

# 21



# NMB

## **NATIONAL MEDIATION BOARD**

ANNUAL PERFORMANCE AND ACCOUNTABILITY REPORT

*FY2021*

# 21



## **NATIONAL MEDIATION BOARD**

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT



# CHAIRMAN'S LETTER

NOVEMBER 15, 2021



In FY 2021, the National Mediation Board (NMB) entered its 87th year of public service promoting the resolution of representation, collective bargaining and grievance disputes in the railroad and airline industries.

The Agency delivers critical services to approximately 150 commercial airlines, over 500 railroads and their employees and unions. Together with professionals from rail and air carriers and labor organizations, the NMB works to prevent transportation disruptions in the air and rail industries and the disastrous effects they would have on the U.S. economy. The NMB has been, and will continue to be, an influence for stability in these most important sectors of our nation's transportation system and economy.

The NMB's Office of Mediation Services (OMS) works in the area of mediating collective bargaining agreements in the airline and railroad industries, as well as in other dispute resolution efforts such as facilitation and grievance mediation. In FY 2021, NMB's OMS staff of mediators were responsible for managing more than 50 mediations and 36 grievance mediation cases.

The Office of Legal Affairs (OLA) acts on the rights that employees in the airline and railroad industries have to select a labor organization or individual to represent them for purposes of collective bargaining, or to decline representation. In FY 2021, OLA successfully completed 13 representation cases.

The Office of Arbitration Services (OAS) manages the arbitration of individual grievances arising from the interpretation of negotiated collective bargaining agreements. In FY 2021, OAS docketed and managed 4,462 arbitration cases.

The Office of Administration (OA) performed an important role of continuing to facilitate COVID-19 procedures and staffing changes. Despite the ongoing limitations of having staff on telework status, OA ensured NMB made progress on our workforce plan by completing the hiring process for four employees in 2021.

The Office of Information Services (OIS) continued the challenging work of leading the Agency to full compliance with federal IT security requirements. In addition, OIS completed its replacement of the legacy Arbitrator Workspace System with a new and improved system.

The Office of Fiscal Services (OFS) navigated federal budgeting for the Agency in a year challenged with multiple continuing resolutions and funding delays and ensured sound fiscal management of our budget. We are pleased to report that the Independent Auditor's report found no deficiencies in NMB's internal control over financial reporting.

I am pleased to report that despite the many challenges faced by the Agency in FY 2021, the NMB effectively met its statutory obligations to the rail and air carriers and their employees, and delivered true value to the American public by ensuring the movement of interstate commerce.

**GERALD W. FAUTH III**  
Chairman

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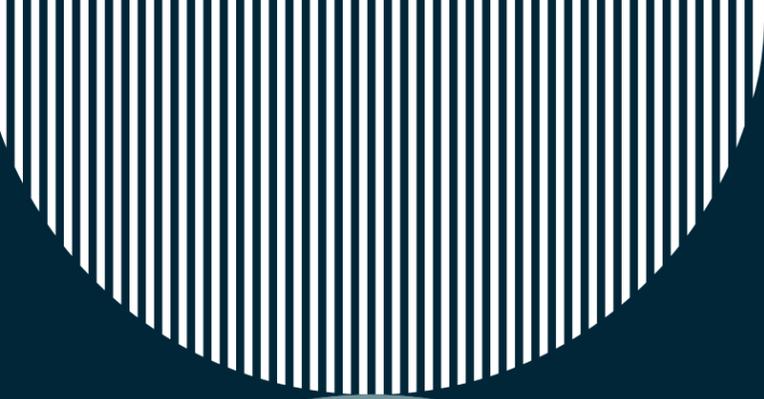
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**MANAGEMENT'S  
DISCUSSION  
AND ANALYSIS  
(MD&A)**



# ABOUT THE NATIONAL MEDIATION BOARD

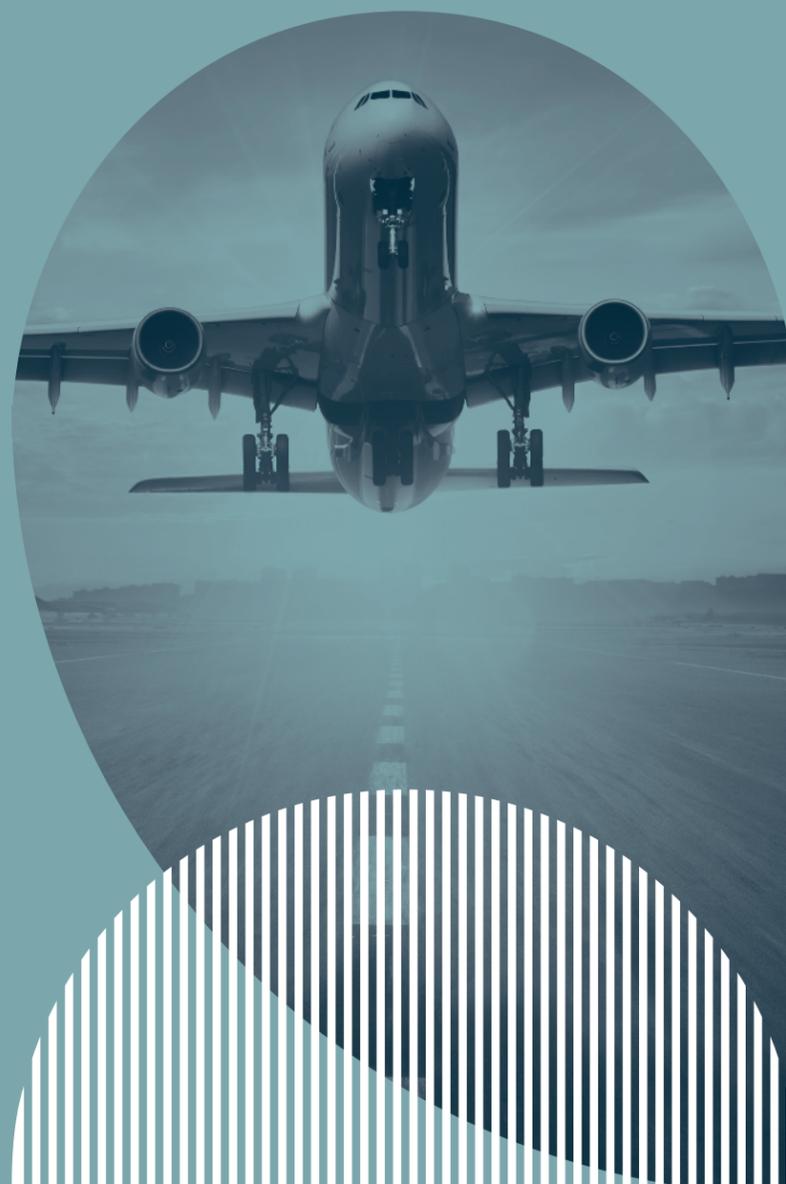
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The National Mediation Board was established by the 1934 amendments to the Railway Labor Act\* of 1926. It is an independent, federal agency performing a central role in facilitating harmonious labor-management relations within two of the nation's key transportation sectors: railroads and airlines.

The NMB is headed by a three-member Board nominated by the President and confirmed by the Senate. Although appointed for three-year terms, members may serve until replaced. The members self-designate a Chairman, typically on a yearly basis.

Pursuant to the Railway Labor Act, the Agency's integrated dispute resolution processes are designed to promote the following three statutory goals, enabling the National Mediation Board to effect its mandate to minimize work stoppages in the railroad and airline industries:

1. The 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 resolution of disputes over the interpretation or application of existing collective bargaining agreements.

In order to realize these goals, the NMB has three established program offices: the Office of Mediation Services (OMS), the Office of Legal Affairs (OLA), and the Office of Arbitration Services (OAS). Offices that support all purposes include the Office of Administration (OA), the Office of Fiscal Services (OFS), and the Office of Information Services (OIS). For further information, see the Management's Discussion and Analysis section of this annual report.

\*The Railway Labor Act provides a comprehensive statutory framework for the resolution of labor-management disputes in the railroad and airline industries. Enacted in 1926 as a collaborative effort of labor and management, the RLA succeeded several previous federal statutes dating back to 1888. The 1926 Act provided for mandatory Mediation and voluntary Arbitration of railroad disputes in contract negotiations, as well as for Presidential Emergency Boards to enhance dispute resolution. Key amendments to the Act in 1934 established a three-member National Mediation Board and authorized the resolution of employee Representation disputes by the NMB. In 1936, the jurisdiction of the RLA was expanded to include the airline industry. The 1981 amendment to the Act permitted the creation of specialized Presidential Emergency Boards for collective bargaining disputes at certain commuter railroads.

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# NMB STRUCTURE



## CHAIRMAN AND MEMBERS OF THE BOARD

**Gerald W. Fauth, III**<sup>1</sup>  
Chairman

**Kyle Fortson**<sup>2</sup>  
Member

**Linda A. Puchala**  
Member

**Nancy Guiden**  
Confidential Assistant

**Kelsey Kelleher**  
Confidential Assistant

**Connor M. Parker**  
Confidential Assistant

## PROGRAM OFFICES

### OFFICE OF LEGAL AFFAIRS

**Maria-Kate Dowling**<sup>3</sup>  
Acting General Counsel

**Norman Graber**  
Counsel

**Eileen Hennessey**  
Counsel

**Andres Yoder**  
Counsel

**Josie G.M. Bautista**  
Counsel

**John S.F. Gross**  
Counsel

**Keith Hussong**  
Program Support Specialist

### OFFICE OF MEDIATION SERVICES

**Patricia Sims**  
Director

**John Livingood**  
Senior Mediator

**Kelley Gallop**  
Senior Mediator

**Anthony Tosi**  
Mediator

**Gerry McGuckin**  
Mediator

**James Mackenzie**  
Mediator

**Victoria Gray**<sup>4</sup>  
Mediator

**Michael Kelliher**  
Mediator

**Eva Durham**  
Mediator

**Catherine McCann**<sup>5</sup>  
Mediator

**Jane Allen**  
Mediator

**Nakita Raiford**  
Mediation Program Specialist

### OFFICE OF ARBITRATION SERVICES

**Terri D. Brown**  
Director

**Elijah Crayton**<sup>6</sup>  
Lead Management &  
Program Analyst

**Linda Gathings**  
Arbitration Program Specialist  
(Chicago)

**Michaela Guyton**  
Arbitration Program Specialist  
(Chicago)

**Dexter Batts, Jr.**<sup>7</sup>  
Arbitration Program Specialist

## SUPPORT OFFICES

### OFFICE OF FISCAL SERVICES

**Michael Jerger**  
Chief Financial Officer

**Denise Murdock**  
Program & Management  
Analyst

**Eric B. Johnson**  
Budget & Financial Analyst

### OFFICE OF INFORMATION SERVICES

**William Fumey**  
Chief Information Officer

**Taha Sadeghi**  
Information Technology  
Specialist (INFOSEC)

**Amy Anderson**<sup>8</sup>  
Information Technology  
Specialist (INFOSEC)

**Nathan Jones**<sup>9</sup>  
Information Technology  
Specialist (INFOSEC)

**Catrina Jackson**<sup>10</sup>  
Information Technology  
Specialist (INFOSEC)

### OFFICE OF ADMINISTRATION

**Samantha T. Jones**  
Director

**Bruce Conward, Jr.**  
Support Service Specialist

**Terran C. Walker**  
Support Service Specialist

#### Footnotes:

1. Became Chairman on July 1, 2021.
2. Served as Chairman from July 1, 2020 through June 30, 2021.
3. Appointed as Acting General Counsel on October 1, 2020.
4. Retired from NMB on December 31, 2020.
5. Retired from NMB on July 31, 2021.
6. Promoted to Lead Management & Program Analyst on April 25, 2021.
7. Joined NMB on December 10, 2020.
8. Joined NMB on October 13, 2020.
9. Joined NMB on November 23, 2020.
10. Joined NMB on February 16, 2021.

# NMB BOARD MEMBERS



**GERALD W. FAUTH, III**  
*Chairman*

Gerald W. Fauth, III, was confirmed by the United States Senate on November 2, 2017, and assumed his position as a Board Member. Mr. Fauth served as Chairman of the National Mediation Board from November 9, 2017, through June 30, 2018. Mr. Fauth has 40 years of experience in the private sector and federal government working on economic, regulatory, public policy, and legislative issues related to transportation.

Mr. Fauth has been involved in negotiating, mediating, arbitrating, facilitating, supporting, or deciding the resolution of hundreds of transportation problems and disputes during his long career. He has submitted expert testimony and evidence on behalf of a wide variety of clients in numerous proceedings, which has helped resolve complex economic and regulatory issues. Mr. Fauth served at the U.S. Surface Transportation Board (STB), where he worked for more than three years as Chief of Staff and Senior Advisor to a Board Member.

While serving at the STB, he reviewed, analyzed, and made recommendations on hundreds of formal written decisions, which involved all matters of STB jurisdiction and had an impact on the transportation industry and the national economy.

Mr. Fauth was previously President of G.W. Fauth & Associates, Inc., a transportation economic consulting firm based in Alexandria, Virginia. Mr. Fauth holds a bachelor's degree from Hampden-Sydney College in Virginia.

## BOARD MEMBERS



### KYLE FORTSON

#### Member

Ms. Kyle Fortson was confirmed by the United States Senate on November 2, 2017. She previously served as Chairman from July 1, 2018, through June 30, 2019; and again from July 1, 2020 through June 30, 2021.

Since joining the Board, Ms. Fortson has worked to successfully resolve mediation cases of national importance. As Board Member and Chairman, Ms. Fortson has emphasized reducing the long-standing backlog of arbitration cases and, during her tenure, the caseload has been reduced by nearly 60 percent. Ms. Fortson also implemented a realignment of the agency structure to enhance and modernize support services.

Immediately prior to joining the NMB, Ms. Fortson served as Labor Policy Director for the Senate Health, Education, Labor and Pensions (HELP) Committee, working directly for the Chairman, Senator Lamar Alexander of Tennessee. As Labor Policy Director, Ms. Fortson was responsible for all labor, employment and workplace safety issues in the Committee's jurisdiction. Ms. Fortson also worked for previous Republican HELP Committee leaders: Senator Mike Enzi and Senator Judd Gregg. Before moving to the Senate, she served as Counsel to a member of the House of Representatives Judiciary Committee.

She is a graduate of the University of Colorado at Boulder and the George Washington University School of Law.

### LINDA A. PUCHALA

#### Member

Ms. Linda A. Puchala was first confirmed as Member of the National Mediation Board by the United States Senate on May 21, 2009. Ms. Puchala previously served as Chairman from May 2009 through June 30, 2009; July 1, 2011, through June 30, 2012; July 1, 2013, through June 30, 2014; July 1, 2016, through June 30, 2017; and July 1, 2019, through June 30, 2020. Her most recent Senate confirmation came on November 2, 2017.

Prior to becoming a Member, Ms. Puchala served 10 years at the National Mediation Board as a Mediator, Sr. Mediator (ADR), and the Associate Director of Alternative Dispute Resolution Services. Ms. Puchala's prior labor relations experience includes work as International President of the Association of Flight Attendants-CWA, AFL-CIO and Staff Director, Michigan State Employees Association, AFSCME, AFL-CIO.

Ms. Puchala resides in Glen Burnie, Maryland, and holds a Bachelor's degree in Business Administration from Cleary University in Howell, Michigan.

## DIRECTORS



### MARIA-KATE DOWLING

#### Acting General Counsel

Maria-Kate Dowling is Acting General Counsel of the National Mediation Board. Ms. Dowling was appointed as Acting General Counsel in October 2020. She joined the NMB as Associate General Counsel in 2003. As Acting General Counsel, she serves as the Chief Legal Officer of the agency and manages the Board's representation program and a legal program which includes litigation. In this role, Ms. Dowling provides legal advice to the Board Members and agency staff. In addition, she ensures compliance with the Freedom of Information Act, Government in the Sunshine Act, and other statutes.

Ms. Dowling received a B.S. degree in Computer Science and a B.A. degree in English from the University of Maryland, where she was elected to Phi Beta Kappa. She earned a J.D. with honors from the George Washington University National Law Center. Ms. Dowling is a member of the Maryland Bar.



### PATRICIA SIMS

#### Director, Office of Mediation Services

Patricia Sims joined the NMB in 1997 as a Mediator and was promoted to Senior Mediator in 2000 and promoted to Director of Mediation Services (DOMS) in 2018. Ms. Sims is the first woman to hold the position as Director of Mediation. As the DOMS, she is responsible for supervision and oversight of the Mediation Department services and programs. Ms. Sims brings more than 20 years of experience in mediation in both the air and rail industries. She has mediated major disputes with all of the legacy airlines and their unions, including legacy merger agreements. Ms. Sims successfully mediated National Handling, concluding in 2007, which included the five Class I railroads and the UTU. Additionally, in 2002 she completed mediation with the first interest-based contract in the rail industry at CSX with their yardmasters.

Ms. Sims worked to create the Alternative Dispute Resolution (ADR) department at the NMB, which provides problem-solving training to the parties in both industries. She has been instrumental in promoting and facilitating new processes in both industries.

Ms. Sims earned her Bachelor's degree in Education from Virginia Tech and received her mediation certification at Harvard Law School and at the Private Adjudication Program at Duke University Law School.

# DIRECTORS



## **TERRI D. BROWN**

### ***Director, Office of Arbitration Services***

Terri D. Brown is the Director, Office of Arbitration Services at the National Mediation Board, where she is responsible for all aspects of grievance and interest arbitration in the airline and railroad industries. Ms. Brown was selected as the new Director of Arbitration Services in March 2020. She joined the NMB in 2002 as a Mediator and was subsequently promoted to Senior Mediator in 2010. Ms. Brown has more than 25 years of experience in labor relations, mediation, arbitration, and dispute resolution. During her tenure as an NMB mediator she successfully mediated many complex cases in both the airline and railroad industries. Since 2010, she has served as one of the two Ombudsmen under the NMB's internal Conflict Prevention and Resolution Policy.

Ms. Brown has an MBA from the University of Baltimore, a JD from Howard University and a BA from Chatham University.



## **MICHAEL JERGER**

### ***Chief Financial Officer***

Michael Jerger joined the National Mediation Board in June 2019 as the Chief Financial Officer. In this role Mr. Jerger serves as a senior advisor to the Board and staff on financial, budgetary, and resource management decisions. In addition, he directs the financial management of the NMB and provides interpretation and direction on fiscal policy and law.

Prior to joining the NMB, Mr. Jerger was the Chief Operating Officer for the Institute of Museum and Library Services (IMLS), which is the main source of federal support for libraries and museums within the United States. In this role, he directed and managed the Offices of the Chief Financial Officer, Grants Administration, Human Resources, and Operations. Prior to joining the IMLS, Mr. Jerger was a Senior Global Business consultant with the IBM Corporation in New York.

Mr. Jerger holds a Bachelor's degree in Accounting from the University of Maryland, College Park.

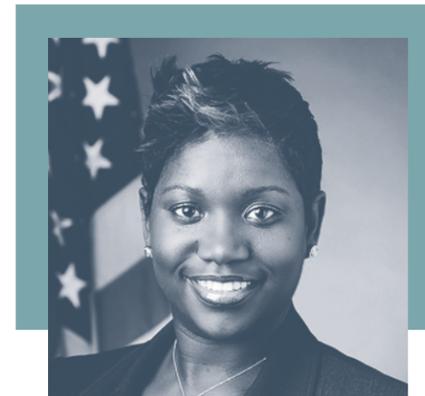


## **WILLIAM FUMEY**

### ***Chief Information Officer***

William Fumey is the Chief Information Officer and Director of the Office of Information Services at the National Mediation Board. Mr. Fumey joined the NMB in January 2019. As Chief Information Officer, Mr. Fumey oversees information technology and its related security and management for the Board.

Mr. Fumey holds a Master of Business Administration from the George Washington University and a Bachelor of Science in Information Sciences and Technology and a minor in Telecommunications from the Pennsylvania State University. He is a Certified Project Management Professional (PMP), Certified Information Systems Security Professional (CISSP), and Certified Information Systems Auditor.



## **SAMANTHA T. JONES**

### ***Director, Office of Administration***

Samantha T. Jones is the Director of Office Administration (OA) at the National Mediation Board. During her tenure at the NMB, she has served in many leadership roles, including Acting Director of OA, Special Assistant to the Chief of Staff, the Assistant Chief of Staff—Administration, the Chief Financial Officer, and most recently, as the Acting Chief Financial Officer and the Acting Director of the Office of Fiscal Services.

Prior to joining the NMB in 2005, Ms. Jones was employed by the National Capital Planning Commission, where she served in many capacities, providing advice and guidance to senior management officials.

Ms. Jones holds a Bachelor of Science in Business Management with a minor in Computer Studies from the University of Maryland. She also holds a Master of Arts in Conflict Resolution from Dominican University, a certificate in executive leadership and a certificate in high performance, both from Cornell University. At Cornell University's ILR School, the Scheinman Institute on Conflict Resolution, she received training in Mediating and Arbitrating in the Federal Sector. Ms. Jones also serves as NMB's principal management official on the Small Agency Council Executive Committee for Human Resources.

## REGISTRY OF BOARD MEMBERS

NAME	START DATE	END DATE
Kyle Fortson	11-13-17	Active <sup>1</sup>
Gerald W. Fauth, III	11-09-17	Active <sup>2</sup>
Linda A. Puchala	05-26-09	Active <sup>3</sup>
Harry R. Hoglander	08-06-02	11-09-17
Nicholas C. Geale	08-19-13	02-15-17
Elizabeth Dougherty	12-13-06	06-02-12
Read Van de Water	12-11-03	05-22-09
Edward J. Fitzmaurice, Jr.	08-02-02	12-13-06
Francis J. Duggan	11-22-99	11-21-03
Magdalena G. Jacobsen	12-01-93	08-02-02
Ernest W. DuBester	11-15-93	08-01-01
Kenneth B. Hipp	05-19-95	12-31-98
Kimberly A. Madigan	08-20-90	11-30-93
Patrick J. Cleary	12-04-89	01-31-95
Joshua M. Javits	01-19-88	11-14-93
Charles L. Woods	01-09-86	01-15-88
Helen M. Witt	11-18-83	09-18-88
Walter C. Wallace	10-12-82	07-01-90
Robert J. Brown	08-20-79	06-01-82
Robert O. Harris	08-03-77	07-31-84
Kay McMurray	10-05-72	07-01-77
Peter C. Benedict	08-09-71	04-12-72
David H. Stowe	12-10-70	07-01-79
George S. Ives	09-19-69	09-01-81
Howard G. Gamser	03-11-63	05-31-69
Robert O. Boyd	12-28-53	10-14-62
Leverett Edwards	04-21-50	07-31-70
John Thad Scott, Jr.	03-05-48	07-31-53
Francis A. O'Neill, Jr.	04-01-47	04-30-71
Frank P. Douglass	07-03-44	03-01-50
William M. Leiserson	03-01-43	05-31-44
Harry H. Schwartz	02-26-43	01-31-47
David J. Lewis	06-03-39	02-05-43
George A. Cook	01-07-38	08-01-46
Otto S. Beyer	02-11-36	02-11-43
John M. Carmody	07-21-34	09-30-35
James W. Carmalt	07-21-34	12-02-37
William M. Leiserson	07-21-34	05-31-39

<sup>1</sup>Term ended July 1, 2019.

<sup>2</sup>Term ended July 1, 2020.

<sup>3</sup>Term ended July 1, 2018.

# PROGRAM OFFICES OVERVIEW

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## OFFICE OF MEDIATION SERVICES

The Office of Mediation Services (OMS) manages mandatory mediation of collective bargaining disputes pursuant to statutory authority under Section 6 of the RLA, which is applicable to both the airline and railroad industries. The Alternative Dispute Resolution (ADR) component of OMS offers voluntary dispute resolution programs to the parties including training, facilitation, grievance mediation, and other dispute resolution efforts.

### MEDIATION OVERVIEW

The RLA requires labor and management to exert every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct negotiation between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement or to narrow their differences. Should parties fail to reach agreement during direct negotiations, either party, or the parties, may jointly apply to the NMB for mediation. Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. An application for NMB Mediation Services may be obtained from the Agency’s website at [nmb.gov](http://nmb.gov).

The NMB is obligated under the Act to use its “best efforts” to bring about a peaceful resolution of the dispute. If such efforts do not settle the dispute, the NMB advises the parties and offers Interest Arbitration (proffers arbitration) as an alternative approach to resolving the remaining issues. If either party rejects this offer of binding arbitration, the NMB releases the parties from formal mediation. This release triggers a thirty-day cooling-off period, during which the Agency continues to work with the parties to achieve a consensual solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period and the President of the United States does not establish an Emergency Board, the parties are free to exercise lawful self-help, which includes carrier-imposed working conditions or a strike by the union/organization. A flow chart of mediation procedures can be found in the Mediation section of the NMB website at [nmb.gov](http://nmb.gov).

### MEDIATION HIGHLIGHTS

Mediation of collective bargaining agreements was successful in FY 2021. Mediators effectively used their skills to assist parties in finding ways to bridge their disputes and reach agreement. Agreements were mediated in the airline sector with passenger and freight carriers, and in the rail sector with freight and commuter lines. Challenges at the bargaining table included consolidating agreements after mergers, and dealing with health care changes.

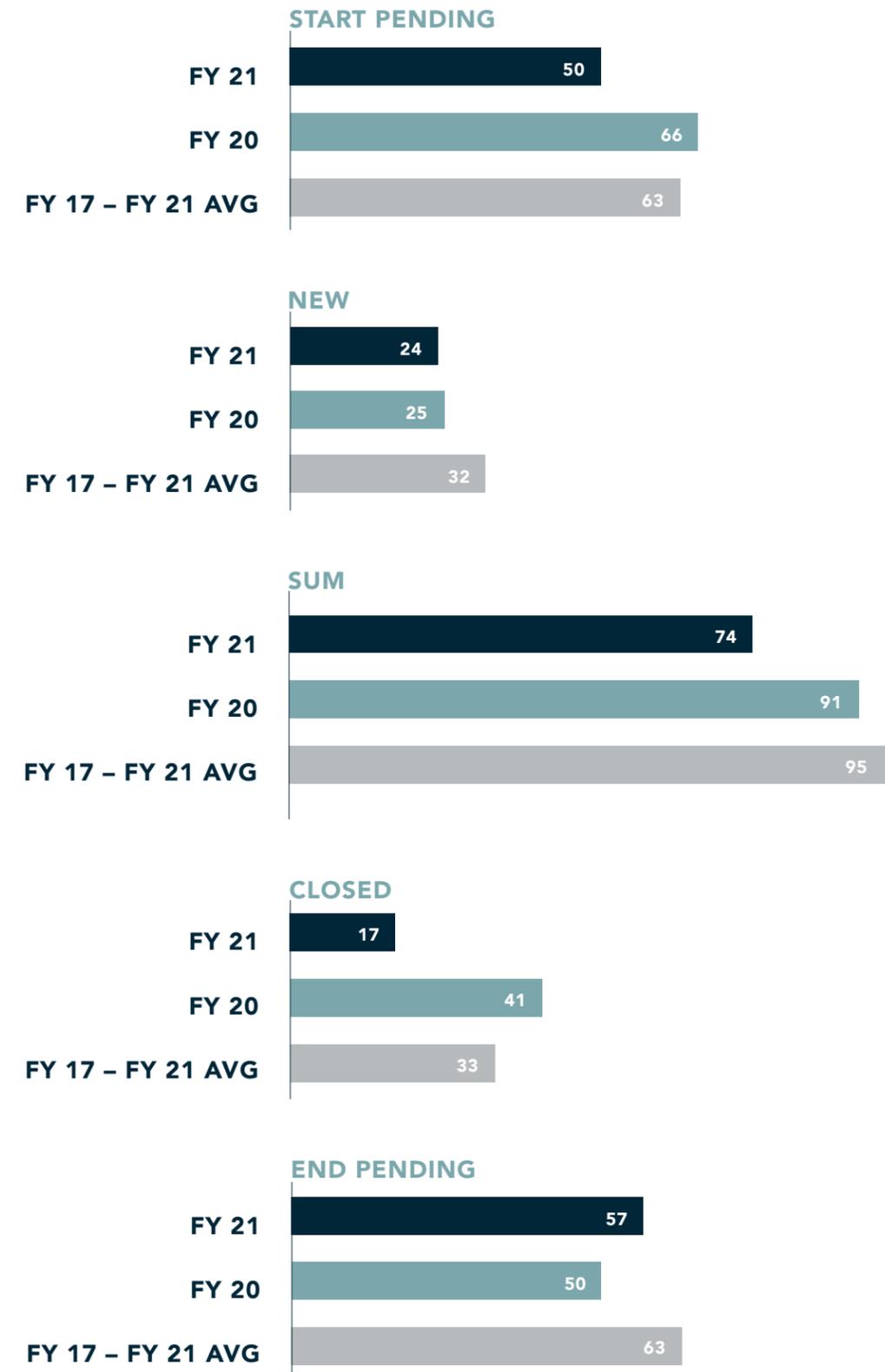
#### Settlements

In the airline industry, air cargo carrier settlements were reached with ABX Air / IBT Pilots; Aloha Air Cargo / IBT Cargo Agents; and SM Cargo / IAM Fleet Service. Regional airline settlements included Air Wisconsin Airlines / IAM Mechanics and Related; and Horizon Air / TWU Aircraft Dispatchers. And finally, another noteworthy settlement was reached with Southwest Airlines / TWU Flight Crew Training Instructors. Notable railroad settlements included commuter rail agreements with Metro-North Railroad (MTA) ACRE Signalmen and TCU/IAM Clerical Employees; Long Island Rail Road (MTA) / TCU/IAM Clerical Employees; PATH / BLET Engineers; and NICTD / BMWED Maintenance of Way and Foremen. Additionally, agreements were reached on the following regional and shortline railroads: Dakota, Minnesota & Eastern Railroad (CP) / BMWED Maintenance of Way; Florida East Coast Railway / IBEW Signalmen; and Mississippi Export Railroad / SMART-TD Engineers and Conductors.

#### Pending Cases

Fifty-seven cases remained open at the close of FY 2021. In the airline sector, legacy carriers were reaching amendable dates with many of their unions in 2020-2021. Due to COVID-19, which caused severe repercussions to the financial condition of the airline industry, many of the expected mediation cases were delayed due to the economic recovery efforts of the industry. Delta Air Lines / ALPA Pilots are currently in mediation. In the airline catering sector, among other cases, the NMB is working with Gate Gourmet / IBT-HERE; and LSG Sky Chefs / UNITE HERE. In the area of commuter rail, the NMB is working to reach agreements with: PATH and five of its unions; Metra and its unions on 15 cases; Long Island Rail Road (MTA) / BLET Locomotive Engineers; Metro-North Railroad (MTA) / ACRE Locomotive Engineers, Conductors, Yardmasters, & Assistant Station Masters, and IBEW Electricians; and finally New Jersey Transit / BLET Locomotive Engineers and TWU Carmen and Car Appearance Maintainers. Moreover, national freight rail bargaining involving the National Carriers’ Conference Committee and BMWED & SMART-MD Coalition, entered mediation in 2021.

A chart reflecting the actual mediation case numbers for FY 2021, FY 2020, and the five-year average, FY 2017 – FY 2021, follows:



## ADR OVERVIEW

In addition to statutory mediation and arbitration services under Sections 3 and 6 of the RLA, the NMB provides voluntary Alternative Dispute Resolution (ADR) Services. ADR Services include training, facilitation, grievance mediation, and applying technology to the dispute resolution process.

The primary goal of the NMB’s ADR program is to assist the parties in learning and applying more effective, less confrontational methods for resolving disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention, and to use appropriate technology to increase efficiency and reduce the cost of dispute resolution efforts for the parties.

The NMB established its ADR Services program with the conviction that use of ADR methods would result in fewer cases progressing to statutory mediation, reducing and narrowing the issues that the parties bring to mediation, and positively affecting working relationships among the parties.

A complete description of and an application for ADR Services may be found on the Agency’s website at [nmb.gov](http://nmb.gov).

## ADR HIGHLIGHTS

ADR personnel continued to develop and deliver a wide range of services, including training, facilitation, grievance mediation, facilitated problem solving and use of appropriate technology to increase efficiency. These services included training programs and facilitation efforts outside of, and in addition to, traditional grievance mediation work.

### Training

ADR Services has seen interest grow in its various training programs. NMB Mediators are skilled at instructing, and regularly training parties as they began facilitation or grievance mediation cases, or when they encountered problems during negotiations.

### Facilitation

Facilitation plays an important role in helping parties to reach common ground. It offers carriers and unions a way to reach agreement outside the stricter confines of traditional mediation. With each experience, the NMB’s knowledge base grows, and best practices from the process increase to the parties’ benefit.

### Grievance Mediation

Interest in grievance mediation continues to grow with the parties we serve in both the air and rail sectors. Activity in the rail sector in particular has grown with the ADR Ambassador Program, which pairs a Mediator with a particular rail carrier and its unions to advance alternatives to arbitration. Grievance mediation also serves to solve problems before they become grievances, and helps to clarify issues ahead of bargaining.

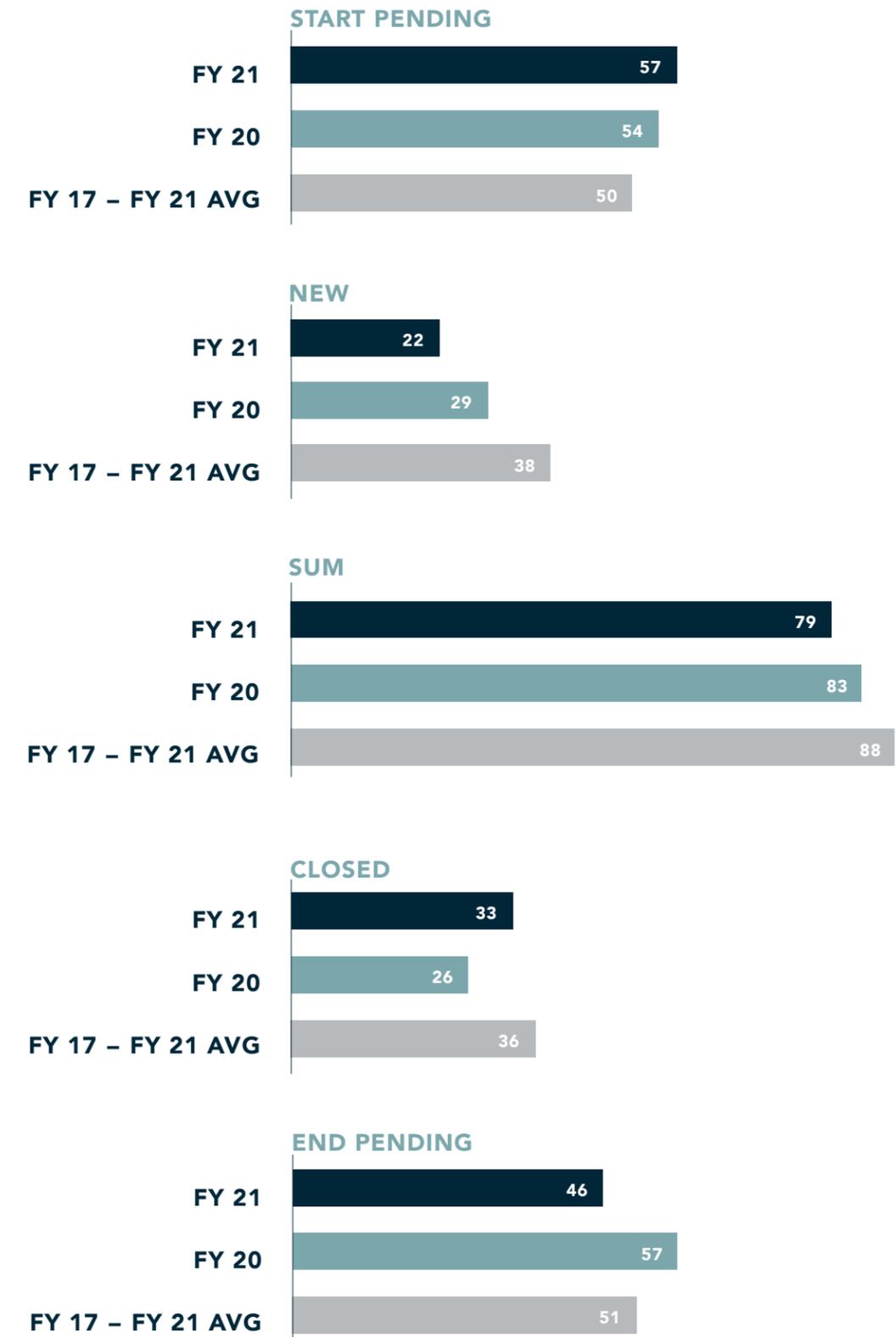
### Technological Dispute Resolution

Technology continues to play an important role in resolving disputes in the air and rail industries. Especially during the pandemic when timing is critical, or when information exchange is beneficial, video conferencing technology has helped to provide virtual face-to-face meetings to allow mediation sessions to continue.

### Pending Cases

The ADR component of our work includes activities such as training, facilitation, grievance mediation and outreach endeavors. Much of that case work opens and closes in quick succession; however, grievance mediation cases stay open for many years. The Agency considers that a success because it means the parties find value in the process that helps them to find resolution to the individual disputes that we work on. Mediators take on a docket of claims or grievances at each session and work them to conclusion. On any given property, one grievance may represent hundreds of claims, so the resolution of one grievance can significantly reduce the number of claims and grievances that require resolution.

A chart reflecting the actual ADR case numbers for FY 2021, FY 2020, and the five-year average, FY 2017 – FY 2021, follows:



## OFFICE OF LEGAL AFFAIRS

### REPRESENTATION OVERVIEW

Under the Railway Labor Act (RLA), employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining. Employees may also decline representation. An RLA representational unit is “craft or class,” which consists of the overall grouping of employees performing particular types of related duties and functions. The selection of a collective bargaining representative is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States. Due to this requirement and the employment patterns in the airline and railroad industries, the Agency’s representation cases frequently involve numerous operating stations across the nation. An application for a representation investigation may be obtained from the Agency’s website at [nmb.gov](http://nmb.gov).

If the showing-of-interest requirement is met, the NMB continues the investigation, usually with a secret telephone/ internet election. Only employees found to be eligible to vote by the NMB are permitted to participate in elections. The NMB is responsible for determining RLA jurisdiction, carrier status in mergers, and for ensuring that the requirements for a fair election process have been maintained without “interference, influence or coercion.” If the employees vote to be represented, the NMB issues a certification of that result, which commences the carrier’s statutory duty to bargain with the certified representative.

In many instances, labor and management raise substantial issues relating to the composition of the electorate, jurisdictional challenges, allegations of election interference, and other complex matters that require careful investigations and ruling by the NMB.

The following chart reflects the actual case numbers for FY 2021, FY 2020, and the five-year average, FY 2017 – FY 2021:

	FY 2021 ACTUAL	FY 2020 ACTUAL	FY 2017 – FY 2021 FIVE YEAR AVERAGE
Cases Pending at Start	10	5	6
Cases Docketed	17	21	20
Cases Closed	13	16	19
Cases Pending at End	14	10	8

### HIGHLIGHTS DURING FY 2021

The NMB Office of Legal Affairs (OLA) continues to operate at a high level of quality and efficiency. As a review of customer service and performance standards will attest, the Agency’s Representation program consistently achieves its performance goals, delivering outstanding services to the parties and the public.

The OLA staff closed 13 cases and also docketed 17 cases during the year.

### CASE SUMMARIES

Representation disputes involving large numbers of employees generally are more publicly visible than cases involving a small number of employees. However, all cases require and receive neutral and professional investigations by the Agency. The NMB ensures that the employees’ choices regarding representation are made without interference, influence or coercion. The following case summary is an example of a system-wide representation investigation and election conducted by the NMB during FY 2021.

#### **Bristow Group, Inc. d/b/a Bristow US LLC./Era Group, Inc.**

In FY 2020-2021, the NMB also resolved two representation disputes arising out of the merger of Bristow US and Era Group, two of the largest helicopter operators providing offshore oil and gas transportation, as well as search and rescue, and aircraft support operations. After its services were invoked pursuant to applications filed by the Office and Professional Employees International Union (OPEIU), the NMB determined that a single transportation system existed with respect to the crafts or class of Mechanics and Related Employees and the craft or class of Pilots. *Bristow Group, Inc./Era Group, Inc.*, 48 NMB 37 (December 2, 2020) and *Bristow Group, Inc./Era Group, Inc.*, 48 NMB 51 (December 2, 2020). OPEIU was the certified representative of the employees in those two crafts or classes at the pre-merger Bristow. In each of those cases, the Board determined that the number of employees in the crafts or class of Mechanics and Related Employees and the craft or class of Pilots at pre-merger Bristow and pre-merger Era were comparable. Accordingly, the Board authorized elections for the Pilot craft or class and the Mechanics and Related Employees craft or class at the merged carrier. *Bristow Group, Inc./Era Group, Inc.*, 48 NMB 70 (January 27, 2021) and *Bristow Group, Inc./Era Group, Inc.*, 48 NMB 75 (February 10, 2021). Both elections resulted in dismissals. *Bristow Group, Inc./Era Group, Inc.*, 48 NMB 76 (March 12, 2021) and *Bristow Group, Inc./Era Group, Inc.*, 48 NMB 77 (March 26, 2021).

#### **American Airlines, Inc.**

On November 13, 2020, the Aircraft Mechanics Fraternal Association (AMFA) filed an application seeking to represent the approximately 13,000 employees in the Mechanics and Related craft or class at American Airlines (American). These employees were currently represented by the TWU-IAM Mechanics and Related Employees Association (TWU-IAM Association). While the authorization cards supporting AMFA’s application were being checked by the NMB against the signature samples provided by American, both TWU-IAM Association and AMFA filed challenges and objections to the List of Potential Eligible Voters (List) also provided by American. On June 25, 2021, the Investigator issued her eligibility rulings, noting that the correct standard for determining eligibility for purposes of calculating the showing of interest is based on working in the craft or class on the eligibility date. On July 12, 2021, AMFA filed an appeal of the Investigator’s rulings with the Board. A unanimous Board denied the appeal, finding that the Investigator had applied the correct eligibility standard and upheld her rulings. Accordingly, the Board dismissed AMFA’s application based on an insufficient showing of interest. *American Airlines, Inc.*, 48 NMB 93 (September 2, 2021). The Board also denied AMFA’s motion for reconsideration of its appeal. *American Airlines, Inc.*, 48 NMB 111 (September 29, 2021).

### DIRECT DECERTIFICATION

On August 26, 2019, the Board began to apply the direct decertification procedure adopted in its Final Rule, 84 FR 35977 (July 26, 2019). Under this direct decertification procedure, an employee seeking to decertify an incumbent representative must file an application asserting that a representation dispute exists among the identified craft or class. This application must be supported by a valid showing of interest from 50 percent of the craft or class. The application must be supported by authorizations that clearly and unambiguously state the employee’s desire to no longer be represented by their incumbent union. *NMB Representation Manual Section 3.1*. Where it is clear that the petitioning employees wish to be free of the incumbent representative, the Board will authorize an election and the ballot will include the incumbent union and the no representation option, along with the write-in option. The two year election bar applies to decertification elections. 29 CFR 1206.4.

The Board conducted three decertification elections in FY 2020: *Kalitta Charter II*, 47 NMB 54 (January 24, 2020) (Flight Deck Crewmembers); *Brownsville & Rio Grande International Railway*, 47 NMB 70 (April 15, 2020) (Maintenance of Way); and *Brownsville & Rio Grande International Railway*, 47 NMB 74 (March 27, 2020) (Carmen). In FY 2021, one decertification election was held: *Brownsville & Rio Grande International Railway*, 48 NMB 65 (December 30, 2020) (Locomotive Mechanics).

Each of these elections resulted in the decertification of the incumbent representative, the employees in the craft or class becoming unrepresented, and the application of the two year election bar.

On March 31, 2021, the United States District Court for the District of Columbia upheld the NMB’s rulemaking. The Court found that the RLA does not prohibit the direct decertification method adopted by the NMB, and that the Board’s interpretation is both reasonable and the better reading of the RLA. The Court also concluded that the NMB explained the reasons for its two year election bar and adequately responded to opponents’ public comments. Accordingly, the Court found that the Final Rule’s two year election bar following decertification is not arbitrary and capricious. *Transportation Trades Department, AFL-CIO v. National Mediation Board*, Case No. 1:19-cv-03107-CJN (D.DC March 31, 2021).

### JURISDICTIONAL OPINIONS

In FY 2018, NMB reaffirmed its traditional two-part test for determining whether an entity is a derivate carrier subject to the RLA and its reliance on multiple factors to establish the required control by an air or rail carrier. *ABM-Onsite Services*, 45 NMB 27 (2018). In FY 2021, the NMB received three jurisdictional referrals from the National Labor Relations Board (NLRB), all of which remain pending at the end of the fiscal year. In view of the National Labor Relations Act (NLRA) specific exemption of employers covered by the RLA, the NLRB follows a longstanding practice of referring cases to the NMB in instances where the jurisdictional issue is raised. In these cases, the NMB reviews the record provided by the NLRB and provides an opinion letter regarding whether the employer in question is, in the NMB’s opinion, covered by the RLA.

The following chart reflects the actual number of jurisdictional opinions\* issued for FY 2021, FY 2020 and the five-year average, FY 2017 – FY 2021:

	FY 2021 ACTUAL	FY 2020 ACTUAL	FY 2017 – FY 2021 FIVE YEAR AVERAGE
Jurisdictional Opinions	0	4	3

\*Jurisdictional opinions are considered separate and not reflected in the overall representation case numbers.

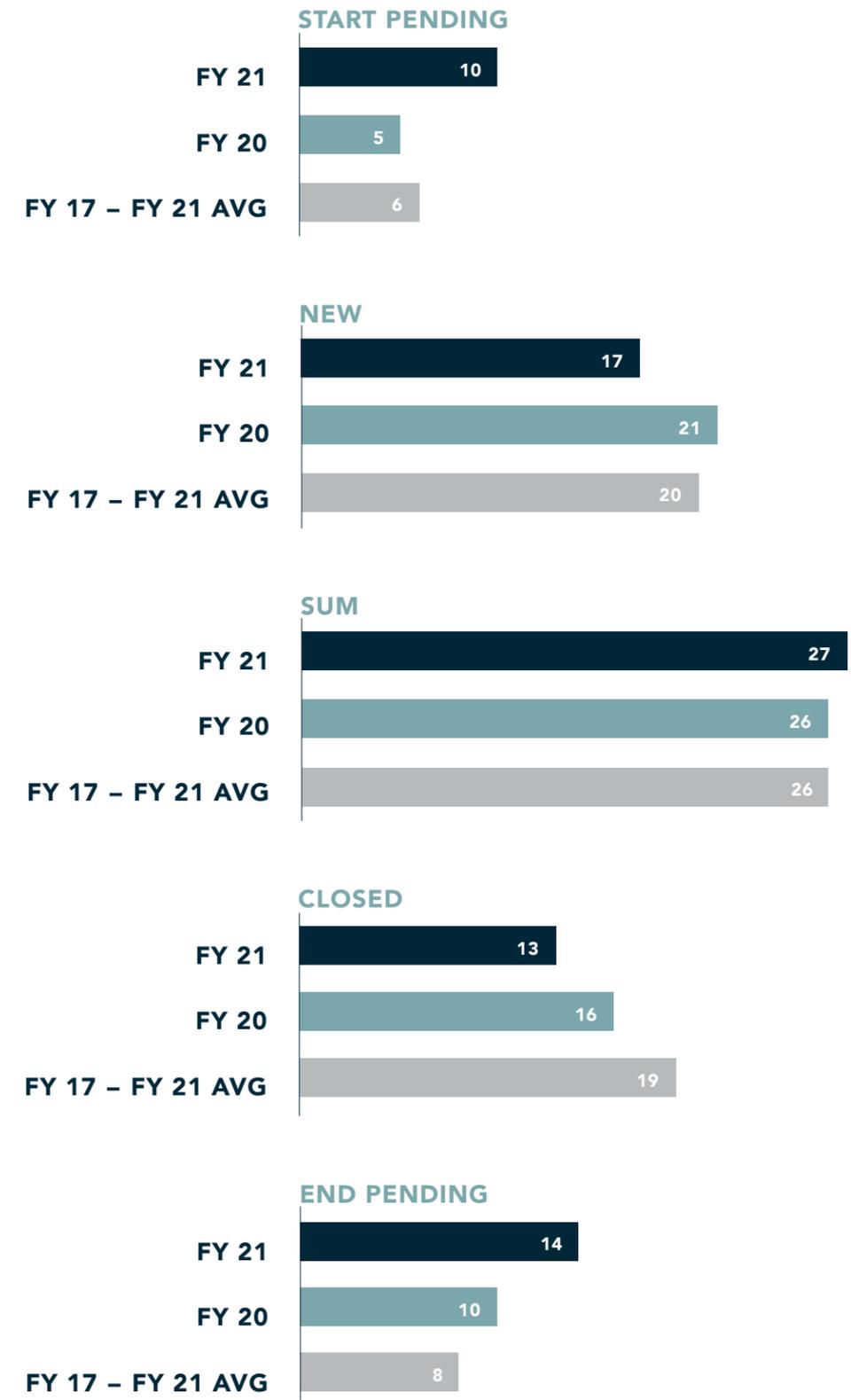
### MAIL BALLOT VOTING

On September 3, 2021, the NMB announced that it would begin conducting representation elections by mail ballot for a period of time as the Agency transitions to a new electronic voting system. Mail ballots have been used historically at NMB. All parties involved in elections will receive detailed instructions and guidance from the NMB Office of Legal Affairs regarding mail ballot participation.

As part of the ongoing federal government cybersecurity evaluation process, all Agency IT systems in use are examined to ensure compliance with federal standards. NMB is committed to compliance with federal information security requirements. Pursuant to this evaluation process, the NMB requested certain IT information from its electronic voting contractor. Due to the failure of the contractor to provide the requested information during this past year, the NMB decided to stop operating elections under the existing contract, which expired on September 30, 2021. Further, the NMB’s recent solicitation for a contract resulted in no bids. Therefore, the Agency initiated a process to build a comparable electronic voting system internally.

The Board shares a unified commitment to return to internet voting as soon as possible. Electronic voting has been used in hundreds of past NMB elections where thousands of rail and air employees freely determined their chosen representatives or decided to end representation and deal directly with their employer. The Board also shares a commitment to build a new, safe, and secure electronic voting system that totally complies with all federal security standards.

A chart reflecting the actual representation case numbers for FY 2021, FY 2020, and the five-year average, FY 2017 – FY 2021, follows:



## PRESIDENTIAL EMERGENCY BOARD (PEB) OVERVIEW

Section 159A (Section 9A) of the Railway Labor Act (RLA) provides special, multi-step emergency procedures for unresolved collective bargaining disputes affecting employees on publicly funded and operated commuter railroads. Section 160 (Section 10) of the RLA covers all other railroads and airlines.

When the National Mediation Board determines that a collective bargaining dispute cannot be resolved in mediation, the agency proffers Interest Arbitration to the parties. Either labor or management may refuse the proffer and, after a 30-day cooling-off period, engage in a strike, implement new contract terms, or engage in other types of economic self-help, unless a Presidential Emergency Board (PEB) is established.

If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt interstate commerce to a degree that will deprive any section of the country of essential transportation service, the NMB notifies the President. The President may, at his discretion, establish a PEB to investigate and report upon such dispute. Status-quo conditions must be maintained throughout the period that the PEB is impaneled and for 30 days following the PEB report to the President. If no agreement is reached, and there is no intervention by Congress, the parties are free to engage in self-help 30 days after the PEB reports to the President.

Apart from the emergency board procedures provided by Section 160 of the RLA, Section 9a provides special, multi-step emergency procedures for unresolved disputes affecting employees on publicly funded and operated commuter railroads. If the Mediation procedures are exhausted, the parties to the dispute or the Governor of any state where the railroad operates may request that the President establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state may request a second, final-offer PEB. No self-help is permitted pending the exhaustion of these emergency procedures.

A chart reflecting the actual case numbers for FY 2021, FY 2020, and the five-year average, FY 2017 – FY 2021 follows:

	FY 2021 ACTUAL	FY 2020 ACTUAL	FY 2017 – FY 2021 FIVE YEAR AVERAGE
Emergency Board Sec. 160	0	0	0
Emergency Board Sec. 159A	0	0	0

### Highlights of Fiscal Year 2021

No PEBs were established during fiscal year 2021.

### Forecast for FY 2022, FY 2023, and Beyond

The NMB cannot predict precisely the number of PEBs that may be created during a given fiscal year. Estimates are based, among other factors, upon prior experience and knowledge of the contentiousness of the parties in the bargaining process and mediation, the number of cases, and the degree of impact of any dispute. For example, activity leading up to a release and the creation of a PEB for the LIRR and multiple unions occurred in FY 2013, but the PEB was established in FY 2014.

The following chart reflects the actual case numbers for FY 2021 and estimated case numbers for FY 2022 and FY 2023:

	FY 2021 ACTUAL	FY 2022 ESTIMATED	FY 2023 ESTIMATED
Emergency Board Sec. 160	0	1	1
Emergency Board Sec. 159A	0	1	1

## OFFICE OF ARBITRATION SERVICES

### ARBITRATION OVERVIEW

The RLA provides for both grievance and interest arbitration. Access to grievance arbitration, involving the interpretation or application of an existing collective bargaining agreement, is mandatory under the RLA. The Board has significant administrative responsibilities for the three sources of grievance arbitration in the railroad industry. These sources are the National Railroad Adjustment Board established under the RLA, as well as the arbitration panels established directly by the labor management parties at each railroad (Public Law Boards and Special Boards of Adjustment). Grievance arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties' expense. The Board furnishes panels of prospective arbitrators for the parties' selection in both the airline and railroad industries.

The NMB has substantial financial responsibilities for railroad arbitration proceedings in that it pays the fees and travel expenses of the arbitrators. Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

### INTEREST ARBITRATION

Interest Arbitration is a process used to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for interest arbitration, its use is not statutorily required. The NMB offers the parties the opportunity to use interest arbitration when the Board has determined that further mediation efforts will be unsuccessful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through interest arbitration. The NMB generally provides the parties with panels of potential arbitrators from which they select the individual to resolve the dispute. In some instances, the parties' agreement to arbitrate allows the NMB to directly appoint an arbitrator. The interest arbitration decision is final and binding with very narrow grounds for a judicial appeal.

### ARBITRATION – SECTION 3 HIGHLIGHTS

At the beginning of FY 2021, 4,887 cases were pending in Section 3. Throughout the fiscal year, 4,464 new cases were added. At the conclusion of the fiscal year, a total of 4,203 cases were closed, while 5,146 cases remain pending.

During FY 2021 the Office of Administration (OAS) created a joint labor-management committee to revise and update the NMB Subject Codes. Subject codes are numbered codes used to identify the specific issues in the dispute whether disciplinary and contract rules, e.g. Code 100 is Attendance and Code 300 is Assignments/Bulletins. The new subject codes can be found under the Arbitration Tab on the NMB website.

The NMB conducted a comprehensive briefing for the Section 3 Community in June 2021. The briefing included information regarding funding, case activity, and an overview of the new subject codes that were effective July 1, 2021. The briefing deck was subsequently shared with the Section 3 Community and posted on the NMB website.

NMB began internal discussions on the implementation of EO 13985, *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, and how to apply those mandates to the Office of Arbitration Services (OAS). We also increased the diversity of arbitrators on the roster which resulted in a more diverse representation of active arbitrators.

The Office of Arbitration Services worked remotely for all of FY 2021, and saw no diminishment in staff productivity. In fact, both employee morale and productivity remained very high. The Board authorized six funding cycles which kept arbitrators working consistently throughout the fiscal year.

FY 2021 saw a continuation of remote arbitration due to the COVID-19 crisis. While vaccines became readily available, the government did not initially mandate vaccines for either employees or contractors. Those mandates occurred late in the fiscal year. Consequently, proof of vaccination status for employees and contractors will not occur until early FY 2022.

During FY 2021, the NMB received positive feedback on the redesign of the Arbitrators Workspace (AWS) which included a more user-friendly interface and increased functionality. The Arbitrators Workspace is a web-based information system which gives arbitrators online access to their case information. It also allows them to upload their draft decisions and request payment.

The NMB continued its efforts to improve the arbitration of grievances under Section 3 of the Railway Labor Act by ensuring that: (1) the parties receive timely and outstanding arbitration services from the Board's staff and its contract arbitrators; (2) the Board uses technology to maximize efficiency (3) Board procedures are improved through a process involving public input; (4) arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

### REMOVAL OF NON-PROGRESSSED AND OVER-AGED CASES

This fiscal year the NMB continued the practice of removing over-aged cases which have not been processed by the parties from the NMB's case tracking system. Cases in our case management system which are not assigned to an arbitrator constitute an ongoing unfunded liability. The NMB's previous practice was to remove all cases two years and older which had not been progressed by the parties. During FY 2021, the NMB removed all non-progresssed and over-aged cases that were two years and older. The NMB will periodically review its caseload and remove over-aged cases.

### ALTERNATIVE DISPUTE RESOLUTION IN THE RAILROAD INDUSTRY

The NMB continues to advocate for the use of grievance mediation to resolve grievances that do not have significant operational impact or involve serious disciplinary matters. The parties in general are receptive to the process and many use it on a regular basis. However, this process was one of the many affected by the COVID-19 pandemic and the abrupt switch to working remotely with a greater reliance on technology.

Nevertheless, we continue to actively promote grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class I freight carriers and labor organizations. While grievance mediation activity decreased in FY 2021 due to COVID-19, it remains a valuable tool in the dispute resolution process.

The COVID-19 crisis eliminated the ability to attend annual meetings and present the case for grievance mediation. The NMB anticipates continuing and in some instances expanding upon these initiatives during FY 2022 and FY 2023.

### ARBITRATOR PRODUCTIVITY

The NMB continued its efforts to increase arbitrator productivity as a result of strict adherence to the rules governing deadlines for hearing and writing cases. Arbitrators who have not issued a decision within three months of a hearing are contacted monthly and encouraged to issue those decisions.

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section 3 activities. All relevant notices are posted on the website under the Arbitrators, parties, and the public use the website to obtain information and forms instantaneously.

The Arbitrator Caseload Report is an important document that lists all open cases and the arbitrator assigned to those cases. It also indicates whether a case is late (i.e., a decision has not been rendered within 3 months of when a case was heard by the arbitrator). The Arbitrator Caseload Report is real-time in that it has a direct link to an NMB database reflecting updates as they are made by Arbitration Services staff. The availability of information on the website reduces the staff time which ordinarily would be required to respond to questions and requests. The NMB has also placed a National Railroad Adjustment Board (NRAB) Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators Caseload Report, the NMB's entire Section 3 caseload is available on the NMB website at [nmb.gov](https://www.nmb.gov).

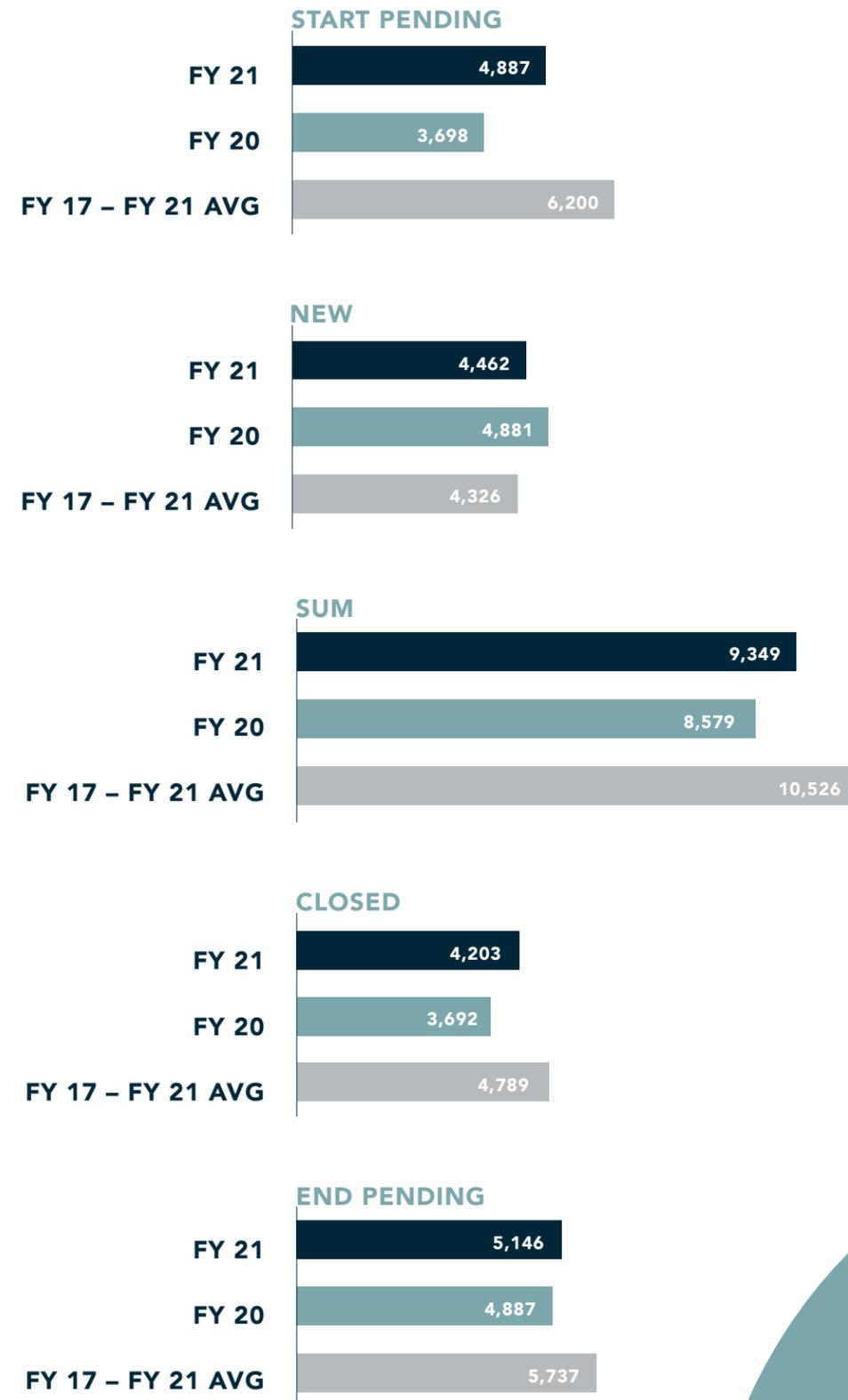
### ENHANCED ENFORCEMENT OF THE 60-DAY, 90-DAY AND 120-DAY RULES

During this fiscal year, the NMB continued enhanced enforcement of the 60 Day, 90 Day and 120 Day rules through the AWS. When a case is assigned to an arbitrator, within 60 days, one of the three must be initiated, (1) the case must have been decided, and the award submitted or (2) the case must be heard by an arbitrator or (3) the case must have been scheduled for a hearing. If the case is scheduled for a hearing, the hearing date must be within 120 days of the date of assignment. Once the case has been heard, the arbitrator must render the award within 90 days of the hearing. When an arbitrator enters the AWS, the arbitrator is now notified when assigned cases have not been progressed in accordance with these rules. The arbitrator must bring those identified cases in compliance with the rules before the system will permit them to open and work on new cases.

### KNOWLEDGE STORE

Knowledge Store continues to be a critical resource for parties searching for arbitration decisions to support them in their advocacy. Awards are entered into the Knowledge Store at the same time that they are distributed to the parties. Parties have been trained to enter awards into the Knowledge Store. In some instances, valid awards are entered within 24 hours of completion.

A chart reflecting the actual arbitration case numbers for FY 2021, FY 2020, and the five-year average, FY 2017 – FY 2021, follows:



# RAILROAD GRIEVANCE ARBITRATION

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SECTION 3 TRIBUNALS | 35



## NATIONAL RAILROAD ADJUSTMENT BOARD

### NRAB MEMBERS

#### NRAB

**Jeanie L. Barrere**  
NRLC, Board Chairman

**Marcus J. Ruef**  
BLET, Board Vice Chairman

#### First Division Members

**Michael P. Maratto**  
NRLC, Chairman

**Douglas W. Davidson**  
BLET, Vice Chairman

**Katrina Donovan**  
CSX

**Derek Hinds**  
UP

**Jamie Modesitt**  
SMART-TD

**Edward Reardon**  
Connex

**Marcus J. Ruef**  
BLET

**David Wier, Jr.**  
SMART-TD

#### Second Division Members

**Kristin Beckner**  
NRLC, Chairman

**Alphonse Russo, Jr.**  
NRLC, Vice Chairman

**Charles J. Fraley**  
SMART

**Macon Jones**  
CSX

**Carl Lakin**  
BRC

**Terrill Maxwell**  
UP

**Nicole Moore-Parchem**  
IHB

**J. Michael Perry**  
IAM

**Brian Scudds**  
D&H

**John Thacker**  
NCFO

#### Third Division Members

**Jeanie L. Barrere**  
NRLC, Chairman

**Zachary C. Voegel**  
BMWED, Vice Chairman

**Tabetha Bolton**  
CRCX

**Donald Boyd**  
HERE

**Rory R. Broyles**  
ATDA

**Samantha Daigle**  
BNSF

**Brandon Elvey**  
BRS

**John Ingoldsby**  
CN

**Brian Shanahan**  
TCU

**Beth Wilderman**  
UP

#### Fourth Division Members

**Jeffrey F. Rodgers**  
NRLC, Chairman

**Allison Dillon**  
ARASA, Vice Chairman

**Chris Bartz**  
SMART

**John Nilon**  
CSX

**Kevin Sanor**  
UP

**Robert Shanahan, Jr.**  
BMWED

### NRAB REFEREES

#### First Division

David Bass  
Meeta A. Bass  
Edwin H. Benn  
Paul S. Betts  
Michael Capone  
Brian Clauss  
Robert A. Creo  
James M. Darby  
Barbara C. Deinhardt  
Andrea L. Dooley  
Melinda G. Gordon  
Patrick Halter  
Jeffrey W. Jacobs  
Joshua M. Javits  
Cary Morgen  
Michael D. Phillips  
Richard K. Radek  
Barry E. Simon  
Andrew M. Strongin  
Erica Tener  
Elizabeth C. Wesman

#### Second Division

Edwin H. Benn

#### Third Division

Meeta A. Bass  
Edwin H. Benn  
Patricia T. Bittel  
Jeanne Charles  
Brian Clauss  
James M. Darby  
Barbara C. Deinhardt  
Joseph M. Fagnani  
Keith D. Greenberg  
Patrick Halter  
Richard K. Hanft  
I.B. Helburn  
Andria S. Knapp  
Margo R. Newman  
Erica Tener  
Kathryn A. VanDagens  
Gerald W. Wallin  
Jacalyn J. Zimmerman

#### Fourth Division

Jeffrey W. Jacobs

## SECTION 3 TRIBUNALS ESTABLISHED IN FY 2021

TYPE	NO. OF BOARDS
Public Law Boards	23
Special Boards of Adjustment	8
Arbitration Boards	0
Parties' Pay Boards	(2 PLB; 4 SBA)
<b>TOTAL</b>	<b>31</b>

### 1. PUBLIC LAW BOARDS, SPECIAL BOARDS OF ADJUSTMENT, AND ARBITRATION BOARDS

#### 1A. CARRIERS

Alabama & Gulf Coast Railway  
Alabama & Tennessee River Railway (OmniTRAX)  
Belt Railway Company of Chicago  
BNSF Railway  
Buffalo & Pittsburgh Railroad (G&W)  
Canadian National Railway  
Canadian Pacific Railway  
Conrail Shared Assets Operations  
Consolidated Rail Corporation  
CSX Transportation  
Delaware & Hudson Railway (CP)  
Duluth, Missabe and Iron Range Railway (CN)  
Florida East Coast Railway  
Fruit Growers Express (CSX)  
Gary Railway Company (Transtar)  
Grand Trunk Western Railroad Company (CN)  
Illinois Central Railroad (CN)  
Indiana Harbor Belt Railroad  
Iowa Northern Railway Company  
Kansas City Southern Railway Company  
Keolis Commuter Services  
Keolis Rail Services Virginia  
Kiamichi Railroad (G&W)  
Long Island Rail Road (MTA)  
Louisville & Indiana Railroad (Anacostia)

Metro-North Railroad (MTA)  
National Railroad Passenger Corporation (Amtrak)  
Nebraska, Kansas & Colorado Railway (OmniTRAX)  
New Orleans Public Belt Railroad  
NJ Transit Rail Operations  
Norfolk Southern Railway  
Northeast Illinois Regional Commuter Railroad Corporation (METRA)  
Pacific Harbor Line (Anacostia)  
Paducah & Louisville Railway  
Pan Am Southern (Pan Am Railways)  
Port Authority Trans-Hudson Corporation (PANYNJ)  
Soo Line Railroad (CP)  
South Central Florida Express  
Southeastern Pennsylvania Transportation Authority  
Springfield Terminal Railway (Pan Am Railways)  
Terminal Railroad Association of St. Louis  
Terminal Railway Alabama State Docks (ASPA)  
Texas Mexican Railway (KCS)  
TransitAmerica Services  
TTX Company  
Union Pacific Railroad  
Union Railroad Company (Transtar)  
Wheeling & Lake Erie Railway  
Wisconsin Central Ltd. (CN)

## 1B. UNIONS

American Railway and Airway Supervisors Association (TCU/IAM)  
American Train Dispatchers Association  
Amtrak Service Workers Council  
Brotherhood of Locomotive Engineers & Trainmen  
Brotherhood of Maintenance of Way Employes Division  
Brotherhood of Railroad Signalmen  
Brotherhood of Railway Carmen (TCU/IAM)  
International Association of Machinists and Aerospace Workers  
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers  
International Brotherhood of Electrical Workers  
International Longshoremens' Association  
National Conference of Firemen and Oilers  
Railway Independent Transit Union  
SMART Mechanical & Engineering Department  
SMART Transportation Division  
Transport Workers Union of America  
Transportation Communications Union / IAM  
United Steelworkers

## 1C. ARBITRATORS (PUBLIC LAW BOARD, SPECIAL BOARD OF ADJUSTMENT, OR ARBITRATION BOARD)

Wendell A. Bell	Andrea L. Dooley	Michelle Miller-Kotula	Lynette A. Ross
Edwin H. Benn	Lewis L. Ellsworth	William R. Miller	Barry E. Simon
Paul S. Betts	Joseph M. Fagnani	Sidney Moreland	Kathryn A. Van Dagens
Steven M. Bierig	Melinda G. Gordon	Debra S. Neveu	M. David Vaughn
John R. Binau	Robert A. Grey	Margo R. Newman	Gerald E. Wallin
Patricia T. Bittel	Don A. Hampton	Daniel Nielsen	Lamont M. Walton
Dennis J. Campagna	John C. Hancock	Kenneth J. O'Brien	Alan L. Weed
Michael Capone	Richard K. Hanft	Robert M. O'Brien	Randy B. Weiss
Joseph A. Cassidy, Jr.	I.B. Helburn	Joan Parker	Michael G. Whelan
Jeanne Charles	Andria S. Knapp	Michael D. Phillips	Jacalyn J. Zimmerman
Lisa C. Charles	Lisa S. Kohn	Richard K. Radek	
Brian Clauss	John B. LaRocco	David N. Ray	
James M. Darby	Sheila G. Mayberry	Thomas N. Rinaldo	
J. Warren Dent	Peter R. Meyers	Sean J. Rogers	

## 2. LABOR PROTECTIVE PROVISIONS

### NEW YORK DOCK

CSX Transportation and SMART Transportation Division

**Arbitrator:** Kathryn A. Van Dagens

## 3. UNION SHOPS

N/A

## 4. SYSTEM BOARDS OF ADJUSTMENT

N/A

# SUPPORTING REPORTS & TABLES

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**TABLE 1: NUMBER OF CASES RECEIVED AND CLOSED**

MEDIATION	FY 2021	FY 2020	FY 2019	FY 2018	FY 2017	FY 2017 – 21
Start Pending	50	66	69	72	60	63
New	24	25	33	42	36	32
Sum	74	91	102	114	96	95
Closed	17	41	36	44	26	33
End Pending	57	50	66	68	72	63

ADR	FY 2021	FY 2020	FY 2019	FY 2018	FY 2017	FY 2017 – 21
Start Pending	57	54	52	48	39	50
New	22	29	32	38	67	38
Sum	79	83	84	86	106	88
Closed	33	26	30	34	59	36
End Pending	46	57	54	50	48	51

REPRESENTATION	FY 2021	FY 2020	FY 2019	FY 2018	FY 2017	FY 2017 – 21
Start Pending	10	5	3	7	5	6
New	17	21	10	20	30	20
Sum	27	26	13	27	35	26
Closed	13	16	12	24	28	19
End Pending	14	10	5*	3	7	8

ARBITRATION	FY 2021	FY 2020	FY 2019	FY 2018	FY 2017	FY 2017 – 21
Start Pending	4,887	3,698	6,408	8,550**	7,455	6,200
New	4,462	4,881	3,859	4,280	4,148	4,326
Sum	9,349	8,579	10,267	12,830	11,603	10,526
Closed	4,203	3,692	6,569	6,422	3,057	4,789
End Pending	5,146	4,887	3,698	6,408	8,546	5,737

\*System adjustment.  
 \*\*A review of the automated case management system resulted in an additional 4 cases pending at the beginning of fiscal year 2018.

**TABLE 2: REPRESENTATION ELECTION CASE DISPOSITIONS**

RAILROADS	NUMBER OF CASES	NUMBER OF CRAFTS/ CLASSES	NUMBER OF EMPLOYEES INVOLVED	NUMBER OF EMPLOYEES PARTICIPATING
Certifications	0	0	0	0
Dismissals	1	1	3	3
<b>Totals</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>3</b>

AIRLINES	NUMBER OF CASES	NUMBER OF CRAFTS/ CLASSES	NUMBER OF EMPLOYEES INVOLVED	NUMBER OF EMPLOYEES PARTICIPATING
Certifications	2	1	280	248
Dismissals	3	2	442	414
<b>Totals</b>	<b>5</b>	<b>2</b>	<b>722</b>	<b>662</b>

<b>Totals Railroads and Airlines</b>	<b>6</b>	<b>3</b>	<b>725</b>	<b>665</b>
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\*In FY 2021, there were a total of 2 airline crafts/classes in election determinations: Mechanics and Related Employees; and Pilots.

**TABLE 3: RAILROAD & AIRLINE REPRESENTATION CASES CLOSED BY CRAFT OR CLASS**

RAILROADS	REPRESENTATION CASES
Carmen	0
Clerical Office, Station, and Storehouse Employees	0
Electrical Workers	0
Engineers	0
Locomotive Engineers	0
Locomotive Firemen and Hostlers	0
Locomotive Mechanics	1
Machinists	0
Maintenance of Way Employees	0
Non-Operating Employees	0
Operating Employees	0
Sheet Metal Workers	0
Signalmen	0
Train Dispatchers	0
Train and Engine Service Employees	0
Transportation Operations Employees	0
Yardmasters	0
Combined Groups, Railroad	0
Miscellaneous, Railroad	2
<b>Railroad Total</b>	<b>3</b>
AIRLINES	REPRESENTATION CASES
Cockpit Crew Members	0
Engineers and Related Employees	0
Fleet and Passenger Service Employees	0
Fleet Service Employees	0
Flight Attendants	0
Flight Crew Training Instructors	0
Flight Deck Crew Members	0
Flight Dispatchers	0
Flight Engineers	0
Flight Simulator Engineers	0
Ground School Instructors	0
Maintenance Training Specialists	0
Mechanics and Related Employees	4
Office Clerical Employees	0
Passenger Service Employees	0
Pilots	5
Stock and Stores Employees	0
Combined Groups, Airlines	0
Miscellaneous, Airlines	1
<b>Airline Total</b>	<b>10</b>
<b>Total, Railroads and Airlines</b>	<b>13</b>

**TABLE 4: RAILROAD & AIRLINE REPRESENTATION DETERMINATIONS BY CRAFT OR CLASS**

RAILROADS	NUMBER OF CASES	NUMBER OF CRAFTS OR CLASS DETERMINATIONS	NUMBER OF EMPLOYEES	PERCENT <sup>1</sup> OF EMPLOYEES INVOLVED
Carmen	0	0	0	0
Clerical, Office, Station and Storehouse Employees	0	0	0	0
Electrical Workers	0	0	0	0
Engineers	0	0	0	0
Locomotive Engineers	0	0	0	0
Locomotive Firemen and Hostlers	0	0	0	0
Locomotive Mechanics	1	1	3	-
Machinists	0	0	0	0
Maintenance of Way Employees	1	0	7	-
Non-Operating Employees	0	0	0	0
Operating Employees	0	0	0	0
Sheet Metal Workers	0	0	0	0
Signalmen	0	0	0	-
Train Dispatchers	0	0	0	0
Train and Engine Service Employees	4	0	86	1
Transportation Operations Employees	0	0	0	0
Yardmasters	0	0	0	0
Combined Groups, Railroad	0	0	0	0
Miscellaneous, Railroad	3	2	129	1
<b>Railroad Total</b>	<b>9</b>	<b>3</b>	<b>225</b>	<b>1</b>

<sup>1</sup>Percent listing for each group represents the percentage of the 16,414 employees involved in all railroad and airline docketed and closed cases during fiscal year 2021. (-) Less than 1 percent.

**TABLE 4: RAILROAD & AIRLINE REPRESENTATION DETERMINATIONS BY CRAFT OR CLASS (CONTINUED)**

AIRLINES				
	NUMBER OF CASES	NUMBER OF CRAFTS OR CLASS DETERMINATIONS	NUMBER OF EMPLOYEES	PERCENT <sup>2</sup> OF EMPLOYEES INVOLVED
Cockpit Crew Members	0	0	0	0
Engineers and Related Employees	0	0	0	0
Fleet and Passenger Service Employees	0	0	0	0
Fleet Service Employees	0	0	0	0
Flight Attendants	1	0	34	-
Flight Crew Training Instructors	0	0	0	0
Flight Deck Crew Members	0	0	0	0
Flight Dispatchers	0	0	0	0
Flight Engineers	0	0	0	0
Flight Simulator Engineers	0	0	0	0
Ground School Instructors	0	0	0	0
Maintenance Controllers	1	0	28	-
Mechanics and Related Employees	5	4	14,366	88
Office Clerical Employees	0	0	0	0
Passenger Service Employees	0	0	0	0
Pilots	5	5	533	3
Stock and Stores Employees	0	0	0	0
Combined Groups, Airlines	1	0	867	5
Miscellaneous, Airline	3	1	361	2
<b>Airline Total</b>	<b>16</b>	<b>10</b>	<b>16,189</b>	<b>99</b>
<b>Grand Total, Railroads and Airlines</b>	<b>25</b>	<b>13</b>	<b>16,414</b>	<b>100</b>

<sup>2</sup>Listing for each group represents the percentage of the 16,414 employees involved in all railroad and airline docketed and closed cases during fiscal year 2021. (-) Less than 1 percent.

## CASE RECORDS

### REPRESENTATION CASES DOCKETED

RAILROAD REPRESENTATION CASES DOCKETED			
CASE	CARRIER	UNION	CRAFT OR CLASS
R-7556	NJ Transit Rail Operations	NATS	Foremen
R-7563	Meridian & Bigbee Railroad (G&W)	SMART-TD	Maintenance of Way Employees
R-7564	Cicero Central Railroad (Watco)	SMART-TD	Train and Engine Service Employees
R-7566	Arizona Eastern Railway (G&W)	SMART-TD	Train and Engine Service Employees
CR-7226	Metro-North Railroad (MTA)	Metro-North Railroad PFA	Fire Brigade Employees Below the Rank of Fire Chief
CR-7227	Ann Arbor Railroad (Watco)	SMART-TD	Train and Engine Service Employees
CR-7228	Columbus & Greenville Railway (G&W)	SMART-TD & TOPS	Train and Engine Service Employees

AIRLINE REPRESENTATION CASES DOCKETED			
CASE	CARRIER	UNION	CRAFT OR CLASS
R-7557	American Airlines	AMFA & TWU-IAM	Mechanics and Related Employees
R-7558	21 Air, LLC	21 Air Pilots Association	Pilots
R-7559	21 Air, LLC	21 Air Pilots Association	Pilots
R-7562	Western Global Airlines	ALPA	Pilots
R-7565	National Airlines	IAM	Flight Attendants
R-7567	Lufthansa Technik Puerto Rico	IAM	Mechanics and Related Employees
CR-7224	American Sales and Management Organization, LLC d/b/a Eulen America	SEIU	Fleet and Passenger Service Employees
CR-7225	American Sales and Management Organization, LLC d/b/a Eulen America	SEIU	Security Employees
CR-7229	Aerostar Airport Holdings, LLC	HEO	Firefighters
CR-7230	JetBlue Airways	AMFA	Maintenance Controllers

## REPRESENTATION CASES CLOSED

RAILROAD REPRESENTATION CASES CLOSED				
CASE	CARRIER	UNION	CRAFT OR CLASS	DISPOSITION
RD-7552	Brownsville & Rio Grande International Railway	Individual	Locomotive Mechanics	Dismissal
R-7555	Wisconsin Central Ltd. (CN)	ILA	Freight Loaders and Handlers	Dismissal-FUI
R-7556	NJ Transit Rail Operations	NATS	Foremen	Dismissal-WDI

AIRLINE REPRESENTATION CASES CLOSED				
CASE	CARRIER	UNION	CRAFT OR CLASS	DISPOSITION
R-7550	Amerijet International, Inc.	Individual	Pilots	Certification
R-7551	Republic Airways	IAM	Mechanics and Related Employees	Dismissal-ISI
R-7553	Northern Air Cargo	IAM	Mechanics and Related Employees	Dismissal
R-7554	G2 Secure Staff	Individual	Cleaners and Drivers	Dismissal-FUI
R-7557	American Airlines	AMFA & TWU-IAM	Mechanics and Related Employees	Dismissal
R-7558	21 Air, LLC	21 Air Pilots Association	Pilots	Dismissal-WDI
R-7559	21 Air, LLC	21 Air Pilots Association	Pilots	Certification
R-7560	Bristow Group Inc. / Era Group Inc.	OPEIU	Mechanics and Related Employees	Dismissal
R-7561	Bristow Group Inc. / Era Group Inc.	OPEIU	Pilots	Dismissal
R-7562	Western Global Airlines	ALPA	Pilots	Certification

## MEDIATION CASES DOCKETED AND CLOSED

### RAILROAD CASES DOCKETED

CARRIER	UNION	CRAFT / CLASS
Buffalo & Pittsburgh Railroad (G&W)	IBEW	Electricians
Evansville Western Railway	IAM	Machinists
Evansville Western Railway	IBEW	Electrical Workers
Illinois & Midland Railroad (G&W)	SMART-TD	Maintenance of Way; Signal Maintenance; Mechanical Dept. Employees
Iowa Northern Railway	SMART-TD	Train and Engine Service Employees
Long Island Rail Road (MTA)	BLET	Locomotive Engineers
Metra	SMART-TD	Yardmasters
Metro-North Railroad (MTA)	ACRE	Conductors; Yardmasters; Assistant Station Masters
Metro-North Railroad (MTA)	ACRE	Locomotive Engineers
Metro-North Railroad (MTA)	IBEW	Electrical Workers
Mississippi Export Railroad	SMART-TD	Engineers & Conductors
National Carriers' Conference Committee	BMWED	Maintenance of Way Employees
National Carriers' Conference Committee	SMART-MD	Sheet Metal Workers
New York, Susquehanna & Western Railway	BMWED	Locomotive Mechanics
New York, Susquehanna & Western Railway	BMWED	Maintenance of Way Employees
NJ Transit Rail Operations	BLET	Locomotive Engineers; Assistant Engineers; Locomotive Engineer Trainees
NJ Transit Rail Operations	TWU	Carmen; Car Appearance Maintainers
Rapid City, Pierre & Eastern Railroad (G&W)	SMART-TD	Engineers; Conductors; Brakemen; Switchmen; Flagmen
San Joaquin Valley Railroad (G&W)	SMART-TD	Train and Engine Service Employees
York Railway Company (G&W)	SMART-TD	Car Inspectors
York Railway Company (G&W)	SMART-TD	Engineers; Conductors; Brakemen

## RAILROAD CASES CLOSED

CARRIER	UNION	CRAFT / CLASS
Dakota, Minnesota & Eastern Railroad (CP)	BMWED	Maintenance of Way Employees
Florida East Coast Railway	IBEW	Signalmen
Long Island Rail Road (MTA)	TCU/IAM	Clerical Employees
Metro-North Railroad (MTA)	ACRE	Signalmen
Metro-North Railroad (MTA)	TCU/IAM	Clerical Employees
Mississippi Export Railroad	SMART-TD	Engineers; Conductors
NICTD	BMWED	Maintenance of Way Employees; Foremen
PATH	ARASA	Supervisors
PATH	BLET	Engineers
PATH	SMART-TD	Tower Operators

## AIRLINE CASES DOCKETED

CARRIER	UNION	CRAFT / CLASS
Aloha Air Cargo	IBT	Cargo Agents
Republic Airways	TWU	Aircraft Dispatchers
Spirit Airlines	IAM	Ramp Service Employees

## AIRLINE CASES CLOSED

CARRIER	UNION	CRAFT / CLASS
ABX Air	IBT	Pilots
Air Wisconsin Airlines	IAM	Mechanics and Related Employees
Aloha Air Cargo	IBT	Cargo Agents
ExpressJet Airlines	IBT	Mechanics and Related Employees
Horizon Air	TWU	Aircraft Dispatchers
SM Cargo	IAM	Fleet Service Employees
Southwest Airlines	TWU	Flight Crew Training Instructors



## ADR CASES DOCKETED AND CLOSED

### ADR CASES DOCKETED

CASE TYPE	CARRIER / EVENT	UNION	CRAFT / CLASS
F	Air Wisconsin Airlines	ALPA	Pilots
GM	Bristow Group Inc.	OPEIU	Mechanics and Related Employees
GM	Frontier Airlines	ALPA	Pilots
GM	Omni Air International	AFA	Flight Attendants
GM	Sun Country Airlines	TWU	Aircraft Dispatchers
OP	ABA 2021 RLA Midwinter Meeting	-	-
OP	Dunlop II Meeting	-	-
OP	NMB Subject Codes Project Joint Labor-Management Committee	-	-
OP	Section 3 Briefing – Jun 11, 2021	-	-
T	Air Transport International	ALPA	Pilots
T	Amerijet International Airlines	ALPA	Pilots
T	Bristow Group Inc.	OPEIU	Mechanics and Related Employees
T	Frontier Airlines	ALPA	Pilots
T	Sun Country Airlines	TWU	Aircraft Dispatchers
T	ALRA 2021 Virtual Conference	-	-
T	Mediator Meeting – Q1 FY21	-	-
T	Mediator Meeting – Q2 FY21	-	-
T	Mediator Meeting – Q3 FY21	-	-
T	Mediator Meeting – Q4 FY21	-	-
T	NMB Mediation Department Google Hangout Weekly Meetings	-	-
T	NMB Mediation Department ZoomGov Training	-	-
T	NMB ZoomGov Training	-	-

### ADR CASES CLOSED

CASE TYPE	CARRIER / EVENT	UNION	CRAFT / CLASS
F	Air Wisconsin Airlines	ALPA	Pilots
F	Spirit Airlines	ALPA	Pilots
F	Sun Country Airlines	ALPA	Pilots
GM	Alaska Airlines	ALPA	Pilots
GM	Amerijet International Airlines	IBT	Pilots
GM	CSX Transportation	ATDA	Train Dispatchers
GM	CSX Transportation	BLET	Locomotive Engineers
GM	ExpressJet Airlines	ALPA	Pilots
GM	ExpressJet Airlines	IAM	Flight Attendants
GM	ExpressJet Airlines	TWU	Aircraft Dispatchers
GM	Gate Gourmet	IBT/HERE	Kitchen, Commissary, Catering and Related Employees
GM	PSA Airlines	AFA	Flight Attendants
GM	Soo Line Railroad (CP)	SMART-TD	Train and Engine Service Employees
GM	Southwest Airlines	TWU	Flight Training Supervisors
GM	Sun Country Airlines	TWU	Aircraft Dispatchers
GM	Union Pacific Railroad	SMART-TD	Train and Engine Service Employees
OP	ABA 2021 RLA Midwinter Meeting	-	-
OP	Dunlop II Meeting	-	-
OP	NMB Subject Codes Project Joint Labor-Management Committee	-	-
OP	Section 3 Briefing – Jun 11, 2021	-	-
T	Air Transport International	ALPA	Pilots
T	Amerijet International Airlines	ALPA	Pilots
T	Bristow Group Inc.	OPEIU	Mechanics and Related Employees
T	Frontier Airlines	ALPA	Pilots
T	Sun Country Airlines	TWU	Aircraft Dispatchers
T	ALRA 2021 Virtual Conference	-	-
T	Mediator Meeting – Q1 FY21	-	-
T	Mediator Meeting – Q2 FY21	-	-
T	Mediator Meeting – Q3 FY21	-	-
T	Mediator Meeting – Q4 FY21	-	-
T	NMB Mediation Department Google Hangout Weekly Meetings	-	-
T	NMB Mediation Department ZoomGov Training	-	-
T	NMB ZoomGov Training	-	-

# SUPPORT OFFICES OVERVIEW

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## OFFICE OF ADMINISTRATION

The Office of Administration (OA) provides operational, management, and leadership support for the entire Agency. These services include human resources management, property and space management, and office support.

### ADMINISTRATION HIGHLIGHTS

#### Human Capital

OA continues to utilize online services in the personnel arena. The NMB continues to use the E-verify system to ensure that all new appointees are eligible to work. With an aging workforce at the NMB, succession planning continues to be a challenge, but the Agency's new Succession and Workforce Plan analyzes the NMB's future staffing requirements and sets forth strategies for adequately recruiting, promoting, and retaining employees. NMB utilizes training plans, including Individual Development Plans (IDP), departmental training plans, and career development, as a way to broaden skills and prepare for transitions. The Agency uses internal details when possible to broaden skills and to give staff exposure to a range of work possibilities within the Agency.

The NMB has devoted more attention and resources to training and has provided meaningful training program opportunities for our employees, many virtually in FY 2021 due to the pandemic. The NMB continues to provide subscriptions to Manager Advantage for supervisors and managers. Manager Advantage is an online information service for managers and supervisors. The information is based on case law, statutes, and regulations. It provides extensive federal policy and guidance for supervisors and managers. This information is obtained from the vendor LRP Publications' experienced attorney editors and senior editorial staff who have gathered and then converted the information into easy-to-understand major categories, key topics, scenario-based videos and more. Manager Advantage breaks down the complexities of federal civil service law to provide managers with practical, authoritative guidance in easy-to-understand terms while also providing essential tools for developing necessary leadership and managerial skills from one definitive source. OA is working with the Office of Personnel Management (OPM) and the Department of the Interior (DOI) to improve the NMB's human capital operations. OA continues to ensure that all new NMB managers, supervisors, and employees receive the Telework Fundamentals-Managers training and the Telework Fundamentals-Employee training.

#### Property and Space Management

The NMB continues to track and maintain its physical inventory. Additionally, OA ensures that NMB's physical inventory is properly recorded in NMB's cloud-based inventory system. OA continues to maintain close liaison with the building property management and the General Services Administration regarding NMB's space.

#### Sustainability

The National Mediation Board is committed to reducing greenhouse gases in accordance with Executive Order 13514. The Agency provides alternative work schedules and telework programs to its employees to reduce the number of commuters. Due to the pandemic, the majority of NMB staff teleworked during FY 2021.

#### Coronavirus Pandemic

The NMB remained actively involved in all facets of the pandemic in FY 2021, and regularly participated in meetings with OMB and OPM. The Agency ensured that policies and procedures were adjusted and updated appropriately, and followed all OMB and OPM pandemic and vaccination requirements and Executive Orders in FY 2021.

## OFFICE OF INFORMATION SERVICES

The Office of Information Services (OIS) provides information technology leadership and support for the entire Agency. These services include systems development, information technology operations, cybersecurity and information assurance, helpdesk and IT support, telecommunications, and records management.

### INFORMATION SERVICES HIGHLIGHTS

#### Arbitrator Workspace System

The NMB replaced its legacy Arbitrator Workspace System with a new FedRAMP approved Software-as-a-Service Arbitrator Workspace System. This new system provides for robust business reports, an improved users interface, and is more secure and reliable. OIS provided training to staff and made enhancements to the system to better meet user needs.

#### Information Security

NMB made strides in better securing its information technology by taking numerous actions to meet Federal IT security requirements and industry best practices. NMB staff upgraded legacy applications running on obsolete software and completed the development of system security plans for its general support system and applications. NMB completed system security assessments and issued Authorization to Operate and Authorizations to Use for several of its systems.

#### Virtual Private Network

The NMB completed its deployment of a FedRAMP-approved VPN system. With the increased use of telework, this system is critical in providing users with secure access to applications and resources. NMB integrated this system with its existing email system so users do not need a separate account and password; they can log in to the VPN with their existing email account which already has multifactor authentication enabled. OIS trained users to use the VPN and also implemented content filtering to provide users with an additional layer of protection while browsing the web.

#### NMB Knowledge Store

NMB staff continued to build and improve the public archive of information available through the NMB Knowledge Store. Currently, the NMB Knowledge Store now contains over 150,000 documents in an easily searchable format, including arbitration awards, representation decisions, annual reports, PEB reports, and collective bargaining agreements.

#### Electronic Government

The NMB provides electronic access to all its policies, and the Agency continues to use the NMB website to provide information to its internal and external customers. The website provides access to our internal customers by allowing them to access NMB forms and other pertinent information. NMB continued to update the website to improve reliability and to implement security measures.

## OFFICE OF FISCAL SERVICES

The Office of Fiscal Services (OFS) provides fiscal management and leadership support for the National Mediation Board. These services include budgeting formulation and execution, accounting and financial reporting, audit services, payroll, travel, and contracting and interagency agreement services.

### FISCAL SERVICES HIGHLIGHTS

In FY 2021, the NMB continued to use the Bureau of Fiscal Services (BFS) for accounting and financial reporting requirements, contracting services, and E-travel. Using a federal Financial Management Line of Business Center of Excellence has significant benefits, including reduced overhead costs and shared knowledge of financial management practices throughout the federal government.

In addition, NMB uses these other federal government shared service providers for major administrative and financial services.

- The Department of Interior Personnel, Payroll, Human Resources and Related Systems & Services.
- General Services Administration (GSA) for agency purchase and travel credit cards.

Included in the continued partnership with BFS, the NMB utilizes the electronic contract writing system, PRISM, to create purchase requisitions and orders for contracts and inter-agency agreements. A more streamlined RFP process, improved bid analysis, and further transforming contracting administration are just some of the benefits the NMB gains in using this system. It also ensures compliance with all applicable rules and regulations governing contracting.

In FY 2021, the NMB continued its use of the Concur Government Edition (CGE) Travel Services. Concur is a cloud-based expense and travel management software solution that provides an electronic process for travel authorizations, vouchers, and reimbursement to travelers, and reduces the overall per-ticket cost for travelers.

## BRIEF ANALYSIS OF FINANCIAL STATEMENTS

Underlying the NMB's many achievements is its commitment to organizational excellence and sound financial management. NMB has a fiduciary and stewardship responsibility to manage its federal funds effectively and efficiently, and comply with federal financial management guidance. As part of this responsibility, the Agency prepares annual financial statements in accordance with Generally Accepted Accounting Principles. The principal financial statements have been prepared to report the financial position and results of operations for NMB. The FY 2021 financial statements and accompanying notes are presented in accordance with OMB Circular A-136, *Financial Reporting Requirements*, and are shown in comparative formats.

To ensure the integrity and reliability of the annual financial statements, NMB subjects them to an annual independent audit. Figure 1 below summarizes the financial position in FY 2021.

**FIGURE 1: NMB FY 2021 FINANCIAL POSITION (IN DOLLARS)**

NET FINANCIAL CONDITION	FY 2021	FY 2020
Assets	\$11,002,318	\$11,056,093
Liabilities	\$3,199,163	\$1,757,667
Net Position	\$7,803,155	\$9,298,426
Net Cost	\$15,173,007	\$13,604,026

## LIMITATIONS OF FINANCIAL STATEMENTS

NMB has prepared the principal financial statements to report the financial position and results of operations of the entity, pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the entity in accordance with Generally Accepted Accounting Principles for federal entities and the formats prescribed by the Office of Management and Budget (OMB); The statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

## MANAGEMENT ASSURANCES

NMB recognizes the importance of establishing and maintaining adequate controls over its program and administrative support functions. NMB also recognizes that technology can enhance effectiveness and efficiency, and ensure an adequate degree of internal control and compliance with applicable laws and regulations.

This section provides information on NMB's compliance with the Federal Manager's Financial Integrity Act (FMFIA) and the Improper Payments Information Act, as well as other management information, initiatives, and issues. FMFIA requires that agencies establish controls that provide reasonable assurance that:

- Obligations and expenses comply with applicable law;
- Assets are safeguarded from waste, loss, unauthorized use, or misappropriation; and
- Revenue and expenditures are properly recorded and accounted.

It also requires the NMB Chairman to provide an assurance statement on the adequacy of management control.

## FMFIA ASSURANCE STATEMENT

The NMB's management is responsible for establishing and maintaining effective internal controls that meet the obligations of FMFIA within their areas of responsibility. Based on the Chairman's knowledge of daily operations and other management reviews, and in accordance with the Office of Management and Budget Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, the NMB is able to provide reasonable assurance that, as of September 30, 2021, its internal controls over the effectiveness and efficiency of operations and reporting were compliant with applicable laws and regulations, and no material weaknesses were found in the design or operation of the internal controls.

Respectfully submitted,



**GERALD W. FAUTH III**

Chairman  
National Mediation Board



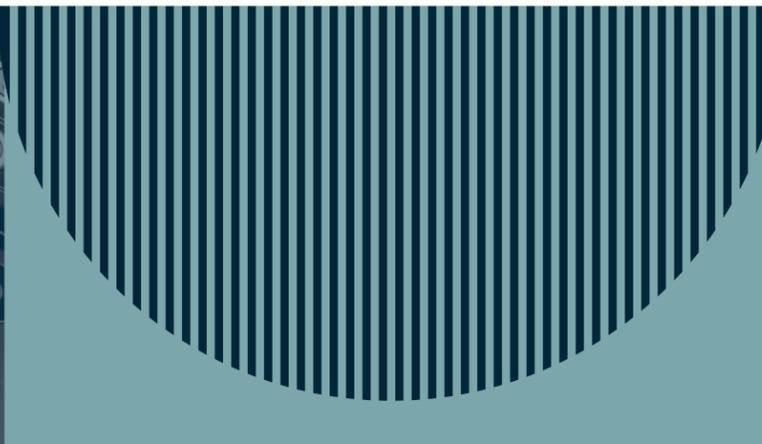
02

# MEASURING PERFORMANCE: KEY RESULTS FOR FY 2021



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## PROGRAM OFFICES PERFORMANCE GOALS

### OFFICE OF MEDIATION SERVICES

#### MEDIATION STRATEGIC GOAL

Resolve disputes arising out of the negotiation of new or revised collective bargaining agreements.

**GOAL 1: Provide prompt and appropriate intervention and assistance for disputes involving pay, work rules, and working conditions (major disputes).**

#### FY 2021 Accomplishments

NMB standards applicable to processing and managing cases involving major disputes were consistently met in FY 2021. The NMB will continue to refine case processing with enhancements to the Agency's Mediation Case Management System to track cases from application to closure. Case Management was accomplished as planned with Mediators utilizing appropriate techniques at the table with support from Senior Mediators acting as advisors in an oversight role. Quarterly reviews of cases one year old or older by Board Members and senior mediation management ensured that parties to the process received assistance appropriate for their cases.

**GOAL 2: Provide appropriate and effective mediator training and continuous development.**

#### FY 2021 Accomplishments

Through the use of Individual Development Plans (IDPs), each Mediator participated in training and development that met his or her individual needs. In addition, training covering industry-specific topics was conducted during each Mediator Meeting. Mediators attended virtual conferences as offered. Each of these provided targeted information and training that enhanced the skills Mediators bring to the table.

**GOAL 3: Pursue innovation in the delivery of mediation and alternative dispute resolution services.**

#### FY 2021 Accomplishments

The Agency continued to provide its negotiation training, through video conferencing, that was developed for air and rail parties to use to prepare for negotiations. Mediators continued to refine ADR strategies and techniques that addressed the unique needs of our parties, especially in grievance mediation.

**GOAL 4: Improve efficiency and effectiveness of NMB programs by utilizing technological resources.**

#### FY 2021 Accomplishments

The Agency continues to use technology for dispute resolution and offer its possibilities to our parties. Mediators made use of technology to remotely share information and language, and to discuss proposals. Technology has been helpful in continuing the mediation process when remote meetings are more efficient and in the best interest of the case.

### OFFICE OF LEGAL AFFAIRS

#### REPRESENTATION STRATEGIC GOAL

Investigate and resolve representation disputes efficiently. Provide effective legal counsel for the Agency. Serve as counsel to any Presidential Emergency Board.

**GOAL 1: Prompt investigation of representation disputes and definitive resolution of employees' representation status for collective bargaining purposes.**

#### FY 2021 Accomplishments

In most cases, OLA responded to representation applications within two business days of receipt by the NMB; assigned an investigator within two business days of receipt of the application; and issued a certification or dismissal the next business day after the ballot count.

**GOAL 2: Enhance training and development of OLA staff.**

#### FY 2021 Accomplishments

Each OLA staff member updated their Individual Development Plan (IDP). Each year OLA employees meet with their manager to update or develop a plan to enhance career-related skills. To date, in Fiscal Year 2021, OLA staff took classes related to the Freedom of Information Act (FOIA), records management, government ethics, the Railway Labor Act, alternative dispute resolution, and employment law.

**GOAL 3: Enhance outreach opportunities in the legal, labor relations, and alternative dispute resolution communities to better inform stakeholders about developments and increase the skills and experience of OLA employees.**

#### FY 2021 Accomplishments

Members of the Office of Legal Affairs continue to actively participate as panelists and attendees at conferences sponsored by the American Bar Association, American Law Institute, and the Association of Labor Relations Agencies. This year, OLA attorneys gave presentations on the Railway Labor Act, ethics, recent RLA case developments, and remedies under the RLA. OLA continued to participate in intragovernmental initiatives with other federal agencies, such as the Federal Labor Relations Authority, Department of Labor, National Labor Relations Board, and the Federal Mediation and Conciliation Service. OLA attorneys serve as both Senior Editors and Contributing Editors of the Railway Labor Act treatise, published by Bloomberg/BNA, and this year, completed the fourth edition of the treatise.

**GOAL 4: OLA staff provides prompt and efficient assistance to Presidential Emergency Boards.**

#### FY 2021 Accomplishments

OLA maintained continuous industry and agency communication at a level that provided for early preparation for potential Presidential Emergency Boards.

**GOAL 5: OLA maintains concise, relevant reference materials that are readily available to the public, and that reduce the number of man-hours used to research and respond to inquiries.**

#### FY 2021 Accomplishments

OLA conducts semi-annual reviews of the Representation Manual and website, and updates where appropriate.

**GOAL 6: Expand the use of technology to further streamline and reduce costs in representation and interference investigations.**

#### FY 2021 Accomplishments

Since the Agency's electronic voting system contract with its outside vendor ended on September 30, 2021, the Agency will be transitioning to a new electronic voting system. The NMB has initiated the process to build a comparable electronic voting system internally. In the interim, elections will be conducted by mail-in ballot and OLA is reviewing its existing mail ballot procedures to assure timely, efficient, and fair representation elections.

## OFFICE OF ARBITRATION SERVICES

### ARBITRATION STRATEGIC GOAL

Facilitate the settlement of disputes arising from the implementation or interpretation of existing agreements covering rates of pay, work rules, and working conditions.

**GOAL 1: Provide outstanding service delivery to internal and external customers.**

#### FY 2021 Accomplishments

An audit was conducted of the administrative caseload processes, and procedures governing Public Law Boards and System Boards of Adjustments were reviewed with the goal of continuous improvement of service delivery.

**GOAL 2: Increase the diversity of active arbitrators serving the airline and railroad industries.**

#### FY 2021 Accomplishments

The NMB is collaborating with the Federal Mediation and Conciliation Service (FMCS), the American Arbitration Association (AAA), and the National Academy of Arbitrators (NAA) to discuss opportunities to partner on initiatives aimed at improving diverse representation on the arbitrator roster.

**GOAL 3: The Office of Arbitration Services will be a center of innovation in the resolution of "minor" disputes.**

#### FY 2021 Accomplishments

A joint labor-management committee revised the NMB Subject Codes. The new codes are streamlined and reflect the current state of operations in the railroad industry. These codes will be used to provide data to the parties on the predominant issues being sent to arbitration for resolution.

## SUPPORT OFFICES PERFORMANCE GOALS

### OFFICE OF ADMINISTRATION

### ADMINISTRATION STRATEGIC GOAL

Support the program missions of the Agency and provide outstanding administrative services.

**GOAL 1: Provide outstanding service delivery to internal and external customers.**

#### FY 2021 Accomplishments

The Office of Administration responded to all requests for assistance or service from internal and external customers as soon as they were received. In addition, new Employee Orientation training was completed for each new employee.

**GOAL 2: Attract and retain a high-performing workforce with the technical and professional skills needed.**

#### FY 2021 Accomplishments

The NMB worked with the Department of the Interior to ensure that each vacancy announcement reflected the technical and professional skills needed.

### OFFICE OF FISCAL SERVICES

### FISCAL SERVICES STRATEGIC GOAL

Support the missions of the Agency and provide outstanding financial and accounting service, including payroll, audits, travel, and procurement.

**GOAL 1: Provide timely, efficient, and responsible stewardship of the NMB's fiscal resources.**

#### FY 2021 Accomplishments

The NMB continues to work with the Bureau of the Fiscal Service (BFS), a bureau within the U.S. Department of the Treasury, to ensure that required financial reporting is prepared and submitted in a timely manner. The NMB worked with BFS to ensure that over 99 percent of payments were paid timely and accurately as of the fourth quarter of FY 2021, and that all Office of Management and Budget financial reports and data collections in FY 2021 were submitted in a timely manner. The Office of Fiscal Services is committed to responding to timely requests from our internal and external customers. In November 2021, the NMB received a clean audit opinion on its financial statement and notes, with no significant deficiencies or material weaknesses.

**GOAL 2: Ensure Agency spending and budgets are transparent and provide the necessary support for each of the Agency’s missions throughout the entire fiscal year.**

**FY 2021 Accomplishments**

The NMB has an agreement with BFS to handle the Agency’s financial management system, and the Agency integrated PRISM (a web-based procurement system) into its procurement process. The NMB works with the BFS on a regular basis to ensure that the Agency’s quarterly apportionment is not exceeded, and that all budget-related reports and activities have been reported in a timely manner.

**GOAL 3: Ensure Agency compliance with all Office of Management and Budget (OMB) and Department of the Treasury laws and regulations with respect to budget and financial reporting requirements, and implement proper internal controls.**

**FY 2021 Accomplishments**

The NMB has submitted all applicable financial reports, to date, and has continued to adhere to OMB Circulars A-11, A-123, and A-136.

## OFFICE OF INFORMATION SERVICES

### INFORMATION SERVICES STRATEGIC GOAL

Support the program missions of the Agency and comply with intragovernmental requirements.

**GOAL 1: Ensure compliance with regulations from the Department of Homeland Security and the National Archives.**

**FY 2021 Accomplishments**

The Office of Information Services (OIS) completed several actions related to Cybersecurity and Infrastructure Security Agency (CISA) Emergency Directives, as well as compliance with several actions related to the bi-annual Federal Information Security Modernization Act (FISMA) metrics. In addition, the Agency conducted an IT security assessment utilizing the DHS OIG Metrics. This assessment resulted in several recommendations and action items that will improve the agency’s maturity per the Cybersecurity Framework. In FY 2023, NMB will work to meet Electronic Records Management requirements. NMB will need to acquire or develop a records management system to ensure the records contain appropriate metadata and are formatted correctly for transfer to NARA per OMB Memorandum M-19-21.

**GOAL 2: Maintain and update internal policies.**

**FY 2021 Accomplishments**

NMB has begun to develop a comprehensive set of IT policies and procedures. NMB has finalized its IT Security policy and is currently in the process of developing a comprehensive set of IT procedures. NMB expects to reach a maturity level of ‘Defined’ in all 8 Function Domain areas as required by the Cybersecurity Framework in FY 2023.

**GOAL 3: Maintain hardware/software architecture and configuration.**

**FY 2021 Accomplishments**

To improve the security and maintainability of our office network, the Agency implemented security patches to its network hardware and developed a secure baseline operating system image, based on Defense Information Systems Agency (DISA) Security Technical Implementation Guides (STIGs), to be deployed throughout the Agency. NMB also deployed its Virtual Private Network solution to facilitate secure remote work for its staff. In FY 2023, NMB will need to refresh its hardware and software to ensure users have the resources needed to be efficient in accomplishing their work.

**GOAL 4: Fully trained and technology-literate staff.**

**FY 2021 Accomplishments**

OIS recruited and hired new staff to assist in meeting Agency IT needs. OIS is in the process of recruiting additional staff and will continue to train all staff in accordance with their Individual Development Plans.

**GOAL 5: Improve Agency efficiency and public communications through cost effective information and communications technology improvements, including implementing Enterprise Architecture (design, secure and document) the emerging cloud, mobile, and other mechanisms.**

**FY 2021 Accomplishments**

NMB deployed a FedRAMP solution to manage its endpoints and to ensure system configurations are secure and patches are up to date. Through these new technology upgrades, NMB improved the reliability and security of its information technology to better serve the public. NMB will now need to continue to ensure it is maintaining its configuration baselines on all endpoints and also manage its mobile devices and workstations.

**GOAL 6: Continue to ensure that NMB Information is secure while maintaining a government-leading information and communication technology system.**

**FY 2021 Accomplishments**

NMB implemented several emergency patches and upgrades to its information technology hardware and software. The NMB also completed system security plans and security assessments to issue Authorizations to Operate and is in the process of deploying technology to manage computer software upgrades and configuration baselines. NMB is in the process of implementing a Trusted Internet Connection system and expects it to be completed in FY 2022. In FY 2023, NMB will work to ensure that all systems meet Multifactor Authentication and Zero Trust Architecture requirements as required by Executive Order 14028, “Improving the Nation’s Cybersecurity”. NMB will also work to mature and maintain a Standardized Cybersecurity Vulnerabilities and Incident Response Program per OMB Memorandum M-20-32, as well as improve its IT logging, encryption, and enterprise Identity, Credential, and Access Management (ICAM) capabilities, consistent with OMB Memorandum M-19-17.

# 03

## FINANCIAL INFORMATION

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## LETTER FROM THE CHIEF FINANCIAL OFFICER

NOVEMBER 4, 2021

On behalf of the National Mediation Board (NMB), it is my pleasure to join with the Board in presenting the NMB's FY 2021 Performance and Accountability Report. This report is an integrated presentation of our programmatic, administrative, and financial achievements during the past year. The principal financial statements and notes that follow explain the NMB's financial position as of September 30, 2021 and 2020, respectively, as well as detail the use of Agency resources to achieve our performance results.

The independent audit of our financial statements has been completed, and I am pleased to report that the NMB received another unmodified opinion, with no material weaknesses. This is evidence of the organization's continued emphasis on reviewing and strengthening internal controls in accordance with requirements from central regulatory bodies of the federal government such as the U.S. Treasury and OMB. This validates our confidence that our financial and performance data are complete, accurate, and reliable.

In FY 2021 there were no significant changes or issues in the Board's financial operations or systems. We continued our successful partnership with the U.S. Department of Treasury – Bureau of Fiscal Services (BFS) for our accounting, financial, contractual, and reporting services. The ability to partner with one of the Centers of Excellence designated by OMB affords us the opportunity to receive the numerous benefits a shared service provider can offer, at affordable costs.

In FY 2022 we will continue to seek out opportunities to further improve our financial and human resource operations by exploring automation and other electronic options. These enhancements will offer additional efficiencies and customer service to our internal and external customers.

We are confident that our financial systems and operations will continue to support the Board's mission to effectively and efficiently reach our intended outcomes. I would again like to extend my sincere thanks and appreciation to all of the dedicated staff at the NMB whose commitment and effort made this past year a success during the continued COVID-19 atmosphere; your work is recognized and appreciated.

Sincerely,



**MICHAEL JERGER**  
Chief Financial Officer



**ALLMOND & COMPANY, LLC**

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## INDEPENDENT AUDITORS' REPORT

### BOARD MEMBERS, NATIONAL MEDIATION BOARD:

#### Report on the Financial Statements

We have audited the accompanying financial statements of the National Mediation Board (NMB), which comprise the balance sheets as of September 30, 2021 and 2020; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years ended; and the related notes to the financial statements (hereinafter referred to as the financial statements).

#### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### Auditor's Responsibility

Our responsibility is to express an opinion on the fiscal years 2021 and 2020 financial statements of NMB based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and the Office of Management and Budget (OMB) Bulletin No. 21-04, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 21-04 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the National Mediation Board as of September 30, 2021 and 2020, and its net cost of operations, changes in net position, and budgetary resources for the years then ended in accordance with accounting principles generally accepted in the United States of America.



**Other Matters**

**Required Supplementary Information**

The information in the *Chairman’s Letter, Message from the Chief Financial Officer, Management and Discussion Analysis* section, and *Other Accompanying Information* section of this report is not a required part of the basic financial statements, but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of NMB’s financial statements. However, we did not audit this information and, accordingly, we express no opinion on it.

**Other Reporting Required by Government Auditing Standards**

**Internal Control over Financial Reporting**

In planning and performing our audit of NMB’s financial statements as of and for the year ended September 30, 2021, in accordance with generally accepted government auditing standards, we considered NMB’s internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of NMB’s internal control over financial reporting. Accordingly, we do not express an opinion on NMB’s internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 21-04. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers’ Financial Integrity Act of 1982.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatement on a timely basis. A material weakness is a deficiency, or combination of deficiencies, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit the attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose as described in the first paragraph of this section, and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our fiscal year 2021 audit we did not identify any deficiencies in internal control over financial reporting that we considered to be a material weakness, as defined above. However, material weaknesses may exist that have not been identified.

**Compliance and Other Matters Specific to the Financial Statements**

As part of obtaining reasonable assurance about whether NMB’s fiscal year 2021 financial statements are free of material misstatements, we performed tests of NMB’s compliance with certain provisions of applicable laws, regulations, contracts,



and grant agreements, which noncompliance could have a direct and material effect on the determination of material amounts and disclosures in NMB’s financial statements, and certain provisions of other laws specified in OMB Bulletin No. 21-04. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests of compliance as described in the preceding paragraph disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 21-04.

**Purpose of the Other Reporting Required by Government Auditing Standards**

The purpose of the communication provided in the Other Reporting Required by Government Auditing Standards section is solely to describe the scope of our testing of internal control and compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on the effectiveness of the NMB’s internal control or on compliance. This communication is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal controls and compliance with laws, regulations, contracts, and grant agreements which could have a material effect NMB’s financial statements. Accordingly, this communication is not suitable for any other purpose.

*Allmond & Company, LLC*

LANHAM, MD

November 1, 2021

## BALANCE SHEET

AS OF SEPTEMBER 30, 2021 AND 2020 (IN DOLLARS)

ASSETS	2021	2020
<b>Intragovernmental</b>		
Fund Balance with Treasury (Note 2)	\$11,002,318	\$11,053,654
<b>Total Intragovernmental</b>	\$11,002,318	\$11,053,654
<b>Other than Intragovernmental/With the Public</b>		
Accounts Receivable Net (Note 3)	–	\$2,439
<b>Total Other than Intragovernmental/With the Public</b>	–	\$2,439
<b>Total Assets</b>	<b>\$11,002,318</b>	<b>\$11,056,093</b>

LIABILITIES	2021	2020
<b>Intragovernmental</b>		
Accounts Payable (Note 4)	\$462,222	\$500,565
Other Liabilities (Note 6)	\$87,676	\$77,997
<b>Total Intragovernmental</b>	\$549,898	\$578,562
<b>Other than Intragovernmental/With the Public</b>		
Accounts Payable (Note 4)	\$1,759,752	\$278,707
Federal Employee Benefits Payable (Note 4)	\$597,695	\$573,788
Other Liabilities (Note 6)	\$291,818	\$326,610
<b>Total Other than Intragovernmental/With the Public</b>	\$2,649,265	\$1,179,105
<b>Total Liabilities</b>	<b>\$3,199,163</b>	<b>\$1,757,667</b>

COMMITMENTS AND CONTINGENCIES (NOTE 7)	2021	2020
<b>Net Position</b>		
Unexpected Appropriations - Funds other than those from Dedicated Collections	\$8,388,694	\$9,859,199
<b>Total Unexpended Appropriations</b>	\$8,388,694	\$9,859,199
Cumulative Results of Operations - Funds other than those from Dedicated Collections	(\$585,539)	(\$560,773)
<b>Total Cumulative Results of Operations</b>	(\$585,539)	(\$560,773)
<b>Total Net Position</b>	\$7,803,155	\$9,298,426
<b>Total Liabilities and Net Position</b>	<b>\$11,002,318</b>	<b>\$11,056,093</b>

## STATEMENT OF NET COST

FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020 (IN DOLLARS)

GROSS PROGRAM COSTS	2021	2020
<b>Mediation/ADR</b>		
Gross Costs	\$10,497,911	\$8,859,236
Less: Earned Revenue	–	60
<b>Net Program Costs</b>	<b>\$10,497,911</b>	<b>\$8,529,296</b>
<b>Representation</b>		
Gross Costs	\$1,697,006	\$2,207,893
Less: Earned Revenue	–	–
<b>Net Program Costs</b>	<b>\$1,697,006</b>	<b>\$2,207,893</b>
<b>Arbitration</b>		
Gross Costs	\$2,978,090	2,866,847
Less: Earned Revenue	–	–
<b>Net Program Costs</b>	<b>\$2,978,090</b>	<b>\$2,866,847</b>
<b>Presidential Emergency Board</b>		
Gross Costs	–	–
Less: Earned Revenue	–	–
<b>Net Program Costs</b>	<b>–</b>	<b>–</b>
<b>Net Cost of Operations</b>	<b>\$15,173,007</b>	<b>\$13,604,036</b>

The accompanying notes are an integral part of these financial statements.

## STATEMENT OF CHANGES IN NET POSITION

FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020 (IN DOLLARS)

	2021	2020
<b>Unexpended Appropriations</b>		
Beginning Balances	\$9,859,199	\$9,841,602
<b>Budgetary Financing Sources</b>		
Appropriations Received	\$14,300,000	\$14,050,000
Other Adjustments	(\$979,935)	(\$823,089)
Appropriations Used	(\$14,790,570)	(\$13,209,314)
<b>Net Change in Unexpended Appropriations</b>	<b>(\$1,470,505)</b>	<b>\$17,597</b>
<b>Total Unexpended Appropriations – Ending</b>	<b>\$8,388,694</b>	<b>\$9,859,199</b>
<b>Cumulative Results of Operations</b>		
Beginning Balances	(\$560,773)	(\$505,336)
<b>Budgetary Financing Sources</b>		
Appropriations Used	\$14,790,570	\$13,209,314
Nonexchange Revenue	–	(\$58)
Imputed Financing (Note 13)	\$357,670	\$339,391
Other (Note 12)	–	(\$48)
<b>Net Cost of Operations</b>	<b>(\$15,173,007)</b>	<b>(\$13,604,036)</b>
<b>Net Change in Cumulative Results of Operations</b>	<b>(\$24,766)</b>	<b>(\$55,437)</b>
<b>Cumulative Results of Operations – Ending</b>	<b>(\$585,539)</b>	<b>(\$560,773)</b>
<b>Net Position</b>	<b>\$7,803,155</b>	<b>\$9,298,426</b>

The accompanying notes are an integral part of these financial statements.

## STATEMENT OF BUDGETARY RESOURCES

FOR THE YEARS ENDED SEPTEMBER 30, 2021 AND 2020 (IN DOLLARS)

	2021	2020
<b>Budgetary Resources</b>		
Unobligated Balance from Prior Year Budget Authority, Net (Note 14)	\$6,363,043	\$6,137,123
Appropriations	\$14,300,000	\$14,050,000
<b>Total Budgetary Resources</b>	<b>\$20,663,043</b>	<b>\$20,187,123</b>
<b>Status of Budgetary Resources</b>		
New Obligations and Upward Adjustments (Total) (Note 8)	\$14,334,370	\$13,521,107
<b>Unobligated Balance, End of Year</b>		
Apportioned, Unexpired Accounts	\$160,928	\$615,351
Unexpired Unobligated Balance, End of Year	\$160,928	\$615,351
Expired Unobligated Balance, End of Year	\$6,167,745	\$6,050,665
<b>Unobligated Balance, End of Year (Total)</b>	<b>\$6,328,673</b>	<b>\$6,666,016</b>
<b>Total Budgetary Resources</b>	<b>\$20,663,043</b>	<b>\$20,187,123</b>
<b>Outlays, Net and Disbursements, Net:</b>		
Outlays, Net (Total)	\$13,371,402	\$12,572,318
<b>Agency Outlays, Net</b>	<b>\$13,371,402</b>	<b>\$12,572,318</b>
<b>Disbursements, Net (Total) (Mandatory)</b>	<b>\$13,371,402</b>	<b>\$12,572,318</b>

The accompanying notes are an integral part of these financial statements.

# NOTES TO PRINCIPAL STATEMENTS

September 30, 2021 and September 30, 2020

## NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### A. Reporting Entity

The National Mediation Board (NMB), established in 1934 under Section 4 of the Railway Labor Act (RLA), is an independent U.S. federal government agency that performs a central role in facilitating harmonious labor-management relations within two of the nation's major transportation modes the railroads and airlines. Recognizing the importance of these transportation industries to the public, shippers, and consumers, as well as to the economy and security of the country, the RLA established NMB to promote three key statutory goals:

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

NMB prepares its financial statements to be in conformity with generally accepted accounting principles. NMB does not hold any non-entity assets and has no funds from dedicated collections as described by the Statement of Federal Financial Accounting Standards (SFFAS) 43.

### B. Basis of Presentation

NMB's principal financial statements were prepared from its official financial records and general ledger in conformity with accounting principles generally accepted in the United States and follow the presentation guidance established by OMB Circular No. A-136 "Financial Reporting Requirements," as amended. The amounts reported in the financial statements are consolidated totals net of intra-entity transactions. The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, and the status and availability of budgetary resources of NMB. Unless specified otherwise, all amounts are presented in dollars.

### C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. The accrual method of accounting requires recognition of the financial effects of transactions, events, and circumstances in the period(s) when those transactions, events, and circumstances occur, regardless of when cash is received or paid. Budgetary accounting facilitates compliance with legal requirements and controls over the use of funds and to keep track of budget authority at the various stages of execution including allotment, obligation, and outlay.

The Balance Sheet, Statement of Net Cost, Statement of Net Position, and Statement of Budgetary Resources have been prepared in accordance with generally accepted accounting principles accepted in the United States for federal entities as prescribed by the standards set forth by the Federal Accounting Standards Advisory Board (FASAB). FASAB is recognized by the American Institute of Certified Public Accountants as the body designated to establish generally accepted accounting principles for federal entities. Certain assets, liabilities, and costs have been classified as intragovernmental throughout the financial statements and notes. Intragovernmental is defined as transactions made between two reporting entities within the federal government.

### D. Classified Activities

All federal reporting entities must include the following in the summary of significant accounting policies:

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

Reporting entities must not disclose application of SFFAS 56, including any interpretations of SFFAS 56.

### E. Revenue and Other Financing Sources

NMB receives funds to support its programs through annual appropriations. These may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, inter-agency agreements and contractual services costs).

Appropriations are recognized as other financing sources at the time they are used to pay program or administrative expenses. Appropriations used to acquire property and equipment is recognized as financing sources when the assets are purchased.

### F. Use of Estimates

The preparation of the accompanying financial statements in accordance with U.S. Treasury generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

### G. Fund Balances with the US Department of Treasury

The U.S. Treasury processes cash receipts and disbursements on NMB's behalf. The balance of funds with Treasury represents appropriated funds that are available to pay current liabilities and finance authorized purchase obligations relative to goods or services that have not been received. NMB does not maintain cash in commercial bank accounts or foreign currency balances.

### H. Accounts Receivable

Accounts receivable primarily consists of amounts due from current and former employees. These receivables are a result of payroll adjustments and/or court ordered actions. An allowance for uncollectible accounts receivable from the public is established when either (1) management determines that collection is unlikely to occur after a review of outstanding accounts and the failure of all collection efforts, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 120 days delinquent. Based on historical experience, all receivables are collectible and no allowance is provided.

### I. Property and Equipment

Property and equipment is stated at cost less accumulated depreciation. NMB capitalizes property and equipment purchases with a cost greater than \$5,000, and a total useful life exceeding one year. Depreciation is calculated on a straight-line basis based on an estimated useful life of 5 years for all assets. Expenditures for repairs and maintenance are charged to operating expenses as incurred.

When NMB enters into a lease agreement, as lessee, if the title of the asset transfers to NMB at the end of the lease or any of the other three capitalization criteria pursuant to SFFAS No. 6, Accounting for Property, Plant, and Equipment, are met, NMB capitalizes the lease at the present value of minimum lease payment and amortizes the cost over the economic useful life of the asset.

### J. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by NMB as the result of a transaction or event that has already occurred. However, no liability can be paid by NMB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriations will be enacted. Also, liabilities of NMB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees.

Liabilities not covered by budgetary resource are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave and contingent liabilities.

### K. Accrued Payroll and Benefits

Accrued payroll and benefits reflect salaries and benefits that have been earned, but not disbursed as of September 30, 2021. Accrued payroll and benefits are payable to employees and are therefore not classified as Intragovernmental.

### L. Annual, Sick and Other Leave

Annual leave is accrued as a liability as it is earned. The accrual is reduced as leave is taken. Each pay period the balance in the accrued leave account is adjusted to reflect the current leave balances and pay rates. Accrued annual leave is paid from future funding sources and accordingly is reflected as a liability not covered by budgetary resources. Sick leave and other types of non-vested leave are charged to expense as the leave is used.

### M. Retirement Plans and Other Employee Benefits

NMB's employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). Employees participating in CSRS contribute 7 percent of their gross pay to the plan, and NMB contributes 7 percent.

On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and are eligible for Social Security benefits. Employees hired prior to January 1, 1984, could elect either to transfer to the FERS plan and become eligible for Social Security benefits or remain in CSRS. A primary feature of FERS is that it offers a savings plan in which NMB automatically contributes 1 percent of employees' pay and matches any employee contribution up to an additional 4 percent of pay.

The actuarial present value of accumulated benefits, assets available for benefits, and unfunded pension liability of CSRS and FERS is not allocated to individual departments and agencies and is therefore not disclosed by NMB. The reporting of these amounts is the responsibility of the Office of Personnel Management.

The NMB imputes costs and the related financing sources for its share of retirement benefits accruing to its past and present employees that are in excess of the amount of contributions from the NMB and its employees, which are mandated by law. The Office of Personnel Management (OPM), which administers federal civilian retirement programs, provides the cost information to the NMB. The NMB recognizes the full cost of providing future pension and Other Retirement Benefits (ORB) for current employees as required by Statement of Federal Financial Accounting Standards (SFFAS) 5, Accounting for Liabilities of the Federal Government. Full costs include pension and ORB contributions paid out of the NMB's appropriations and costs financed by OPM. The amount financed by OPM is recognized as an imputed financing source. Reporting amounts such as plan assets, accumulated plan benefits, or unfunded liabilities, if any, is the responsibility of OPM.

### N. Commitments and Contingencies

A commitment is a preliminary action that reserves available funds until an obligation is made which will result in a legal liability of the U.S. government. Examples of a commitment include purchase requisitions or unsigned contracts. All open commitments at year end are closed out and new commitments (requisitions) need to be recorded in the next fiscal year. Accordingly, no open commitments exist at year end to report in either the financial statements or notes.

A contingency is an existing condition, situation, or set of circumstances involving uncertainty as to possible gain or loss. The uncertainty will ultimately be resolved when one or more future events occur or fail to occur. A contingent liability is disclosed in the notes to the financial statements when a past event or exchange transaction has occurred, and future outflow or other sacrifice of resources is measurable and reasonably possible. A contingency is not disclosed when any of the conditions for liability recognition are not met and the chance of the future event or events occurring are remote.

## NOTE 2: FUND BALANCES WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2021 and 2020, were as follows:

	2021	2020
<b>Status of Fund Balance with Treasury</b>		
<b>Unobligated Balance</b>		
Available	\$160,928	\$615,351
Unavailable	\$6,167,745	\$6,050,665
<b>Obligated Balance Not Yet Disbursed</b>	\$4,673,645	\$4,387,638
<b>Total</b>	<b>\$11,002,318</b>	<b>\$11,053,654</b>

The available unobligated fund balances represent the current-period amount available for obligation or commitment.

The unavailable unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the fund balance.

## NOTE 3: ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2021 and 2020, were as follows:

	2021	2020
<b>With the Public</b>		
Accounts Receivable	–	\$2,439
<b>Total Public Accounts Receivable</b>	–	<b>\$2,439</b>
<b>Total Accounts Receivable</b>	–	<b>\$2,439</b>

The accounts receivable is primarily made up of reimbursements due from employees.

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2021 and 2020.

## NOTE 4: LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

Liabilities covered and not covered by budgetary resources as of September 30, 2021 and 2020, consist of the following:

	2021	2020
<b>Unfunded Leave</b>	\$585,373	\$563,046
<b>Total Liabilities Not Covered by Budgetary Resources</b>	\$585,373	\$563,046
<b>Total Liabilities Covered by Budgetary Resources</b>	\$2,613,624	\$1,194,455
<b>Total Liabilities Not Requiring Budgetary Resources</b>	\$166	\$166
<b>Total Liabilities</b>	<b>\$3,199,163</b>	<b>\$1,757,667</b>

## NOTE 5: LEASES

### Operating Leases

NMB has entered into a new operating lease which commenced on November 1, 2016, and expiring on October 31, 2026. NMB pays GSA a standard level users charge for the annual rental adjusted annually for operating cost escalations in accordance with the provisions in the Federal Management Regulations.

FISCAL YEAR	ASSET BUILDING	TOTAL FEDERAL
2022	\$1,272,613	\$1,272,613
2023	\$1,295,985	\$1,295,985
2024	\$1,320,059	\$1,320,059
2025	\$1,344,855	\$1,344,855
2026	\$1,370,395	\$1,370,395
Thereafter	\$106,486	\$106,486
<b>Total Future Lease Payments</b>	<b>\$6,710,393</b>	<b>\$6,710,393</b>

## NOTE 6: OTHER LIABILITIES

Other liabilities account balances as of September 30, 2021 were as follows:

CURRENT YEAR	CURRENT	NON CURRENT	TOTAL
<b>Intragovernmental</b>			
Employer Contributions and Payroll Taxes Payable (Without Reciprocals)	\$20,072	–	\$20,072
Custodial Liability (to the General Fund)	(\$7)	–	(\$7)
Employer Contributions and Payroll Taxes Payable	\$67,498	–	\$67,498
<b>Total Intragovernmental Other Liabilities</b>	<b>\$87,563</b>	<b>–</b>	<b>\$87,563</b>
<b>With the Public</b>			
Accrued Funded Payroll and Leave	\$291,759	–	\$291,759
Custodial Liability	\$60	–	\$60
<b>Total Public Other Liabilities</b>	<b>\$291,819</b>	<b>–</b>	<b>\$291,819</b>
<b>Total Other Liabilities</b>	<b>\$379,382</b>	<b>–</b>	<b>\$379,382</b>

Other liabilities account balances as of September 30, 2020 were as follows:

PRIOR YEAR	CURRENT	NON CURRENT	TOTAL
<b>Intragovernmental</b>			
Employer Contributions and Payroll Taxes Payable (Without Reciprocals)	\$22,818	–	\$22,818
Custodial Liability (to the General Fund)	(\$7)	–	(\$7)
Employer Contributions and Payroll Taxes Payable	\$55,073	–	\$55,073
<b>Total Intragovernmental Other Liabilities</b>	<b>\$77,884</b>	<b>–</b>	<b>\$77,884</b>
<b>With the Public</b>			
Accrued Funded Payroll and Leave	\$326,550	–	\$326,550
Custodial Liability	\$60	–	\$60
<b>Total Public Other Liabilities</b>	<b>\$326,610</b>	<b>–</b>	<b>\$326,610</b>
<b>Total Other Liabilities</b>	<b>\$404,494</b>	<b>–</b>	<b>\$404,494</b>

## NOTE 7: COMMITMENTS AND CONTINGENCIES

### Arbitrator Liabilities

The NMB revised its policy, so that when cases are assigned to an Arbitrator the full cost of the case is obligated. The number of cases not assigned to any arbitrators as of September 30, 2021 and 2020 is 2,079 and 2,192 respectively. If these cases were assigned, we estimate it would cost \$1,309,770 in fiscal year 2021 and in fiscal year 2020 \$1,380,960 for arbitrators to hear and render an award on these cases.

## NOTE 8: APPORTIONMENT CATEGORIES OF NEW OBLIGATIONS INCURRED AND UPWARD ADJUSTMENTS

Obligations incurred and reported in the Statement of Budgetary Resources in 2021 and 2020 consisted of the following:

	2021	2020
Direct Obligations, Category A	\$14,334,370	\$13,521,107
<b>Total New Obligations and Upward Adjustments</b>	<b>\$14,334,370</b>	<b>\$13,521,107</b>

## NOTE 9: UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2021, budgetary resources obligated for undelivered orders were as follows:

CURRENT YEAR	FEDERAL	NON-FEDERAL	TOTAL
Unpaid Undelivered Orders	\$99,830	\$1,960,192	\$2,060,022
<b>Total Undelivered Orders</b>	<b>\$99,830</b>	<b>\$1,960,192</b>	<b>\$2,060,022</b>

As of September 30, 2020, budgetary resources obligated for undelivered orders were as follows:

PRIOR YEAR	FEDERAL	NON-FEDERAL	TOTAL
Unpaid Undelivered Orders	\$121,012	\$3,072,172	\$3,193,184
<b>Total Undelivered Orders</b>	<b>\$121,012</b>	<b>\$3,072,172</b>	<b>\$3,193,184</b>

#### NOTE 10: RECONCILIATION OF NET COST TO NET OUTLAYS

Budget and accrual reconciliation for the year ended September 30, 2021 (in dollars)

	INTRA-GOVERNMENTAL	WITH THE PUBLIC	TOTAL
<b>Net Operating Cost (SNC)</b>	<b>\$3,928,341</b>	<b>\$11,244,666</b>	<b>\$15,173,007</b>
<b>Components of Net Cost Not Part of the Budget Outlays</b>			
<b>Increase/(Decrease) in Assets</b>			
Accounts Receivable, Net	–	(\$2,439)	(\$2,439)
<b>(Increase)/Decrease in Liabilities:</b>			
Accounts Payable	\$38,343	(\$1,481,044)	(\$1,442,701)
Federal Employee and Veteran Benefits Payable	–	(\$23,907)	(\$23,907)
Other Liabilities	(\$9,679)	\$34,791	\$25,112
<b>Financing Sources:</b>			
Imputed Cost	(\$357,670)	–	(\$357,670)
<b>Total Components of Net Operating Cost Not Part of the Budgetary Outlays</b>	<b>(\$329,006)</b>	<b>(\$1,472,599)</b>	<b>(\$1,801,605)</b>
<b>Net Outlays (Calculated Total)</b>	<b>\$3,599,335</b>	<b>\$9,772,067</b>	<b>\$13,371,402</b>
<b>Budgetary Agency Outlays, Net (SBR 4210)</b>			
<b>Budgetary Agency Outlays, Net</b>			<b>\$13,371,402</b>

Budget and accrual reconciliation for the year ended September 30, 2020 (in dollars)

	INTRA-GOVERNMENTAL	WITH THE PUBLIC	TOTAL
<b>Net Operating Cost (SNC)</b>	<b>\$4,086,959</b>	<b>\$9,517,077</b>	<b>\$13,604,036</b>
<b>Components of Net Cost Not Part of the Budget Outlays</b>			
<b>Increase/(Decrease) in Assets:</b>			
Accounts Receivable, Net	–	(\$4,953)	(\$4,953)
<b>(Increase)/Decrease in Liabilities:</b>			
Accounts Payable	(\$357,061)	(\$144,666)	(\$501,727)
Federal Employee and Veteran Benefits Payable	–	(\$52,642)	(\$52,642)
Other Liabilities	(\$21,951)	(\$111,133)	(\$133,084)
<b>Financing Sources:</b>			
Imputed Cost	(\$339,391)	–	(\$339,391)
<b>Total Components of Net Operating Cost Not Part of the Budgetary Outlays</b>	<b>(\$718,403)</b>	<b>(\$313,394)</b>	<b>(\$1,031,797)</b>
<b>Misc Items</b>			
Custodial/Non-Exchange Revenue	\$23	\$68	\$91
<b>Total Other Reconciling Items</b>	<b>\$23</b>	<b>\$68</b>	<b>\$91</b>
<b>Total Net Outlays (Calculated Total)</b>	<b>\$3,368,579</b>	<b>\$9,203,751</b>	<b>\$12,572,330</b>
<b>Budgetary Agency Outlays, Net (SBR 4210)</b>			
<b>Budgetary Agency Outlays, Net</b>			<b>\$12,572,318</b>

## NOTE 11: EXPLANATION OF DIFFERENCES BETWEEN SBR AND THE BUDGET OF THE U.S. GOVERNMENT

### Government

The President's Budget that will include fiscal year 2021 actual budgetary execution information has not yet been published. The president's budget is scheduled for publication in February 2022 and can be found at the OMB website: [whitehouse.gov/omb/](https://www.whitehouse.gov/omb/). The 2022 Budget of the United States Government, with the "Actual" column completed for 2020, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

	BUDGETARY RESOURCES	NEW OBLIGATIONS & UPWARD ADJUSTMENTS (TOTAL)	DISTRIBUTED OFFSETTING RECEIPTS	NET OUTLAYS
Combined Statement of Budgetary Resources	\$20,000,000	\$14,000,000	–	\$13,000,000
Unobligated Balance Not Available	(\$6,000,000)	–	–	–
Difference – Due to Rounding	–	–	–	(\$1,000,000)
<b>Budget of the U.S. Government</b>	<b>\$14,000,000</b>	<b>\$14,000,000</b>	<b>–</b>	<b>\$12,000,000</b>

## NOTE 12. CUSTODIAL REVENUES

The National Mediation Board's custodial activity primarily consists of collection of Nonfederal receivables, fines, penalties, as well as Freedom of Information Act requests. While these collections are considered custodial, they are neither primary to the mission of the Board nor material to the overall financial statements. The Board's total custodial collections are \$0 and \$68 for the periods ending September 30, 2021, and 2020, respectively.

## NOTE 13. INTER-ENTITY COSTS

NMB recognizes certain inter-entity costs for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Certain costs of the providing entity that are not fully reimbursed are recognized as imputed costs and are offset by imputed revenue. Such imputed costs relate to employee benefits. NMB recognizes as inter-entity costs the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the periods ended September 30, 2021 and 2020, respectively, inter-entity costs were as follows:

	2021	2020
Office of Personnel Management	\$357,670	\$339,391
<b>Total Imputed Financing Sources</b>	<b>\$357,670</b>	<b>\$339,391</b>

## NOTE 14. NET ADJUSTMENTS TO UNOBLIGATED BALANCE, BROUGHT FORWARD, OCTOBER 1

The Unobligated Balance Brought Forward from the prior fiscal year has been adjusted for recoveries of prior year paid and unpaid obligations and other changes such as canceled authority. The Adjustments to Unobligated Balance Brought Forward, October 1, as of September 30, 2021, and 2020, consisted of the following:

	2021	2020
Unobligated Balance Brought Forward, From Prior Year, October 1	\$6,666,016	\$6,832,517
Recoveries of Prior Year Obligations	\$676,962	\$127,695
Other Changes in Unobligated Balances	(\$979,935)	(\$823,089)
<b>Unobligated Balance From Prior Year Budget Authority, Net (Discretionary and Mandatory)</b>	<b>\$6,363,043</b>	<b>\$6,137,123</b>

# 04

## OTHER INFORMATION

86 SUMMARY OF FINANCIAL STATEMENT AUDIT AND MANAGEMENT ASSURANCES (UNAUDITED)

87 IMPROPER PAYMENTS INFORMATION ACT

87 GOVERNMENT CHARGE CARD PROGRAMS



## SUMMARY OF FINANCIAL STATEMENT AUDIT AND MANAGEMENT ASSURANCES

**TABLE 1. SUMMARY OF FINANCIAL STATEMENT AUDIT**

AUDIT OPINION	UNMODIFIED			
Restatement	No			
Material Weaknesses	Beginning Balance	New	Consolidated	Ending Balance
None				
<b>Total Material Weaknesses</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**TABLE 2. SUMMARY OF MANAGEMENT ASSURANCES**

EFFECTIVENESS OF INTERNAL CONTROL OVER FINANCIAL REPORTING (FMFIA § 2)				
Statement of Assurance	Unmodified			
Material Weaknesses	Beginning Balance	New	Consolidated	Ending Balance
None				
<b>Total Material Weaknesses</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
EFFECTIVENESS OF INTERNAL CONTROL OVER OPERATIONS (FMFIA § 2)				
Statement of Assurance	Unmodified			
Material Weaknesses	Beginning Balance	New	Consolidated	Ending Balance
None				
<b>Total Material Weaknesses</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
CONFORMANCE WITH FEDERAL FINANCIAL MANAGEMENT SYSTEM REQUIREMENTS (FMFIA § 4)				
Statement of Assurance	Federal Systems Conform to Financial Management System Requirements			
Non-Conformances	Beginning Balance	New	Resolved	Ending Balance
None				
<b>Total Non-conformances</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
COMPLIANCE WITH SECTION 803(A) OF THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA)				
	Agency	Auditor		
1. Federal Financial Management System Requirements	Not Applicable*	Not Applicable*		
2. Applicable Federal Accounting Standards	Not Applicable*			
3. USSGL at Transaction Level	Not Applicable*			

\*OMB Bulletin 14-02 states that agencies subject to the ATDA and Government Corporation Control Act are not subject to the requirements of FFMIA.

## IMPROPER PAYMENTS INFORMATION ACT

The NMB is considered to be at low risk for improper payments since the functional payment areas are limited to traveler reimbursement, commercial vendors for supplies and services, and for employee payroll through Electronic Funds Transfer (EFT) payments. The NMB does not administer any entitlement, grant, or loan programs.

## GOVERNMENT CHARGE CARD PROGRAMS

### TRAVEL

In FY 2021, the NMB continued to be a full participant in the General Service Administration's (GSA's) Government Travel Charge Card program, and issued individually billed account (IBA) travel cards to employees whose official duties require frequent travel. The NMB also uses a Centrally Billed Account (CBA) for Agency-wide airfare and rail expenses.

The NMB continued to use the GSA SmartPay3 program, which is routinely monitored by the NMB and the Bureau of Fiscal Services (BFS), including monitoring each employee's use of the travel card to ensure only appropriate official government-related expenses are being charged on the card. Accounts are also monitored for any delinquency of payment of the account that may occur.

All NMB travel cardholders are provided with and must complete the required Government Travel Card Training per OMB and GSA. Additionally, all NMB approving officials are required to complete the FTR training course, Approving Officials Responsibilities.

### PURCHASE

In FY 2021, the NMB continued its use of the U.S. Government's purchase card program, which helps expedite the purchase of authorized supplies and services. The NMB Office of Fiscal Services reviews and approves all purchase requests prior to ordering supplies or services. All NMB purchase card holders are required to complete the GSA Government SmartPay Purchase cardholder training on an annual basis.

# 05<sup>7</sup>

## APPENDIX

90 GLOSSARY

93 ACRONYMS



## GLOSSARY

These definitions are provided for general understanding only. They do not provide definitive definition regarding any matter before the Board and are not to be construed as legal definitions that may be cited in any administrative, legal, or arbitral proceeding.

### Act

The Railway Labor Act

### Agency

The National Mediation Board

### Alternative Dispute Resolution (ADR)

ADR is a process for resolving disputes outside of the judicial system of law. In the venue of the NMB, ADR is the facilitation of interest-based or mutual interest negotiations and grievance mediation.

### Amendable Contract

Under the Railway Labor Act, collective bargaining agreements become subject to change on a specified date, rather than expiring as agreements do under the National Labor Relations Act.

### Annual Report

NMB's Annual Performance and Accountability Report

### Arbitration

A type of dispute resolution process where an arbitrator renders a decision, which usually can be appealed judicially only on a very narrow basis such as fraud.

### Arbitration Forum

A committee formed of officials of railroads, rail unions, arbitrators, and the NMB for the purpose of improving the processing of railroad employee grievances.

### Board

May be one of the following, depending upon the context in which it appears:

- National Mediation Board (NMB)
- Presidential Emergency Board (PEB)
- National Railroad Adjustment Board (NRAB)
- Special Board of Adjustment (SBA)
- Public Law Board (PLB)
- System Board of Adjustment (SBA)

### Carrier

An airline or railroad as defined by sections 151 and 181 of the Railway Labor Act.

### CFO

Chief Financial Officer

### Class I

A category of the largest U.S. railroads as defined by the Surface Transportation Board.

### Collective Bargaining Agreement

A labor contract between a union and a carrier.

### Cooling-Off Period

A 30-day period of time preceding the right of parties to a collective bargaining dispute to engage in economic self-help under the RLA.

### Craft or Class

A group of employees deemed by the NMB to share a community of work and interest for the purpose of collective bargaining under the RLA.

### Direct Negotiations

Negotiations between the parties to a collective bargaining dispute before or apart from NMB mediation.

### E-book

A book available via the Internet such as NMB's Annual Performance and Accountability Report.

### E-business

The conduct of business on the Internet.

### E-filing

An electronic method for submitting documents.

### E-verify

A system for online verification.

### Facilitation

A process where a neutral helps the parties in a collective bargaining or grievance dispute use ADR problem-solving methods such as interest-based bargaining or grievance mediation.

### Facilitated Problem-Solving

This approach to bargaining utilizes a process of problem identification and discussion to reach resolution of issues rather than an exchange of proposals.

### Grievances

Complaints of employees or unions arising out of the application or interpretation of collective bargaining agreements.

### Grievance Arbitration

A method of resolving grievances whereby an arbitrator determines the outcome.

### Grievance Mediation

In the venue of the NMB, using mediation as an alternative to arbitration for resolving grievances.

### Impasse

In mediation under the RLA, an impasse is when the NMB determines that further mediation will not resolve a collective bargaining dispute.

### Interest Arbitration

A process, under the RLA, to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations.

### Interest-Based Negotiation

A type of negotiation where the parties collaboratively focus on finding solutions to underlying needs or concerns of each party (i.e., the whys) instead of adversatively negotiating specific positions.

### Internet Voting

A web-based balloting option that supplements telephone electronic voting in representation elections.

### Laboratory Conditions

Conditions to a representation dispute that ensure the independence of labor and management for the purpose of self-organization and the right of employees to freely determine whether they wish to be represented, or not, for the purpose of collective bargaining.

### Legacy Carriers

A term applied to traditional major, hub-based airlines versus regional or point-to-point carriers.

### Major Disputes

Disputes between management and a union pertaining to collective bargaining as opposed to grievance disputes known as Minor Disputes.

### Mediation

A type of dispute resolution process where a neutral (i.e., a mediator) facilitates agreement between the parties to a collective bargaining dispute, vis-à-vis imposing a settlement on the parties via arbitration.

### Minor Disputes

Grievances of employees or unions arising out of the application or interpretation of collective bargaining agreements as opposed to collective bargaining disputes known as Major Disputes.

### National Handling

Mediation of a collective bargaining dispute where management of several railroads have chosen to negotiate collectively on a national basis. National Labor Relations Act (NLRA) grants most private sector workers the right to organize and bargain collectively. Air and rail employees, however, are covered by the Railway Labor Act (RLA) rather than the NLRA. National Railroad Adjustment Board—one of three types of tribunals under the RLA for resolving railroad grievances (also see Special Boards of Adjustment and Public Law Boards). NRAB cases are resolved by the carrier and union members with or without a neutral.

### National Labor Relations Act (NLRA)

Grants most private sector workers the right to organize and bargain collectively. Air and rail employees, however, are covered by the Railway Labor Act (RLA) rather than the NLRA.

### National Railroad Adjustment Board

One of three types of tribunals under the RLA for resolving railroad grievances (also see Special Boards of Adjustment and Public Law Boards). NRAB cases are resolved by the carrier and union members with or without a neutral.

### NMB Lyceum

The NMB's open-resource, distance learning website established to provide NMB staff, labor relations practitioners, and the public with training programs relevant to the National Mediation Board and the Railway Labor Act.

### Ombudsman

An official of the NMB who receives and addresses problems or complaints of employees or contractors regarding actions of agency managers or staff.

### Online Arbitration

An arbitration forum and a form of Online Dispute Resolution where hearings are held in virtual, web-based meeting rooms with live video.

### Online Dispute Resolution

The application of internet or web-based technology to resolving disputes.

### Open Government Directive

President Obama's Directive of December 8, 2009, requiring federal executive departments and agencies to take specific actions to implement the principles of transparency, participation, and collaboration.

### Presidential Emergency Board

A Board established under the Railway Labor Act by the U.S. President to investigate and report on an airline or railroad labor dispute.

### Proffer of Arbitration

The step in the process of resolving collective bargaining disputes under the RLA, which follows a determination of impasse by the NMB, whereby the NMB offers voluntary, binding arbitration to the parties as a method for resolving the dispute.

### Public Interest Meetings

Under the RLA, the NMB can intervene in an active collective bargaining dispute at any time in the interest of the general public. Usually, one or both parties to a dispute requests the mediation services of the NMB.

### Public Law Boards (PLBs)

One of three types of tribunals under the RLA for resolving railroad grievances (also see National Railroad Adjustment Board and Special Boards of Adjustment).

### Railway Labor Act (RLA)

A federal law that grants interstate airline and railroad employees the right to organize and bargain collectively. Other private industry employees are covered by the National Labor Relations Act (NLRA).

### Representation Dispute

A situation on an airline or railroad where employees in a specific, carrier-wide workgroup seek to organize for the purpose of collectively bargaining with their employer regarding matters of wages, benefits, and working conditions.

### Section 3

Section 153 of the RLA pertaining to the National Railroad Adjustment Board.

### Section 3 Committee

A group of representatives from freight, regional, and commuter railroads and representatives of major rail unions, whose goal is the improvement of resolution of grievances.

### Section 6

Section 156 of the RLA pertaining to the changing of wages, rules, hours, and working conditions.

### Section 7

Section 157 of the RLA pertaining to arbitration.

### Section 9

Section 159A of the RLA pertaining to Presidential Emergency Boards for certain publicly funded and operated commuter railroads.

### Section 10

Section 160 of the RLA pertaining to Presidential Emergency Boards for airlines and railroads other than those covered by Section 9A.

### Self-Help

The right of a party to a collective bargaining dispute to unilaterally act in its own best interest. A carrier, for example, may lock disputing employees out of the workplace or implement changes in pay, rules, and working conditions; and the union, for example, may work specifically as required by its collective bargaining agreement or strike.

### Showing-of-Interest

In a representation dispute, employees in a craft or class must indicate an interest in being represented for the purpose of collective bargaining by signing authorization cards, which are submitted to the NMB by the representative/s of their choosing.

### Special Boards of Adjustment (SBA)

One of three types of tribunals under the RLA for resolving railroad grievances (also see National Railroad Adjustment Board and Public Law Boards).

### Status Quo

Situations under the RLA in either collective bargaining or representation disputes where existing pay rates, rules, and working conditions cannot be changed unilaterally, pending the resolution of the dispute in question.

### Strike

A work stoppage action initiated by a union.

### System Boards of Adjustment (SBA)

An arbitration board pursuant to an agreement by the parties for resolving airline grievances.

### System-wide

Under the RLA, a craft or class applies anywhere an airline or railroad operates in the United States.

### Telephone Electronic Voting (TEV)

A paperless balloting process using telephones instead of traditional paper ballots.

### Work Stoppage

An interruption to the operations of an airline or railroad.

## ACRONYMS

ACRONYM	NAME	ACRONYM	NAME
A4A	Airlines for America	CSX	CSX Transportation, Inc.
AAA	American Arbitration Association	CWA	Communication Workers of America
ABA	American Bar Association	CWA/IBT	CWA/IBT Association
ABM	ABM-Onsite Services	D&H	Delaware and Hudson Railway
A-Case	An NMB Designation for a Mediation Case	DM&E	Dakota, Minnesota and Eastern Railroad
ACRE	Association of Commuter Rail Employees	DOMS	Director of the Office of Mediation Services
ADR	Alternative Dispute Resolution	EFT	Electronic Funds Transfer
AFA	Association of Flight Attendants	EH	Eagle Horizon - FEMA
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations	FASAB	Federal Accounting Standards Advisory Board
AFSCME	American Federation of State, County and Municipal Employees	F-Case	An NMB Designation for a Facilitation Case
ALI-CLE	American Law Institute Continuing Legal Education	FEMA	Federal Emergency Management Agency
ALPA	Air Line Pilots Association	FERS	Federal Employees Retirement System
ALRA	Association of Labor Relations Agencies	FMCS	Federal Mediation and Conciliation Service
AMFA	Aircraft Mechanics Fraternal Association	FMFIA	Federal Managers' Financial Integrity Act
AMTRAK	National Railroad Passenger Corporation (NRPC)	FOIA	Freedom of Information Act
ARASA	American Railway and Airway Supervisors Association	FTR	Federal Travel Regulation
ASPA	Alabama State Port Authority	FUI	Findings Upon Investigation
ATDA	American Train Dispatchers Association	FY	Fiscal Year
AVG	Average	G&W	Genesee & Wyoming Inc.
AWS	Alternative Work Schedule	GAAP	Generally Accepted Accounting Principles
AWS	Arbitrator Workspace	GAO	Government Accountability Office
BFS	Bureau of the Fiscal Service	GM-Case	An NMB designation for a Grievance Mediation Case
BLET	Brotherhood of Locomotive Engineers & Trainmen	GPRA	Government Performance and Results Act
BMWED	Brotherhood of Maintenance of Way Employees Division	GSA	General Services Administration
BNSF	Burlington Northern Santa Fe Railway	HEO	Hermandad de Empleados de Oficina, Comercio y Ramas Anexas de Puerto Rico
BRC	Brotherhood of Railway Carmen	HERE	Hotel Employees and Restaurant Employees Union
BRS	Brotherhood of Railroad Signalmen	IAM	International Association of Machinists and Aerospace Workers
CFO	Chief Financial Officer	IBB	International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
CGE	Concur Government Edition	IBEW	International Brotherhood of Electrical Workers
CN	Canadian National Railway	IBT	International Brotherhood of Teamsters
CP	Canadian Pacific Railway	IBT/HERE	IBT/HERE Employee Representatives' Council
CR-CASE	An NMB Designation for a Representation Case Pre-docketing Investigation	IDP	Individual Development Plan
CRCX	Conrail Shared Assets Operations	ILA	International Longshoremens' Association
CSRS	Civil Service Retirement Act		

# ACRONYMS

ACRONYM	NAME	ACRONYM	NAME
ISI	Insufficient Showing of Interest	PPI	Private Personnel Information
METRA	Northeast Illinois Regional Commuter Railroad (NIRCR)	PRISM	A BFS Web-based Procurement System
MTA	Metropolitan Transportation Authority	PRLBC	Passenger Rail Labor Bargaining Coalition
N/A	Not Applicable	PSA	PSA Airlines
NAA	National Academy of Arbitrators	PTRA	Port Terminal Railroad Association
NARR	National Association of Railroad Referees	R-Case	An NMB Designation for a Representation Case
NATS	National Association of Transportation Supervisors	RD-Case	An NMB Designation for a Representation Decertification Case
NCCC	National Carriers' Conference Committee	RITU	Railway Independent Transit Union
NCFO	National Conference of Firemen and Oilers	RLA	Railway Labor Act
NEP	National Exercise Program - FEMA	SBA	Special Board of Adjustment
NICTD	Northern Indiana Commuter Transportation District	SEIU	Service Employees International Union
NIRCR	Northeast Illinois Regional Commuter Railroad (METRA)	SEPTA	Southeastern Pennsylvania Transportation Authority
NLRB	National Labor Relations Board	SFFAS	Statement of Federal Financial Accounting Standards
NMB	National Mediation Board	SMART	International Association of Sheet Metal, Air, Rail and Transportation Workers
NRAB	National Railroad Adjustment Board	SMART-MD	International Association of Sheet Metal, Air, Rail and Transportation Workers - Mechanical Division
NRLC	National Railway Labor Conference	SMART-TD	International Association of Sheet Metal, Air, Rail and Transportation Workers - Transportation Division
NRPC	National Railroad Passenger Corporation (Amtrak)	STB	Surface Transportation Board
OA	Office of Administration - NMB	T-Case	An NMB Designation for a Training Case
OAS	Office of Arbitration Services - NMB	TCU	Transportation Communications Union
OFS	Office of Fiscal Services - NMB	TCU/IAM	Transportation Communications Union affiliation International Association of Machinists and Aerospace Workers
OIS	Office of Information Services - NMB	TOPS	Train Operations, Performance and Service Employees
OLA	Office of Legal Affairs - NMB	TWU	Transport Workers Union of America
OMB	Office of Management and Budget	TWU-IAM	TWU-IAM Association
OMS	Office of Mediation Services - NMB	UNITE HERE	Union of Needletrades, Industrial, and Textile Employees and Hotel Employees and Restaurant Employees International Union
OP-Case	An NMB Designation for an Outreach and Promotion Case	UP	Union Pacific Railroad
OPEIU	Office and Professional Employees International Union	USW	United Steelworkers
OPM	Office of Personnel Management	WDI	Withdrawn During Investigation
ORB	Other Retirement Benefits		
PAFCA	Professional Airline Flight Control Association		
PANYNJ	Port Authority of New York and New Jersey		
PAR	Pan Am Railways		
PATH	Port Authority Trans-Hudson Corporation (PANYNJ)		
PEB	Presidential Emergency Board		
PLB	Public Law Board		



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