let's stop assigning the "non-voter" a vote. Let the system of a true democracy fully reflect the will of the people.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Martha
last_name Mattes
address1 3202 S. 147th East Ave., Apt. M
city Tulas
country United States
us_state OK
zip 74134-4600
company American Federation of Musicians

I stand in wholehearted support of the proposed rules change. It is a longheld standard of democracy that an election occurs with the majority of votes cast, not the majority of eliglbe voters.

For far too long my brothers and sisters in the airline and railroad industries have had the deck stacked against them when seeking union representation. Employers have had no qualms about taking advantage of the current system requiring a majority of elible votes to intimidate employees, supress votes, and thwart the will of the employees. Most egregious of all was Delta Airlines' recent "Give It A Rip" campaign, instructing flight attendants to destroy NLRB ballots in a union certificatino election.

The proposed rule change will help bring fairness to the union certification process. I fully support this change, and ask you to enact this new rule.

Please Do Not Reply This Email.

Public Comments' on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Arshad
last_name Ali
address1 3009 Otto Dr
city Stockton
country United States
us_state
zip 95209
company SkyWest Airlines

As a current pilot at skywest airlines, i encourage you to change the rules regarding the election procedure to the total majority of votes casted. The current NMB rules make a union representation very difficult due to apathy and a lack of concern from the employee group. Its analogous to a vote being cast for president Obama and everyone else that does not vote, that vote will go to Senator McCain. This is not democracy, neither is it the way we should be determining for elected representation.

Thank you.
Arshad Ali

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Steve
last_name Horne
address1
city
country
us_state
zip
company

Very good change. This will allow a vote to be the true representation of the true feelings of a labor group. This will eliminate the "vote" of an apathetic employee who does not take the time to let their idea be known.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Mark
last_name Peneski
address1
city
country
us_state
zip
company

I send you to this story regarding airline executives lining their pockets with employee dollars. OF COURSE THEY DON'T WANT THE UNION RULES TO CHANGE. WITH AN UNLEVER PLAYING FIELD THE CORRUPTION WILL CONTINUE.

Companies drop pensions, pay execs \$350 million: watchdog*
Thu Nov 19, 2009 1:01pm EST

WASHINGTON/BOSTON (Reuters) - Ten large U.S. companies paid senior executives a total of \$350 million in the few years prior to dropping traditional pension plans for employees, a Congressional watchdog said on Thursday.

Forty executives in a range of industries received the compensation in base salaries, bonuses, severance and perks in the five years before the pension plans failed, the non-partisan Government Accountability Office said in a new report.

U.S. Rep. George Miller, who chairs the House Education and Labor Committee, said in a statement he is considering legislation to freeze executive compensation if a company's rank-and-file pension plan becomes significantly underfunded.

"It is fundamentally wrong that executives were able to line their pockets with millions of dollars ... while watching their workers' retirement security slip into peril," said Miller, who requested the GAO's investigation.

Four cases in particular were singled out where the dropped pensions covered a total of more than 202,000 participants and were left underfunded by some \$11 billion.

A source familiar with the report said the four most egregious cases cited by the GAO involved UAL Corp's (UAUA.O) United Airlines and U.S. Airways Group Inc (LCC.N).

CHANGE THE UNION VOTING RULES IMMEDIATELY. PLEASE PUT THESE WORKER'S RIGHTS ON THE SAME PLAYING FIELD AS THE REST OF AMERICA.

Please Do Not Reply This Email.

Public Comments on Representation Election Procedure:=====

Title: Representation Election Procedure
FR Document Number: E9-26437
Legacy Document ID:
RIN: null
Publish Date: Tue Nov 03 00:00:00 EST 2009
Submitter Info:

first_name Bethany
last_name Fitzsimmons
address1
city Atlanta
country
us_state GA
zip
company

No rule change!! NO UNION!!!

Ralph D. Tucker

3131 Jacob Hamblin Dr.
St. George, Utah 84790
(435) 673-1679

23 November 2009

Harry Hoglander, Member
National Mediation Board
1301 K Street N.W
Suite 250 East
Washington , D.C. 20005-7011

DEC02'09 PM 3:41 NMB

Re: Proposed NMB Rule Changes for Union Representation Elections (Docket No. C-6964)

Dear Mr. Hoglander:

This letter is to express my objection to the National Mediation Board's proposal to change the voting rules for representation elections.

This change would allow a small number of a work group to determine that fate of an entire work group during an election to vote a union in. Meaning the choice of a few could dictate the fate of an entire group. This hardly seems right and fair.

If the rule is changed to allow this to happen; then shouldn't the rule be changed to allow a small number of a group to determine the whole group to become nonunion. It is not fair to make it easier to vote a union in than to vote it out.

The long standing majority voting rules have worked well for employees, unions and employers for many years. They were written to be sure that unions have the support of the majority of employees. The decision about representation should be made through a process that is consistent and fair.

My family and friends work at Delta. They feel the timing between the NMB's proposed rule change and the withdrawals by the IAM and the AFA are cause for concern. They wonder why union elections continued to move forward in other airlines while Delta employees are left waiting.

Please reconsider the proposed rule change and leave the majority voting rules in place. They are fair and have worked well for many years.

Sincerely yours,


Ralph D. Tucker

R. Lynn Tucker
10908 Renegade View Lane
South Jordan, UT 84095

November 30, 2009

DEC02'09 PM 3:43 NMB

Linda Puchala, Member
National Mediation Board
1301 K Street NW
Washington, DC 20005-7011

Re: Proposed NMB Rule Changes for Union Representation Elections (Docket No. C-6964)

Dear Ms. Puchala:

This letter is to express my objection to the National Mediation Board's proposal to change the voting rules for representation elections.

The proposed change would allow a small number of a work group to determine the fate of an entire work group during an election to vote a union in. This means that the choice of a few could dictate the fate of an entire group. I am a Delta Employee that would be affected the change and it does not seem fair.

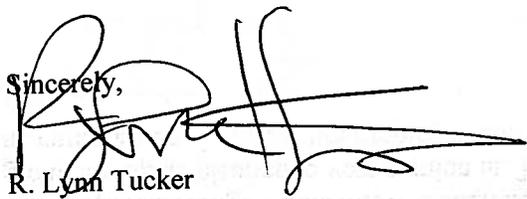
If the rule is changed to allow this to happen; then it would seem logical that the rules be changed to allow a small number of a group to determine that a whole group become nonunion. It is not fair to make it easier to vote a union in than to vote a union out.

The long standing majority voting rules have worked well for employees, unions and employers in the past. These rules were written to be sure that unions have the support of the majority of employees. Any decision about representation should be made through a process that is consistent and fair.

I work for Delta and feel the timing between the NMB's proposal rule change and the withdrawals by the IAM and AFA are cause for concern. How come union elections continued to move forward in other airlines but Delta employees are left waiting?

Please reconsider the proposed rule change and leave the majority rules in place. They are fair and have worked well for many years.

Sincerely,


R. Lynn Tucker

DEC 02 2009 11 3:45 AM
Andrea Sommer
956 Whitegate Drive
Northville, MI 48167

November 28, 2009

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

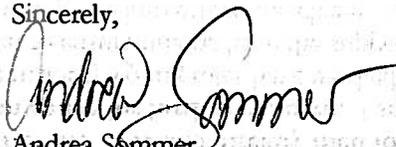
Dear NMB Members:

I am writing to express my concerns regarding the election required as a result of the merger between Delta Air Lines and Northwest Airlines to resolve the issue of flight attendant representation by AFA which currently represents the Northwest flight attendants.

The National Mediation Board's proposal to change the long-standing voting rules for representation elections would permit a union to be voted in by a small fraction of employees, allowing the possibility that the fate of an entire workgroup could be dictated by the decision of a few. **I object to the proposed change and find the timing of the proposed change, after the AFA had already filed for an election, and the AFA's withdrawal of their filing for the election cause for further concern.** I strongly urge you to reconsider the proposed rule change. The long-standing majority voting rules have worked well for employees, unions and airlines for 75 years and were written to ensure unions have the support of the majority of employees. Should the above referenced rule change go into effect, the change to election rules should include an equal opportunity for employees to petition to become non-union if they so choose.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern. There is no good reason why union elections have continued to move forward at other airlines while Delta employees are left waiting in limbo. **The NMB should be doing everything possible to ensure that the decision of representation is accomplished in a timely and fair manner.** Oddly, it seems that AFA is calling the shots concerning the timing of the election about representation for flight attendants even though they do not currently represent the majority of flight attendants affected by this merger. The continued delays leave too much in question about our future at Delta; we deserve to have the representation issue resolved.

Sincerely,



Andrea Sommer
Flight Attendant
Delta Air Lines

DEC02'09 PM 3:47 NMB

Harry Hoglander
National Mediation Board
Washington, DC

November 28, 2009

RE: Proposed NMB Rule Change For Union Representation Elections (Docket No. C-6964)

Dear Mr. Hoglander,

This letter is being sent to strongly oppose the NMB's proposal to change the voting rules for union elections. The current majority voting rules ensure that unions have the support of the majority of employees. Please do NOT change the voting rules for union elections; the entire workgroup could be controlled by the choice of a few.

I am a 34-year Delta employee. My working career has been extremely satisfying and productive. Delta management strives to develop congenial and supportive connections directly with its employees. If I have any questions or concerns, I go straight to the open door of my supervisor or manager for help. My supervisor's role supports me as the employee and also supports the company as the employer. It is a balanced and fair and good-business approach. The open-door policy for Delta workers has always enhanced our loyalty to the company and in turn has motivated our work ethics and efforts to satisfy our customers.

Please reconsider the proposed rule change. I do not think the proposed change is a fair way to vote. I object to the above proposed change.

Sincerely,



Laura Lea R. Elliott
Employee #420117 - Delta Air Lines employee

**STATEMENT OF BETH M.GRAHAM, FLIGHT ATTENDANT
DELTA AIR LINES, INC.
BEFORE THE NATIONAL MEDIATION BOARD OPEN MEETING**

DOCKET C - 6964

DECEMBER 7, 2009

**STATEMENT OF BETH M.GRAHAM, FLIGHT ATTENDANT
DELTA AIR LINES, INC.
BEFORE THE NATIONAL MEDIATION BOARD OPEN MEETING
DOCKET C - 6964
DECEMBER 7, 2009**

INTRODUCTION

Madame Chairwoman and members of the National Mediation Board, I want to thank you for providing me with the opportunity to address the Board about a topic that is critical to my future as a 24 year flight attendant of Delta Air Lines. October 29, 2009 marked the one year anniversary of the merger of Delta and Northwest which created the world's largest airline.

Over the past year, we have worked very hard to ensure the success of the merger. The momentum during the merger integration and the benefits of gaining the new routes has exceeded my expectations. It has been very exciting meeting my fellow flight attendants around the world.

Delta employees have worked too hard to have the major distraction of unresolved representation keep us from reaping the benefits of all of our hard work.

Unresolved representation also keeps employees from shared benefits, including pay and work rules.

To now, have the National Mediation Board intervene and attempt to turnover 75 years of labor law to influence the voting rules and process is a disservice to the hardworking employees of Delta.

Delta has an 80 year history of a cooperative work environment which has been evident in Delta's previous combinations during my career with Western, PanAm and now with Northwest. We are anxious to work side by side with our fellow flight attendants. Delta employees are ready to move forward and work together side by side without barriers. Until the union representation is resolved, we continue to work separately. Most flight attendants soon will be qualified to fly on all aircraft of both pre-merger airlines. However we will not be able to fly together on the same aircraft until we are able to resolve representation.

The delay is unfair to Delta flight attendants especially when the National Mediation Board has allowed union elections to occur under the current voting rules as most recently at the election of Compass Airlines flight attendants. The election request occurred after the request was filed with my employee work group at Delta.

I ask the questions of you today, should Delta flight attendants be governed by a different election process simply by virtue of the size of our company? If so, then I respectfully ask to also be granted a change in the process to decertify a union.

While I do not expect you to answer me today, I do ask that you take these matters into consideration as a decision is reached in the outcome of this process.

CONCLUSION

In closing, I believe that the right to vote is a basic right without which all others are meaningless. As part of that right, I want a voting process that is fair and without influence of a changing political climate.

I respectfully request that Delta employees have the ability to exercise that right to vote using the process that has withstood scrutiny and the test of time for 75 years. I, as a flight attendant of Delta Air Lines want the opportunity to move forward and give each of my fellow colleagues control over our own destiny.

Delta pilots, mechanics and dispatchers completed the representation process and have completed benefit, seniority and work rule integration. I would like the opportunity to do the same with my fellow flight attendants.

Delta founder CE Woolman stated "No one individual can create an airline. An airline is a team. Members of the Delta team have put the meaning in our slogan of Service and Hospitality from the Heart through teamwork."

I am ready to move forward as a flight attendant to work side by side with my fellow flight attendants without the distraction of union representation which keeps us from working as a team to provide Service and Hospitality from the Heart through teamwork!

Thank you for your time.

November 15, 2009

NOV15'09 AM 3:23 NMB

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I would like to express my **SUPPORT** for the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow fair and equitable voting rules for employees that care enough to make a choice. It's not fair or democratic to make a non-voting employee be counted as a no votes for a union.

I strongly urge you to continue with the proposed rule change. The fair voting rules have worked well in every other facet in our democracy. Why should unions and airlines be the only sector to be plagued by archaic voting practices? We want to continue to make the important, long-term decision about union representation through a process that is consistent and fair for all.

Please move swiftly to bring union representation issues to the 21st century.

Thank you,



Arild Lindland

T

November 16, 2009
Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV19'09 AM 3:25 NMB

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my support to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow for a fair election process, not previously available.

I strongly urge you to support the proposed rule change. The long-standing majority voting rules have **NOT** worked well for employees, unions and airlines. We want to make the important, long-term decision about representation through a fair election process that the proposed changes would support.

Thank you.



Scott Larson
Delta Airlines Flight Attendant (34years)
Atlanta

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NOV17'09 PM 2:50:24

R

November 17, 2009

VIA FACSIMILE: 1-202-692-5085

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, N.W.
Suite 250 East
Washington, D.C. 20005

Re: Proposed NMB Representation Rulemaking – Docket Number C-6964

Dear NMB Members:

I am writing to express my full support for this proposed change and I commend the Board for taking action to ensure that all railroad and airline employees will, at last, be able to participate in a fair and democratic election process to determine the issue of collective bargain representation.

The current voting procedures are fundamentally unfair and encourage and reward employer-run voter suppression campaigns. As the TTD stated in their petition for this change, "Nowhere in American democracy – other than during a union election in the airline and railroad industry - does an eligible voter wishing to sit out an election have his or her silence tabulated as a NO vote by virtue of non-participation. Permitting such a veto-by-silence or inaction obviously sabotages the expressed will of the voting majority." It is absolutely wrong for the NMB to undertake to determine the will of a non-voter. The current, antiquated, rules provide an unfair advantage to management. The corporate playbook is simple: hire union-busting consultants, run voter suppression campaigns that intimidate employees to keep turnout low and count on the NMB's outdated rules to help block unionization, by ensuring that all those who are unable or choose not to participate are counted as "no" votes.

The Board's current election procedure is contrary to the basic principles of democratic elections in this country, which hold that the winner of an election is the side that gets the most votes.

Please amend the current NMB rules in representational disputes to provide that a majority of valid ballots cast will determine the craft or class representative. A similar system for elections has been the cornerstone of American democracy for more than 200 years and will work just as well in airline and railroad union elections.

Respectfully,



Karen Birmingham
Northwest/Delta Airlines
Flight Attendant

11/16/09

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my support to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a Democratic Vote of employees, so the fate of an entire workgroup could be dictated by the decision of those who take the time and effort to vote. I am most concerned that under this proposal, once a union has been voted in, it would be more difficult for such Union unfriendly airlines as Delta to bust the Union and therefore the voice of its employees who are the back bone of their company.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern according to Delta management and specifically Joanne Smith Senior Vice President of In Flight Service. There is good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay, simply put, it allows those employees concern about having a voice in their future to be heard. We deserve to have representation issues resolved and behind us as Joanne Smith Clearly indicates in the letter posted on Deltanet (the employee website for Delta) which is why the AFA has asked Delta management to allow the vote to take place NOW as long as it is a DEMOCRATIC VOTE and not an archaic relic of procedure that was in existence when a flight between New York and Chicago took ten hours.

I strongly urge you to consider the proposed rule change and uphold the concept of true democracy in our country. The long-standing majority voting rules has not worked well for employees and unions for the last 75 years. Why is Delta so strong in its opinion that the rules should not be changed? It is simple, because they want to have total control over their employee group to promise them one thing one day only to take it away the next which has been Delta's true legacy. We want to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way and that way is through a system that every vote counts!

Sincerely,

Ana Rasmussen NWA/Delta Flight Attendant

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV23'09 PM 4:38 NMB

Re: Proposed NMB Rule Change for Union Representation Elections –
Docket No. C-6964

Dear NMB Members:

I am writing to express my support of the proposed NMB rule change for Union representation elections – Docket No. C-6964.

I believe that the proposed rule change will provide a much more accurate result of how the majority of employees actually feel about Union representation. It seems to me, that the current voting procedure is extremely undemocratic. Under the current policy, an employee who is unable or chooses not to participate in an election is actually counted as a 'no' vote. Therefore, somebody's inability to make a decision or indifference to an important cause in essence could actually affect the current state of my workplace. This is extremely unjust.

In addition, I feel that the right to vote in a fair and democratic election is my right as a tax-paying citizen of this country. A little over a year ago, when this merger took place, Union representation became an issue. I decided that every employee needed to gather information, stay informed, and make their decision based on facts. A 'yes/no' ballot mirrors the right to choose or not choose Union representation based on an educated decision.

All Northwest and Delta employees should be given the opportunity to voice their opinions by participating in a fair and democratic election, which includes a ballot with a 'yes/no' vote.

Respectfully,



Lyuba Halkyn
Northwest/Delta Airlines Flight Attendant

11/16/09

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my support to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a Democratic Vote of employees, so the fate of an entire workgroup could be dictated by the decision of those who take the time and effort to vote. I am most concerned that under this proposal, once a union has been voted in, it would be more difficult for such Union unfriendly airlines as Delta to bust the Union and therefore the voice of its employees who are the back bone of their company.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern according to Delta management and specifically Joanne Smith Senior Vice President of In Flight Service. There is good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay, simply put, it allows those employees concern about having a voice in their future to be heard. We deserve to have representation issues resolved and behind us as Joanne Smith Clearly indicates in the letter posted on Deltanet (the employee website for Delta) which is why the AFA has asked Delta management to allow the vote to take place NOW as long as it is a DEMOCRATIC VOTE and not an archaic relic of procedure that was in existence when a flight between New York and Chicago took ten hours.

I strongly urge you to consider the proposed rule change and uphold the concept of true democracy in our country. The long-standing majority voting rules has not worked well for employees and unions for the last 75 years. Why is Delta so strong in its opinion that the rules should not be changed? It is simple, because they want to have total control over their employee group to promise them one thing one day only to take it away the next which has been Delta's true legacy. We want to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way and that way is through a system that every vote counts!

Sincerely,



Charles J. Ciali DELTA Flight Attendant

NOV 30 09 PM 4:15 NMB

11/15/09

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV 30 '09 PM 4:18 NMB

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my objection to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a small fraction of employees, so the fate of an entire workgroup could be dictated by the decision of a few. I am most concerned that under this proposal, once a union has been voted in, it might never have to stand for re-election. If the election rules are changed to what the unions call a more "democratic" process, they must include an equal opportunity for employees to petition to become non-union if that is our choice. It's not fair or democratic to make it easier to vote a union in, and then not allow us an equal way to change our minds.

The unions say there is a process to become non-union, but I understand it is so complicated it is just about impossible to do in a large group such as ours.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern. There is no good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay and left waiting in limbo. We deserve to have representation issues resolved and behind us.

I strongly urge you to reconsider the proposed rule change. The long-standing majority voting rules have worked well for employees, unions and airlines for 75 years and were written to ensure unions have the support of the majority of employees. We want to continue to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way.

Kathleen Ponkey

Kathleen Ponkey
3300 Wildberry Lane
PO Box 434
Davisburg, MI 48350

Northwest Airlines employee since 1986

11-19-09

[DATE]

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my approval to the National Mediation Board's proposal to change the voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a smaller, fraction of employees, so the fate of an entire workgroup could be determined by the decision of a smaller number of employees than previously required. I am concerned that under this proposal, once a union has been voted in, it might never have to stand for re-election. If the election rules are changed to what the unions call a more "democratic" process, they must include an equal opportunity for employees to petition to become non-union if that is our choice. It's not fair or democratic to make it easier to vote a union in, and then not allow us an equal way to change our minds.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern. There is no good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay and left waiting in limbo. We deserve to have representation issues resolved and behind us.

I strongly urge you to approve the proposed rule change. The majority voting rules have worked well for employees, unions and airlines for 75 years and were written to ensure unions have the support of the majority of employees, but now times have changed. We want to continue to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way.

-DELTA AIRLINES FOR YEARS HAVE
CONTROLLED US WITH SCARE TACTICS,
NOT ALLOWING US TO MAKE OUR OWN
DECISION. PLEASE, APPROVE YOUR
PROPOSAL AND LET'S BEGIN TO
CHANGE AMERICA THE WAY
OUR COUNTRY WAS INTENDED
TO BE!

DELTA AIRLINES,
AIRCRAFT TECHNICIAN.

BRIAN A. HOEPER


P.O. BOX 1000
MORELAND, GA 30259

11/17/09

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV 20 09 PM 3:50 NMB

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my support to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

The proposed rule change would allow a union to be voted in by a Democratic Vote of employees, so the fate of an entire workgroup could be dictated by the decision of those who take the time an effort to vote. I am most concerned that under this proposal, once a union has been voted in, it would be more difficult for such Union unfriendly airlines as Delta to bust the Union and therefore the voice of its employees who are the back bone of their company.

Additionally, the IAM and AFA recently withdrew their filings for representation elections at Delta, more than a year after our merger took place. The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are cause for concern according to Delta management and specifically Joanne Smith Senior Vice President of In Flight Service. There is good reason why union elections continued to move forward at other airlines while Delta employees are singled out for delay, simply put, it allows those employees concern about having a voice in their future to be heard. We deserve to have representation issues resolved and behind us as Joanne Smith Clearly indicates in the letter posted on Deltanet (the employee website for Delta) which is why the AFA has asked Delta management to allow the vote to take place NOW as long as it is a DEMOCRATIC VOTE and not an archaic relic of procedure that was in existence when a flight between New York and Chicago took ten hours.

I strongly urge you to consider the proposed rule change and uphold the concept of true democracy in our country. The long-standing majority voting rules has not worked well for employees and unions for the last 75 years. Why is Delta so strong in its opinion that the rules should not be changed? It is simple, because they want to have total control over their employee group to promise them one thing one day only to take it away the next which has been Delta's true legacy. We want to make the important, long-term decision about representation through a process that is run in a prompt, consistent and fair way and that way is through a system that every vote counts!

Sincerely,

Wanda N. Holt

November 25, 2009

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW
Suite 250 East
Washington, DC 20005

DEC07'09 PM 4:15 NMB

Re: Proposed NMB Representation Rulemaking - Docket Number C-6964

Dear NMB Members,

This letter is to express my complete support for the proposed rule change regarding union elections. I am pleased that the Board is finally planning to use a true democratic process in determining representation elections.

I am 51 years old and have voted in every election I have been eligible to vote in since I was 18. I participate and I am fully aware that my voice is heard while others, people that don't vote, are not heard on election day. I have always found it preposterous that the NMB was willing to assume any intent by non-voters, much less to presume it was anti-union.

The democratic process in this country is simple and straightforward. Whoever gets the most votes wins (unless you're Al Gore). A few elections require 50% plus one to win, but of the total votes cast, not of all those eligible.

I've always asked myself how anyone could presume intent in an election. Why would a non-vote in a union election be presumed to be a no? Why wouldn't it be presumed to be a yes? With the proposed rule change it won't have to be presumed anymore. Vote yes if you want a union. Vote no if you don't. If you don't care, don't vote.

Please amend the current NMB rules in representational disputes to provide that a majority of valid ballots cast will determine the craft or class representative. A similar system for elections has been the cornerstone of American democracy for more than 200 years and will work just as well in airline and railroad union elections. It's fair and it's time.

Respectfully,



Gregory D. Boorsma
Flight Attendant
Northwest Airlines

469 Ena Road #1705
Honolulu, HI 96815

CHANGED TIME AND CIRCUMSTANCES JUSTIFY AMENDING NMB REPRESENTATION VOTE PROCEDURES

By Frank N. Wilner
Author

Understanding the Railway Labor Act
(Omaha, Neb.: Simmons-Boardman Books, 2009)

By Notice of Proposed Rule Making (NPRM) dated Nov. 3, 2009, the National Mediation Board (NMB) proposes to amend its rules interpreting and administering the *Railway Labor Act* (RLA)¹ “to provide that, in representation disputes [determinations as to who will be the bargaining agent for airline and railroad and commuter railroad employees²], a majority of valid ballots cast will determine the craft or class representatives.”³

The long-standing procedure of the NMB requires a majority of eligible voters (as opposed to those actually voting) to vote affirmatively in favor of representation, meaning a failure or refusal of an eligible voter to participate is the equivalent of a “no union” vote.

The NMB proposes to change its procedure so that, in the future, only ballots of those actually voting will be counted, and each voter will make a choice between representation by a specified union or “no union.” This will comport with the long-standing procedures of the National Labor Relations Board, which interprets and administers the *National Labor Relations Act*.⁴

The NMB has authority to make this change in policy. As the Supreme Court observed:⁵

[N]ot only does the statute [RLA] fail to spell out the form of any ballot that might be used but it does not even require selection by ballot. It leaves the details to the broad discretion of the [National Mediation] Board with only the caveat that it ‘insure’ freedom from carrier interference.

¹ 44 Stat. 577 (1926); 45 U.S.C. 151 *et seq.*

² Carrier by rail is described at 45 U.S.C. § 151, First of the RLA. Carrier by air is described at § 181.

³ “National Mediation Board, 29 CFR Parts 1202 and 1206,” *Federal Register*, Nov. 3, 2009, pp. 56750-56754.

The terms “craft or class” is fixed by the RLA as the unit for collective bargaining. The term is used simply to define the bargaining unit, either developed through past bargaining history or designated by the NMB in connection with an election of representatives. See, for example, NMB Case R-358, *Determination of Craft of Class* (1937); *Richmond, Fredericksburg & Potomac Railroad Co.*, 5 NMB 302 (1972); and, Harry Lustgarten, *Principles of Railroad and Airline Labor Law* (Omaha: Rall Publications, 1984), pp. 28-29.

⁴ 49 Stat. 449 (1935); 29 U.S.C. 151 *et seq.*

⁵ *Bhd. Of Ry. And S.S. Clerks v. Assn. for the Benefit of Non-Contract Employees*, 380 U.S. 650, 668-669 (1965).

Says the NMB in its NPRM:⁶

The Board's current policy requires that a majority of eligible voters in the craft or class must cast valid ballots in favor of representation. This policy is based on the Board's original construction of Section 2, Fourth of the RLA, which provides that, '[t]he majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class ...

This interpretation was made in the NMB's first annual report in 1935 "... not on the basis of legal opinion and precedents, but on what seemed to the Board best from an administrative point of view."⁷

In its November 2009 NPRM, the NMB says:⁸

.... under its broad statutory authority, [the board] may also reasonably interpret Section 2, Fourth to allow the Board to certify as collective bargaining representative any organization which receives a majority of votes cast in an election.

And the NMB has done just that in the past, although infrequently. As the NMB said in its first annual report in 1935 that, "Where, however, the parties to a dispute agreed among themselves that they would be bound by a majority of the votes cast, the Board took the position that it would certify on this basis ..."⁹

The Supreme Court has held that while the words of Section 2, Fourth "confer the right of determination upon a majority of those eligible to vote," the statute "is silent as to the manner in which that right shall be exercised."¹⁰

The U.S. Fourth Circuit Court of Appeals held, in 1936:¹¹

The universal rule as to elections of officers and representatives is that a majority of the votes cast elects, and that those not voting are presumed to acquiesce in the choice of the majority who do vote.

⁶ "National Mediation Board, 29 CFR Parts 1202 and 1206," *Federal Register*, Nov. 3, 2009, p. 56751.

⁷ *First Annual Report of the National Mediation Board* (1935), p. 19.

⁸ "National Mediation Board, 29 CFR Parts 1202 and 1206," *Federal Register*, Nov. 3, 2009, p. 56751.

⁹ *First Annual Report of the National Mediation Board* (1935), p. 19.

¹⁰ *Virginian Railway Co. v. Sys. Fed'n*, 300 U.S. 515, 560 (1937). See, also, *Brotherhood of Railway & Steamship Clerks v. Association for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965).

¹¹ *Virginian Ry. Co. v. System Federation No. 40, Railway Employees of the American Federation of Labor et al.*, 84 F.2d 641 (1936).

And Chief Justice Morrison Waite held, in 1877:¹²

All qualified voters who absent themselves from an election duly called are presumed to assent to the expressed will of the majority of those voting, unless the law providing for the election otherwise declares. Any other rule would be productive of the greatest inconvenience and ought not to be adopted, unless the legislative will to that effect is clearly expressed.

Moreover, courts give the decisions of expert federal agencies great deference; and are, in the words of the Supreme Court (*Chevron* doctrine), “reluctant to preclude any federal agency’s deliberations of policy because a federal agency, which is controlled by the political branches of the federal government, is constitutionally better suited than a federal court to render policy decisions.”¹³

The NMB enjoys even greater insulation from second-guessing by the courts. The Supreme Court observed in 1943 that Congress left to the discretionary authority of the NMB the determination of certifying bargaining representatives.¹⁴

Perhaps a more pregnant question is why the NMB for so long has permitted its voting procedures in representation elections to be out of sync with the standard for all other democratic elections, where a majority of those voting makes the determination. This is especially relevant where the result of such a procedure is that the failure or refusal of an eligible voter to participate is the equivalent of a “no union” vote.

It makes for sound administrative procedure, however, to provide reasonable justification – rather than willy-nilly desire – for changing a long-standing public policy.¹⁵

Determining a reasonable justification logically begins with the NMB’s observation, in its November 2009 NPRM, that Section 2, Fourth “was adopted in a much earlier era, under circumstances that differ markedly from those prevailing today.”¹⁶

¹² *County of Cass v. Johnston*, 95 U.S. 360, 369 (1877).

¹³ *Chevron USA Inc. v. Natural Resources Defense Council Inc.*, 467 U.S. 837, 865-866 (1984).

¹⁴ *Switchmen’s Union v. National Mediation Board*, 320 U.S. 297 (1943). See, also, Dana E. Eischen, “Representation Disputes and their Resolution in the Railroad and Airline Industries,” in, *The Railway Labor Act at Fifty: Collective Bargaining in the Railroad and Airline Industries* (Washington, D.C.: Government Printing Office, 1976), p. 28.

¹⁵ Although NMB representation determinations are insulated from judicial review, the *Administrative Procedure Act* (60 Stat. 237, 1946) has been interpreted by the Supreme Court to require an agency to “articulate a satisfactory explanation for its action.” *FCC v. Fox Television Stations, Inc.*, 129 S.Ct. 1800, 1810 (2009).

¹⁶ “National Mediation Board, 29 CFR Parts 1202 and 1206,” *Federal Register*, Nov. 3, 2009, p. 56752.

THE EARLIER ERA

Time and circumstances have, indeed, changed since the NMB adopted, during the 1930s, its current policy – not always followed, as will be explained – that requires a majority of eligible voters in the craft or class must cast valid ballots in favor of representation.

Consider:

* In 1930, there were 156 major (Class I) railroad systems. In 2008, the number of major (Class I) railroad systems was just 7, a 96 percent reduction since 1930.¹⁷

* In 1930, there were 1.5 million employees in the railroad industry. In 2007, employment in the railroad industry had declined to just 236,000, an 84 percent reduction since 1930.¹⁸

* In 1930, there were 249,000 miles of railroad line in the United States. In 2007, the miles of railroad line in the United States had declined to just 94,440, a 62 percent reduction since 1930.¹⁹

While it is instructive that there has been a significant decline in the number of major railroads, railroad employees and miles of railroad trackage, those considerations alone are not enough to justify a change in the NMB's long-standing voting procedures for representation elections, except to demonstrate that the environment in which the NMB made its initial determination to require a majority of eligible voters was much different than today's environment.

However -- and this is crucial -- as the NMB conducted representation elections during the 1930s, the Interstate Commerce Commission was wrestling with a congressional directive in the *Transportation Act, 1920*, to formulate a plan of merging the nation's railroads into just 19 systems.²⁰

Thus, lurking in the shadows of each representation election during the 1930s was, "What is the mood of employees on the other railroads that might become a merger partner of the railroad on which employees were voting for representation?" This concern likely steered the NMB toward seeking a demonstration in each representation election that the outcome was a result of votes from a majority of those eligible to vote.

¹⁷ *Interstate Commerce Commission, Transport Statistics of Railways in the United States* (1931); and, Association of American Railroads, *Railroad Facts*, 2008 edition, p. 3.

¹⁸ Eastern Railroad Presidents Conference, *A Yearbook of Railroad Information*, 1943, p. 62; and, Association of American Railroads, *Railroad Facts*, 2008 edition, p. 56.

¹⁹ Eastern Railroad Presidents Conference, *A Yearbook of Railroad Information*, 1943, p. 6; and, Association of American Railroads, *Railroad Facts*, 2008 edition, p. 45.

²⁰ See, for example, Frank N. Wilner, *Railroad Mergers: History, Analysis, Insight* (Omaha: Simmons-Boardman Books, 1997), chapters 4 and 6.

There are more important facts of changed circumstances:

Company Unions

* Among amendments to the *Railway Labor Act* in 1934 was one outlawing company unions – a change intended better to protect employee rights to organize.²¹ Company unions were under the control of carrier officers, with the carriers paying the wages of the employee representatives.

* The House Committee on Interstate and Foreign Commerce observed at the time (1934) that “a prolific source of dispute” between management and employees was “the denial by railway management of the authority of representatives chosen by their employees.”²²

* So substantial was this conflict that then-NMB Chairman William M. Leiserson subsequently testified that, were there a strike occasioned by a dispute over wages and hours, “we usually find we can settle those by arbitration or otherwise ... But if the issues involved were discrimination or discharge of men because they had joined the organization, or the question would be the right of the organization to represent them, we could not have settled those strikes.”²³

* Between 1933 (the year prior to an RLA amendment that outlawed company unions) and 1935, some 550 company unions on 77 Class I railroads were replaced by independent national unions.²⁴ Indeed, two thirds of the work of the NMB from 1934 until the start of World War II involved investigations and purging of company unions.²⁵

This was no simple task, as railroads were not anxious to cede negotiating power to an independent labor union. *The New York Times* observed as early as 1922:²⁶

²¹ 48 Stat. 1185 (1934).

²² *Report of House Committee on Interstate and Foreign Commerce*, No. 1944, 73rd Cong., 2d sess., pp. 1-2.

²³ Testimony of NMB Chairman William E. Leiserson before Division of Economic Research, National Labor Relations Board, “Governmental Protection of Labor’s Right to Organize,” Bulletin No. 1, August 1936, pp. 17-18, reporting on *Jones & Laughlin Steel Corporation*, 301 U.S. 57 (1936).

²⁴ Leonard A. Lecht, *Experience Under Railway Labor Legislation* (New York: Columbia University Press, 1955), p. 155.

Company unions, controlled by management, were first introduced during the period of federal control of railroads (1917-1920) by the Pennsylvania Railroad. See, Frank N. Wilner, *Understanding the Railway Labor Act* (Omaha: Simmons-Boardman Books, 2009), p. 50.

²⁵ Lecht, *op. cit.*, p. 155.

²⁶ “Company Unions As Strike Cure,” *The New York Times*, Sept. 24, 1922.

When the railroads were handed back to their owners by the Government [following federal takeover during World War I] they were working under national agreements made with union representatives. That was a yoke from which the roads constantly tried to escape.

Moreover, employees, fortunate to be working during the Great Depression were frightened – if not terrified – over the prospect of angering management by not supporting a company union and, as a result, losing their jobs.

As the U.S. Fourth Circuit Court of Appeals observed in 1936:²⁷

... any sort of influence exerted by an employer upon an employee, dependent upon his employment for means of livelihood, may very easily become undue, in that it will coerce the employee's will in favor of what the employer desires against his better judgment as to what is really in the best interest of himself and his fellow employees.

Although there is no accessible source to determine the thinking of NMB officials at the time, it is logical to conclude that requiring a majority of those eligible to vote (as opposed to a majority of those voting) more conclusively established on the part of the eligible employees a desire to be represented by a labor union independent of company influence.

This conclusion is given validity by a comment of the nation's Federal Coordinator of Transportation (1933-1936), Joseph Eastman, who proposed that in organizing employee unions, "a majority shall speak for all."²⁸

Racial Discrimination

There was, during the 1930s, a national shame of racial discrimination.

It was not until 1955 that the Interstate Commerce Commission, taking instruction from *Brown v. Board of Education of Topeka, Kansas*,²⁹ ruled that the very practice of segregation in interstate commerce was a violation of the *Interstate Commerce Act*.³⁰

For sure, discrimination against African-Americans existed also in railroad employment practices.

* On Atlanta Terminal Co., for example, there was an effort to separate, for representation, Caucasian and African-American employees. Management said it wanted a demonstration that

²⁷ *Virginian Ry. Co. v. System Federation No. 40, Railway Employees of the American Federation of Labor et al.*, 84 F.2d 641 (1936).

²⁸ "Supervision of Union Balloting," *Railway Age* magazine, April 14, 1934, p. 554.

²⁹ 347 U.S. 483 (1954).

³⁰ *National Association for the Advancement of Colored People v. St. Louis-San Francisco Railway*, 297 I.C.C. 335 (1955).

the Brotherhood of Railroad and Steamship Employees represented the “white employees.” The NMB ordered that one ballot be issued “among all the employees involved in the dispute regardless of color to afford all of them an equal opportunity to indicate their choice of representatives.”³¹

* As another example, the Brotherhood of Locomotive Firemen and Enginemen had an agreement with 10 railroads in the South to restrict hiring and promotion of African-Americans,³² and the BLF&E, according to President Roosevelt’s Committee on Fair Employment Practices, “refuses to represent them with respect to their grievances when such grievances are in conflict with the interests of junior white firemen.”³³

The national shame of racial discrimination surely created a unique challenge for the NMB – a challenge best met by requiring that representation elections be determined by a majority of those eligible rather than of those voting to guard against racial discrimination in the voting process.

Conflict among labor unions and crafts

Also unique to the period of the 1930s was the large number of competing labor organizations and crafts. Where representation of craft and class today is generally established in bright line fashion on the larger railroads (which employ almost 90 percent of rail workers³⁴), that was not the case during the 1930s.

* In 1935, on New York, Chicago & St. Louis Railroad, a dispute arose between the Brotherhood of Railroad Trainmen (BRT) and the Switchmen’s Union of North America (SUNA) regarding representation of switchmen.³⁵ The BRT claimed representation of switchmen systemwide; and the SUNA sought a separate vote of switchmen in Buffalo and those in Cleveland, rather than systemwide.

* In 1937, on Indiana Harbor Belt Railroad, a dispute arose between the Brotherhood of Railroad Trainmen and the Order of Railroad Telegraphers regarding representation of operators, towermen, levermen, train directors and operator-switchtenders.³⁶

³¹ *In the Matter of Representation of employees of the Atlanta Terminal Co. – Clerical and Station Employees*, 1 NMB 8 (1936).

³² “Issues Directives to RRs, Unions: 30 days allowed to cease and desist from alleged discrimination,” *Railway Age* magazine, Dec. 4, 1943, p. 909.

³³ “The Elimination of Negro Firemen on American Railways – A Study of the Evidence Adduced at the Hearing before the President’s Committee on Fair Employment Practices,” *Lawyers Guild Review* 4, March-April 1944, pp. 32-37.

³⁴ Association of American Railroads, *Railroad Facts*, 2008 edition, p. 3.

³⁵ *In the Matter of Representation of Employees of the New York, Chicago & St. Louis Railroad Co. – Switchmen*, 1 NMB 1 (1935).

³⁶ *In the matter of Representation of Employees of the Indiana Harbor Belt Railroad Company – Operators, Towermen, Levermen, Train Directors and Operator-Switchtenders*, Case No. R-207, Aug. 10, 1937.

* In 1935, the Brotherhood of Railroad Trainmen complained that the NMB had denied certain brakemen a representation ballot in a dispute involving road conductors.³⁷

The NMB observed in its first annual report in 1935:³⁸

[Representation disputes] arose mainly because of overlapping jurisdiction ... the antagonism engendered by the contests has developed a tendency for employees who are members of one organization to challenge the representation of the other organization

The NMB since has made clear that Section 2, Ninth of the RLA requires a systemwide election by craft or class; but, in those early years, the NMB, in decisions of first impression, surely recognized that to assure a perception of equity that the vote results had to be based on a majority those eligible to vote – that the NMB had to get it right.

Also, technology has eliminated what were some 291 crafts or classes in 1935,³⁹ and merger among unions reduced what had been some 21 separate craft unions in 1935⁴⁰ to many fewer today.⁴¹

Also notable is that it was not until 1954 that the AFL amended its constitution to prohibit raiding by AFL member unions of other AFL-member unions⁴² (now memorialized by Article 20 of the AFL-CIO constitution).

Communication and education

Times and circumstances also have changed with regard to education and communication.

* In 1930, only 30 percent of Americans were graduated from high school, while, today, the number exceeds 70 percent.⁴³ During the 1930s, representation elections were carried out by mail ballot, with each eligible voter being sent a ballot along with an instruction sheet

³⁷ *In the matter of Representation of Employes of the Norfolk & Western Railroad Co. – Road Conductors*, R-125, Dec. 24, 1935.

³⁸ *First Annual Report of the National Mediation Board* (1935), p. 19.

³⁹ *First Annual Report of the National Mediation Board* (1935), p. 15.

⁴⁰ "Union Labor Massing on Legislative Front," *The New York Times*, April 28, 1935.

⁴¹ For example, the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors, the Switchmen's Union of North America, the International Association of Railroad Employees and the Railroad Yardmasters of North America all merged into today's United Transportation Union. Also, the Order of Railroad Telegraphers, the Railway Patrolmen's International Union and the Brotherhood Railway Carmen merged into today's Transportation Communications International Union.

⁴² "Union Raiding Ban Drafted By A.F.L.," *The New York Times*, Aug. 14, 1954.

⁴³ Washington State Institute for Public Policy, "High School Graduate Rates in Washington and the U.S.," March 2005, fig. 1 (accessible at www.wsipp.wa.gov/rptfiles/05-03-2201.pdf).

explaining the procedures for a secret ballot election.⁴⁴ A significant number of blue collar workers during the 1930s may well have been unable to read at a level sufficient to ensure they understood the ballot procedures, much less the subject matter of the election.

* It was not until 1943 that a single AT&T operator could complete a long distance telephone call; previously, as many as five operators and 23 minutes were required to connect a telephone in San Francisco with one in New York.⁴⁵ As late as 1950, the cost of a five-minute long distance telephone call between New York and Los Angeles cost \$3.70, which is equivalent to \$32.73 in 2009.⁴⁶ This affected the ability of independent unions – and union supporters -- to communicate with railroad employees over a wide geographic area.

* Today, railroad employees have near universal access to hard-wired and wireless telephones, as well as e-mail, with the costs of communicating relatively insignificant. In the words of former NMB Chairperson Maggie Jacobsen, the Internet has become “a 24-hour, seven-day-a-week union meeting.”⁴⁷ Indeed, the U.S. Census Bureau reports that 74 percent of Americans 18 years and older in the workforce use the Internet.⁴⁸ As airlines and railroads are among the most computerized industries in America, the percentage of airline and railroad employees who are Internet savvy is likely higher than 74 percent.

During the 1930s, there was a communications challenge – in employee reading comprehension as well as the ability to communicate by electronic means (including telephone). That communications challenge could well have affected the ability of voting-eligible employees to be aware of the subject matter, while lower standards of reading comprehension impeded the ability of employees to understand the subject matter, mechanics and rules of a representation election.

By requiring that a majority of eligible employees vote in favor of representation, the procedure better assured that the majority would be made aware of the election and for what they were voting. The matter of employee reading comprehension is far less a problem today, and there no longer exists impediments to dissemination of information by electronic means (including voice).

⁴⁴ Dana E. Eischen, “Representation Disputes and their Resolution in the Railroad and Airline Industries,” in, *The Railway Labor Act at Fifty: Collective Bargaining in the Railroad and Airline Industries* (Washington, D.C.: Government Printing Office, 1976), p. 47.

⁴⁵ www.corp.att.com/atllabs/reputation/timeline/51trans.html

⁴⁶ <http://answers.google.com/answers/threadview/id/259641.html>. The CPI calculation was made using the CPI calculator of the Federal Reserve Bank of Minneapolis, accessible at www.minneapolisfed.org/index.cfm.

⁴⁷ Frank N. Wilner, *Understanding the Railway Labor Act* (Omaha: Simmons-Boardman Books, 2009), p. xi.

⁴⁸ “Internet Use Triples in Decade,” U.S. Census Bureau News, June 3, 2009.

Conflicts in ideology

Not readily recognized today is that there was great social upheaval during the period of the Great Depression.

Communism was viewed by many workers at that time as superior to capitalism, and communists were active agents for change. In 1938, for example, communist agitator William Z. Foster advocated worker militancy.⁴⁹

The president of the Switchmen's Union of North America responded that communist efforts are intended "to create disharmony, discord and disunity among the members of standard railroad labor organizations."⁵⁰

Here, again, was reason for the NMB to certify representation votes on the basis of a majority of those eligible to vote rather than to permit, perhaps, a handful of agitators to determine representation votes for a radical organization by intimidating a majority of workers from casting ballots.

CONCLUSION

The National Mediation Board proposes to bring its 75-year-old representation election voting procedures in sync with those of the National Labor Relations Board, and what the federal courts term, the "universal rule as to elections of officers and representatives."

The change would provide that the outcome of an election is determined by a majority of those voting, scrapping the archaic majority-of-those-eligible rule, which arbitrarily assumes that those not voting be counted as a "no vote."

Circumstances have changed since the NMB instituted such voting procedures in 1934. The reasons then included:

- * An effort by the NMB to demonstrate to employers that their employees overwhelmingly preferred an independent labor union to a company union controlled and financed by management.

- * An effort to guard against racial discrimination in an election and better assure access to ballots by African-American workers.

- * An effort to resolve conflict among some 21 separate independent labor unions seeking to represent some 291 separate crafts or classes at the time – to "get it right" by determining the desires of a majority of those eligible to vote.

⁴⁹ "Railroad Workers Forward!" *Railway Age* magazine, April 2, 1938, p. 623.

⁵⁰ *Id.*

* An effort to combat substantially lower levels of education and reading comprehension among workers. By requiring a positive vote among a majority of those eligible, better assured that efforts would be made by those asking for the election to reach and explain voting procedures to those eligible.

* An effort to combat technological difficulties in communicating with potential voters. Again, requiring a positive vote among a majority of those eligible, better assured that efforts would be made to reach out and communicate with those eligible.

* An effort to combat Communist agitators, who were using intimidation and other tactics to encourage worker militancy and workplace discord.

Today,

* There no longer are company unions or the threat of company unions.

* Racial discrimination has been outlawed, and procedures are in place to root out and prosecute racial discrimination in the workplace.

* Conflicts among RLA-covered labor unions are largely non-existent today, and the number of crafts and classes of workers has been reduced substantially. Moreover, by including a "no union" choice on the ballot provides eligible employees opportunity to cast a "no vote."

* Levels of education, especially among railroad and airline workers, have been dramatically improved, with most using computers in their daily work routines.

* Barriers to communication among workers, as well as between workers and their employers and union organizers have been almost entirely eliminated with near universal access to telephone and e-mail. Also, today's railroad and airline workers have substantially higher levels of education than they did during the 1930s.

Because of changes in circumstance, 75-year-old NMB voting procedures are ripe for change to bring them in sync with the universal rule as to elections of officers and representatives, which is a majority of those casting ballots.

December 6, 2009

December 3, 2009

Mary Johnson
General Counsel, National Mediation Board
1301 K Street NW Suite 250-East
Washington, DC 20005

RE: RLA Rulemaking Docket No. C-6964

Dear Ms. Johnson:

American Rights at Work is an independent non-profit organization dedicated to promoting the freedom of workers to organize and bargain collectively. The organization engages in research, analysis and public advocacy concerning the rights of workers throughout the United States. In particular, ARAW studies the development and implementation of federal law governing labor relations and workers' organizing rights under the National Labor Relations Act, and publicizes the practical impact of labor policy on workers and employers. For several years we have documented and highlighted the experiences of companies and workplaces committed to positive labor and management relations, including those companies that support the ability of their workers to exercise freedom of association rights without fear of reprisal.

As an organization devoted to labor and employment policy, and ensuring the rights of American workers in the workplace, ARAW has an interest in the National Mediation Board's Request for Comments on the rule titled Representation Election Procedure (Docket Number C-6964), and wishes to share its perspective.

American Rights at Work supports the Board's proposal to amend its Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative. Based on our knowledge of labor law, current labor relations and workplace conditions, we agree that this change will provide a more reliable measure of employee sentiment in representation disputes and provide employees with clear choices in representation matters.

Current procedures create perverse incentives where employers work to *discourage* turnout. The majority opinion of participating voters is often vetoed by those who do not vote. In a 2008 union election for flight attendants at Delta Airlines, management created what they called a "Give a Rip" campaign instructing employees to destroy government-issued balloting instructions. Because current election procedures count all non-voters as "no" votes, this type of employer misconduct can be very effective and is essentially rewarded.

The data are overwhelming showing the often insurmountable hurdles, both legal and illegal, faced by American workers who try to exercise their rights in the workplace. The current labor law system allows employers to violate the spirit as well as the letter of the

law as documented in the series of comprehensive national studies conducted by Professor Bronfenbrenner of Cornell University¹ as well as other well-respected scholars across the nation. Our own recent research indicates that in 46% of NLRB-supervised union elections, workers report employer lawlessness both before and during the election.²

Specifically, Professor Bronfenbrenner's recent research³ shows that the voter suppression and coercion tactics carried out by employers in the context of the NMB eligible voter election standard carry even greater weight because every vote not cast can have a much greater impact where the bar it takes to win is set based on requiring everyone to vote.

The Railway Labor Act gives the Board discretion on how it conducts elections and does not require the current procedure. When the data are so clear demonstrating the barriers faced by American workers to exercising their rights, American Rights at Work urges this simple update to the rules for the sake of the rights of all Americans.

Thank you for your consideration of these comments,

David Bonior, Chair
American Rights at Work

¹ Most recently, see Bronfenbrenner. "No Holds Barred: The Intensification of Employer Opposition to Organizing," Economic Policy Institute Working Paper no. 235, 2009.

² American Rights at Work obtained data on all unfair labor practice cases and all election petitions that the National Labor Relations Board (NLRB) closed between 1999 and 2007 under a Freedom of Information Act request. In order to determine how many unfair labor practice charges (ULPs) were associated with each election petition, we selected one year, 2003, and manually matched all representation petitions filed in 2003 with corresponding ULPs. We did this for all ULPs that were filed at any point between three months before each petition through eighteen months after the filing. The following criteria were used to determine whether there was a match: NLRB Region, various forms of the employer's name, union, and location. In addition, where a petition had been "blocked" by a ULP, those election petitions were automatically assigned to the ULP that caused the block to be placed on the petition. On some occasions, an NLRB agent specifically identified the election petition that corresponded to the ULP, and these were categorized accordingly.

³ See letter dated November 19, 2009 Re: Docket number 6964 from Professor Bronfenbrenner that includes data analysis of RLA elections.

R. Lynn Tucker
10908 Renegade View Lane
South Jordan, UT 84095

November 30, 2009

DEC07'09 AM 9:17 NMB

Elizabeth Dougherty, Chairman
National Mediation Board
1301 K Street NW
Washington, DC 20005-7011

Re: Proposed NMB Rule Changes for Union Representation Elections (Docket No. C-6964)

Dear Chairman Dougherty:

This letter is to express my objection to the National Mediation Board's proposal to change the voting rules for representation elections.

The proposed change would allow a small number of a work group to determine the fate of an entire work group during an election to vote a union in. This means that the choice of a few could dictate the fate of an entire group. I am a Delta Employee that would be affected the change and it does not seem fair.

If the rule is changed to allow this to happen; then it would seem logical that the rules be changed to allow a small number of a group to determine that a whole group become nonunion. It is not fair to make it easier to vote a union in than to vote a union out.

The long standing majority voting rules have worked well for employees, unions and employers in the past. These rules were written to be sure that unions have the support of the majority of employees. Any decision about representation should be made through a process that is consistent and fair.

I work for Delta and feel the timing between the NMB's proposal rule change and the withdrawals by the IAM and AFA are cause for concern. How come union elections continued to move forward in other airlines but Delta employees are left waiting?

Please reconsider the proposed rule change and leave the majority rules in place. They are fair and have worked well for many years.

Sincerely,

R. Lynn Tucker



Proposal to change NMB Rules

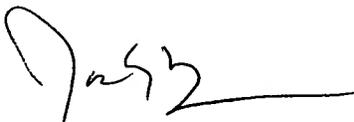
National Mediation Board Members,

My name is James Wells and I have been a Fleet Service Worker for Continental Airlines since December 1993. I have been participating in the campaign to bring Teamster representation for my work group. I support the change to the voting which would bring our election in line with the manner that all elections are held in this country.

I have been active in other political campaigns, and I am a very engaged political citizen. I know how difficult it is to get votes- just to get people to exercise their right to vote. I know how hard it is to win. So I don't understand why a vote for unionization in my work group should be made more difficult than the election of our President, or my State Representative, or simply deciding on a local ballot initiative. If I elect my local town councilman by a simple majority of voting citizens- by a simple yes or no vote- then why should the question of Teamster representation in my work group be any different??

Simply put, the rules in this country should be the same for all: Airline worker, teacher, truck driver. Corporate interests- in my case Continental Airlines- should not be able to operate under a system that makes it immensely easier for them to stop workers from exercising the right to organize union representation. We workers under the Railway Labor Act should not be handicapped because of an outdated law that people are afraid- or intimidated- to change.

Sincerely,



James E Wells

Ms. Linda Puchala
National Mediation Board

DEC07'09 AM 9:11 NMB

Ms. Puchala,

I'm writing to express concern regarding the recent action taken by the NMB to change The Railway Labor Act and its voting rules for Union representation.

I'm extremely concerned that this action will penalize the true working class and will place forced-will on the current workers under non-union rule. As stated in the NMB mission and key functions statements, the NMB's integrated processes specifically are designed to promote three statutory goals:

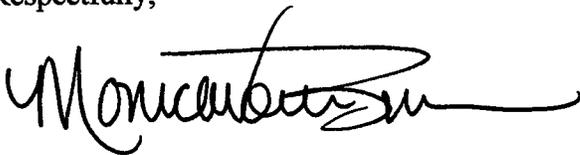
- > 1. The prompt and orderly resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
- > 2. The effectuation of employee rights of self-organization where a representation dispute exists; and
- > 3. The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

>

> The rules have been in place for decades and are only under consideration for change due to the attempts by AFA to unionize the Flight Attendant group at Delta Air Lines .I am a 26 year employee and have vigorously defended my right against the union for two votes already. In light of the previous vote outcome, my personal beliefs, and the union tactics at other airlines, I am asking all of my State Representatives and Senators to take a hard look at the improper business practices of AFA, as well as the unscrupulous behavior of two members of the NMB during the absence of the third. Additionally, it is my belief that only the Senate can make changes to Railway Labor Act rules and I find this delay tactic by the IAM and AFA a horrific use of current member dues and a woeful act against my company and our ability to thrive in this unforgiving economy.

Thank you for your consideration in this matter.

Respectfully,



Monica Norred Brown
Delta Flight Attendant
Dept 610 Atlanta GA

R. Lynn Tucker
10908 Renegade View Lane
South Jordan, UT 84095

November 30, 2009

DEC03'09 PM 4:05 NMB

Harry Hoglander, Member
National Mediation Board
1301 K Street NW
Washington, DC 20005-7011

Re: Proposed NMB Rule Changes for Union Representation Elections (Docket No. C-6964)

Dear Mr. Hoglander:

This letter is to express my objection to the National Mediation Board's proposal to change the voting rules for representation elections.

The proposed change would allow a small number of a work group to determine the fate of an entire work group during an election to vote a union in. This means that the choice of a few could dictate the fate of an entire group. I am a Delta Employee that would be affected the change and it does not seem fair.

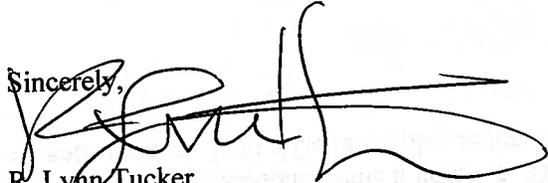
If the rule is changed to allow this to happen; then it would seem logical that the rules be changed to allow a small number of a group to determine that a whole group become nonunion. It is not fair to make it easier to vote a union in than to vote a union out.

The long standing majority voting rules have worked well for employees, unions and employers in the past. These rules were written to be sure that unions have the support of the majority of employees. Any decision about representation should be made through a process that is consistent and fair.

I work for Delta and feel the timing between the NMB's proposal rule change and the withdrawals by the IAM and AFA are cause for concern. How come union elections continued to move forward in other airlines but Delta employees are left waiting?

Please reconsider the proposed rule change and leave the majority rules in place. They are fair and have worked well for many years.

Sincerely,


R. Lynn Tucker

[11/19/2009]
Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

DEC03'09 PM 4:13 NMB

**Re: Proposed NMB Rule Change For Union Representation Elections
(Docket No. C-6964)**

Dear NMB Members:

I am writing to express my agreement to the National Mediation Board's proposal to change the long-standing voting rules for representation elections.

I am a former Delta employee ('forced to retire on 3/31/09 after 29 years'). Delta alleges that the proposed rule change would allow a union to be voted in by a small fraction of employees, so the fate of an entire workgroup could be dictated by the decision of a few. I disagree, and am most concerned that Delta's claim that with this proposal, once a union has been voted in, it might never have to stand for re-election is erroneous. In fact, I feel positive that if the election rules are changed, it will be better for Delta employees and retirees like me. It's not fair or democratic for Delta to say that it is "easier to vote a union in, and then not allow us an equal way to change our minds."

Based on the actions of Delta executives today and in the past 5 or more years, for them to say that the unions are "a process to become non-union" is inaccurate and disturbing. Delta Air Lines, Inc. has done everything it can do to cut costs, putting LAST their long valued, dedicated and tenured employees by forcing folks like me out of a job!

The timing between the NMB's proposed rule change and the withdrawals by the IAM and AFA are an obvious cause for concern for Delta, but not for its employees. That is because Delta has had a method and systematic way of removing hard working, good, knowledgeable and loyal, strong employees who just happen to have seniority, higher pay and tenure with the company, based on loyalty and hard work. This is a good reason why union elections continued to move forward at other airlines. Delta employees are singled out daily for longevity, age and seniority even though they have a proven, documented record of hard work, dedication and loyalty. Former and current Delta employees HAVE the right, and deserve to have representation issues resolved with Union support.

I strongly urge you to consider the proposed rule change. The long-standing majority voting rules have not worked well for employees, unions and airlines for 75 years and were "once upon a time" written to ensure that employees were represented by unions to support of the majority of employees.

I want to vote YES, to ask for Union representation to help me and other former retiree and existing Delta Air Lines employees to make important, long-term decisions and to be protected from ruthless, heartless cost-cutting job cuts and benefit losses from Delta Air Lines. I individually would vote YES for Union representation today, based on my horrible and sudden "retirement/firing" treatment by Delta Air Lines.

I worked 30 long and hard years, in good standing (no letters of insubordination, problems, nothing) from 1979 to 3/31/2009 when I was suddenly advised that I was "no longer a considered candidate for my job."

When I left Delta on 3/31/09, I was a highly respected, tenured, senior employee who performed in my job description in a matter rated by Delta as "meets" or "exceeds" expectations and have documented proof.

I was replaced by a [REDACTED] male employee (at least 20 years younger than I), with no experience in my role as "Learning Designer II." I initially received literally 11-days notice to accept a "buy out retirement package" or look elsewhere. I was 52-years old on that date (1/28/09) time.

I have since attempted to seek employment in the same industry/corporate world as an Instructional/Learning Designer and to date have not been successful. I believe this to be because of my age and the fact that I list my reason for leaving Delta as "Retired." I did NOT voluntarily retire, but was simply forced out for a younger, lower paid, male, less knowledgeable existing employee.

Had there been Union representation at that time, I believe I would have prevailed and would still be fairly employed and thriving at Delta Air Lines.

Best Regards,
Susan L. Knight
Former Delta Air Lines Employee
12/17/79 thru 3/31/09
Employee # 023164600
Learning Designer II
1060 Delta Blvd., Bldg. B
Field Support and Learning
Atlanta, Ga. 30320



Contacts:
Phone 678-521-5570 cell 770-577-7730 home
Email: slknight7@bellsouth.net

November 22, 2009

National Mediation Board
1301 K Street, NW
Washington, D.C. 20005

Dear National Mediation Board,

Subject: Proposed NMB Representation Rulemaking - Docket Number C-6964

I am a 30 year Northwest Airlines flight attendant and am writing in support of the NMB rule change that has been recently proposed.

Delta Airlines (my future employer) has a long and proud history of suppressing union votes on its property and has proven it has no intention of changing such practices. The fact that the NMB is willing to change such an antiquated rule is very commendable and I am very appreciative of your help. Thank you for realizing the unfairness of the old yes/no voting procedures, and the fact that no other election of any sort takes place in this country using our outdated system of vote counting. I sincerely hope that on January 4, 2010 you will make the final decision to allow this change. Thank you.

Sincerely,

 F/A NWA

Richard Swisher F/A
Northwest Airlines (pre-merger)
1809 E. Park Drive
Palm Springs, CA 92262

DEC03:09 PM 4:09 NMB