





Littler Mendelson, P.C.  
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November 3, 2009

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VIA FACSIMILE (202) 692-5085 AND U.S. MAIL

National Mediation Board  
Mary Johnson  
General Counsel, Office of Legal Affairs  
1301 K Street, N.W.  
Suite 250E  
Washington, D.C. 20005

**Re: Freedom of Information Act Request**

Dear Ms. Johnson:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, 29 C.F.R. § 1208, and the National Mediation Board's ("Board") Freedom of Information Act Reference Guide, Littler Mendelson hereby requests the following information related to the Board's Notice of Proposed Rule Making concerning Representation Election Procedures, Docket No. C-6964, dated October 28, 2009, published at FR Doc. 2009-26437:

- All communications, including but not limited to, correspondence; e-mails; faxes; voice mails or notes, between Members Harry Hoglander, Linda Puchala and/or Board Chairman Elizabeth Dougherty and any labor organizations or collective bargaining representatives as defined by either the Railway Labor Act or the National Labor Relations Act, their officers or agents, concerning the above-referenced proposed rule change or any request that the Board alter representation election procedures, from January 1, 2009 until the present.
- All communications, including but not limited to, correspondence; e-mails; faxes; voice mails or notes, between Members Hoglander, Puchala and/or Chairman Dougherty and any other outside parties, including but not limited to, Members of Congress, the White House, their staffs, or congressional committees and their staffs, concerning the above-referenced proposed rule change, from January 1, 2009 until the present.
- All calendar entries reflecting the above-referenced subject matter of Members Hoglander, Puchala and/or Chairman Dougherty, and maintained in their official capacities as Members/Chairman of the Board from January 1, 2009 until the present.

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- All minutes and/or notes from deliberations conducted by the Members/Chairman of the Board, including but not limited to correspondence, notes, e-mails or voice mails from January 1, 2009 until the present.
- All opinion memoranda or other non-privileged advice or counsel sought by and/or received by Members Hoglander and/or Puchala and/or Chairman Dougherty in conjunction with their consideration of the proposed rule, including but not limited to, memoranda, advice or counsel regarding the scope of the Board's statutory authority, if any, to implement such a change, from January 1, 2009 until the present.

We also ask that the Board take steps to ensure that all of the aforementioned information sought is retained and protected against loss or destruction, including but not limited to, information that might be required to be produced pursuant to Federal Rules of Civil Procedure 34.

It is our position that this Request falls under the fee waiver exception as outlined in 29 U.S.C. § 1208.6(b)(3)(i) in that the information sought is in the public interest because it is likely to contribute significantly to the public's understanding of the operations or activities of the government and, also, the Request is not primarily in the commercial interest of Littler Mendelson as the requester of this information. If, however, it is the Board's position that this exception does not apply, Littler Mendelson agrees to pay all fees associated with responding to this Request.

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Further, because we are already inside the 60-day comments period, we ask that the National Mediation Board reply to this Request on an expedited basis.

Sincerely,



Ilyse Wolens Schuman

cc: **Little Mendelson Transportation Core Group**  
**Ellen Bronchetti**  
**Ron Holland**  
**Kevin Kraham**  
**Jack Lambremont**  
**Don Maliniak**  
**Chip McWilliams**  
**Peter Petesch**  
**Patrick Ray**  
**John Telford**  
**C. Scott Williams**