



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the  
Application of the

OFFICE AND PROFESSIONAL  
EMPLOYEES INTERNATIONAL  
UNION

alleging a representation dispute  
pursuant to Section 2, Ninth, of  
the Railway Labor Act, as  
amended

involving employees of

AIR METHODS CORPORATION

49 NMB No. 38

CASE NO. R-7599  
(File No. CR-7234)

FINDINGS UPON  
INVESTIGATION-  
AUTHORIZATION OF  
ELECTION

August 29, 2022

**FINDINGS UPON INVESTIGATION**

This determination addresses the application of the Office and Professional Employees International Union (OPEIU) alleging a representation dispute pursuant to the Railway Labor Act (RLA),<sup>1</sup> 45 U.S.C. § 152, Ninth (Section 2, Ninth), among “Check Airmen” at Air Methods Corporation (Air Methods). For the reasons set forth below, the National Mediation Board (Board or NMB) concludes that the appropriate craft or class for the employees covered by the application is Instructors.

**PROCEDURAL BACKGROUND**

On May 17, 2022, OPEIU filed an application alleging a representation dispute involving “Check Airmen” at Air Methods. At the time of the application, these employees were not represented by any organization or individual. The application was given NMB File No. CR-7234 and Andres Yoder was assigned as the Investigator. On June 28, 2022, following an NMB request, Air Methods submitted a statement, while OPEIU chose not to submit one. Additionally, on July 12, 2022, in response to the NMB’s request for information, Air Methods submitted three documents: its organization chart; a position description for its

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<sup>1</sup> 45 U.S.C. § 151, *et seq.*

Check Airman job; and a July 12, 2022 declaration from Jason Quisling, Air Methods' Senior Vice President Flight Operations and AirCom.

### **ISSUES**

Is "Check Airmen" the appropriate craft or class for the employees at issue?  
Are the employees at issue management officials?

### **FINDINGS OF LAW**

Determination of the issues in this case is governed by the RLA, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

I.

Air Methods is a common carrier as defined in 45 U.S.C. § 181.

II.

OPEIU is a labor organization and/or representative as provided by 45 U.S.C. § 151, Sixth, and § 152, Ninth.

III.

45 U.S.C. §152, Fourth, gives employees subject to its provisions "the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this chapter."

IV.

45 U.S.C. §151, Fifth, defines employee as "[E]very person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service) who performs any work defined as that of an employee or subordinate official in the orders of the Surface Transportation Board now in effect . . . ."

V.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and shall designate who may participate as eligible voters in the event an election is required.

## STATEMENT OF FACTS

Air Methods operates an air medical emergency transport service that partners with Emergency Medical Services hospitals to provide patient helicopter transports from over 300 separate bases serving 48 states.

According to Quisling, the Check Airmen at Air Methods

(1) provide flight training/instruction to [Air Methods'] pilots, (2) do not hold a job-based system seniority number or accrue position seniority, (3) never perform any scheduled revenue-generating air medical flights, and (4) work in close collaboration with, and as part of, [Air Methods'] management of pilots to supervise and oversee pilots and for the specific purpose of designing and conducting the [Federal Aviation Administration (FAA)]-approved training of [Air Methods'] pilots.

The position description for the Check Airmen includes the following duties:

- Performs as flight instructor and ground instructor.
- Evaluates operational compliance including all aspects of safety, flight operations, maintenance operations, and other procedures and policies as described in the General Operations Manual.
- Corrects out-of-compliance issues immediately. When unable to make immediate corrections, the Check Airman will coordinate with the Regional Aviation or Maintenance Director, as appropriate, to ensure the problem is corrected.
- Has authority to shut down base operations when appropriate for out-of-compliance or safety issues.
- Reports all out-of-compliance issues to the Chief Pilot or Designee. Has discipline authority and coordinates with Human Resources, Director of Operations, Chief Pilot, Assistant Chief Pilots, and Regional Directors on matters of discipline.
- Ensures that standardized training and checking procedures, provided by the certificate, are adhered to.
- Operates advanced aviation training devices (AATDs) including movement of the device. Operates full-motion simulators.
- Assists in the development and implementation of flight- and ground-training schedules.
- Assists the Chief Pilot and Assistant Chief Pilots in the development of the aircraft checklist and Air Methods pilot training programs.
- Assists the Chief Pilot, Assistant Chief Pilots, and Director of Safety in investigating aviation mishaps and performing root-cause analyses.

- AATD instructors will be designated as Air Transportation Flight Instructor-FTD and will maintain familiarity with Air Methods' operations and procedures. AATD instructors must possess a Commercial Certificate, but are not required to maintain a Class II FAA physical. AATD instructors must complete initial Check Airman or training captain training, and complete an observation within the previous 24 calendar months by an Air Methods evaluator before performing instructional duties in a Flight Training Device.
- Develops and conducts (as appropriate): basic indoctrination training; initial and recurrent ground training; initial and recurrent flight training; instrument training (ground and flight); and night vision goggle training (ground and flight).
- Ensures a pilot's eligibility for the position before beginning any training and before each evaluation, by reviewing all pertinent data on the pilot certificate and medical certificate.
- Participates in the company's Safety Management System (SMS) and is familiar with the SMS policies, processes, and procedures.

## **DISCUSSION**

### Craft or Class Determination

In determining the appropriate craft or class for employees, the Board is guided by the Representation Manual (Manual) Section 9.1 which states:

In craft or class determinations, the NMB considers many factors, including the composition and relative permanency of employee groupings along craft or class lines; the functions, duties, and responsibilities of the employees; the general nature of their work; and the extent of community of interest existing between job classifications. Previous decisions of the NMB are also taken into account.

*See Metro-North R.R.*, 49 NMB 94 (2022). The Board makes craft or class determinations case by case, based upon Board policy and precedent. *See, e.g., JetBlue Airways*, 49 NMB 47 (2022). While the Board has modified traditional craft or classes, as needed, to take into consideration facts unique to a given carrier's operation, the vast majority of the Board's craft or class determinations fall along traditional craft or class lines. *See, e.g., Northern Air Cargo*, 47 NMB 58 (2020).

In a number of cases, the Board has included Check Airmen in the Flight Deck Crew Members craft or class or the Pilots craft or class. *See Petroleum Helicopters*, 27 NMB 283 (2000); *Executive Airlines d/b/a AMR Eagle*, 19 NMB 455 (1992); *American Airlines*, 19 NMB 113 (1991); *Offshore Logistics, Aviation*

*Servs. Div. d/b/a Air Logistics*, 11 NMB 144 (1984); see also *Continental Airlines/Continental Express*, 26 NMB 143 (1999) (*Continental I*) (noting that “Line Check Airmen” were part of the Pilots craft or class); *American International Airways d/b/a Connie Kalitta Servs.*, 20 NMB 94 (1992) (noting that “Check Pilots” were part of the Pilots craft or class).

However, in *Continental Airlines/Continental Express*, 27 NMB 99 (1999) (*Continental II*), the Board included “Training Check Airmen” in the Flight Instructors craft or class. In that case, the Training Check Airmen were also Flight Instructors. Months earlier, in a related case—*Continental I*—the Board declined to include those Training Check Airmen in the Pilots craft or class in part because they “[did] not bid for regular lines of flying.” *Continental I*, *above* at 152.

Later, in *ExpressJet Airlines*, 44 NMB 180 (2017), the Board recognized an Instructors craft or class that consisted of Ground Instructors and the portion of the Flight Instructors craft or class discussed in *Continental II* that ExpressJet Airlines employed.<sup>2</sup> As the Board explained in *ExpressJet Airlines*, because the Flight Instructors and the Ground Instructors shared a work-related community of interest, they were “appropriately part of a combined craft or class of Instructors.” *ExpressJet Airlines*, *above* at 186.

In this case, the Check Airmen never perform any scheduled revenue-generating air medical flights. Instead, among other responsibilities, they work as flight instructors and ground instructors. They ensure that standardized training procedures are adhered to; operate AATDs and full-motion simulators; assist in the development of pilot training programs; develop and conduct, as appropriate, basic indoctrination training, instrument training, and night vision goggle training; and assist in the development and implementation of flight- and ground-training schedules. Given the record and the factors listed in Manual Section 9.1, the Check Airmen are appropriately included in the Instructors craft or class.

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<sup>2</sup> In 2000, in NMB Case No. R-6717, the Board certified the Independent Association of Continental Pilots (IACP) as the representative of the craft or class of Flight Instructors at Continental Airlines and Continental Express. See *Continental Airlines/Continental Express*, 28 NMB 1 (2000). In 2001, the Board transferred IACP’s certification in R-6717 to the Air Line Pilots Association, International (ALPA). See *Independent Ass’n of Continental Pilots/ALPA*, 28 NMB 473 (2001). In 2002—after Continental Airlines sold Continental Express—Continental Express was renamed ExpressJet Airlines. See *United Air Lines/Continental Airlines*, 39 NMB 33, 36 (2011). In 2011—following Continental Airlines’ merger with United Air Lines—the Board determined that ExpressJet Airlines was not part of the post-merger transportation system. See *id.* at 44. Finally, in 2017, the Board (1) noted that ALPA’s certification in R-6717 meant that it represented ExpressJet Airlines’ Flight Instructors craft or class; (2) determined that that craft or class includes Ground Instructors; and (3) determined that that craft or class should be called the Instructors craft or class. See *ExpressJet Airlines*, *above*.

Air Methods argues that the Check Airmen do not belong in a craft or class with Pilots.<sup>3</sup> The Board agrees, and, for the reasons stated above, the Board has determined that the appropriate craft or class is Instructors.

### Management Officials

According to NMB Representation Manual (Manual) Section 9.211, management officials are not eligible to vote in representation elections. Manual Section 9.211 further states that management officials are individuals who have:

- (1) the authority to dismiss and/or discipline employees or to effectively recommend the same;
- (2) the authority to supervise;
- (3) the ability to authorize and grant overtime;
- (4) the authority to transfer and/or establish assignments;
- (5) the authority to create carrier policy; and,
- (6) the authority to commit carrier funds.

Manual Section 9.211 also states that in determining who management officials are, the Investigator considers:

- (1) whether the authority exercised is circumscribed by operating and policy manuals;
- (2) the placement of the individual in the organizational hierarchy of the carrier; and,
- (3) any other relevant factors regarding the individual's duties and responsibilities.

In this case, although the Check Airmen have "discipline authority," the record does not show that they have actually used that authority. Similarly, although the position description for the Check Airmen says that those individuals "coordinate[]" with others "on matters of discipline," there is no evidence that they have actually done so. Further, there is no evidence that the Check Airmen have the ability to authorize and grant overtime; the authority to transfer assignments or establish assignments; the authority to create carrier policy; or the authority to commit carrier funds. Additionally, Air Methods' organization chart shows that no group of employees reports to the Check Airmen. Finally, Quisling states that the Check Airmen work with "and as part of" Air Methods' management "to supervise and oversee pilots and for the specific purpose of designing and conducting the FAA-approved training." However, the training of Pilots, on its own, does not compel the conclusion that an individual is a management official. See *American Eagle Airlines*, 33 NMB 243 (2006); *United Air Lines*, 4 NMB 30 (1965).

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<sup>3</sup> OPEIU is the certified representative of Air Methods' Flight Deck Crew Members craft or class. See *Air Methods*, 35 NMB 93 (2008).

In light of the record and the factors listed in Manual Section 9.211, Air Methods' Check Airmen—who make up the Instructors craft or class—are not management officials.

### **CONCLUSION**

The Board finds that the appropriate craft or class for the employees covered by the application is Instructors. Accordingly, NMB File No. CR-7234 is converted to NMB Case No. R-7599.

Based on the authorization cards submitted by OPEIU, the Board further finds that a dispute exists regarding the representation of the Instructors craft or class, and the Board authorizes an election among the craft or class of Instructors, employees of Air Methods Corporation, using a cut-off date of May 7, 2022. Pursuant to Manual Section 12.1, the Carrier is hereby required to furnish within five calendar days, 1 X 2 5/8", peel-off labels bearing the alphabetized names and current addresses of those employees on the List of Potential Eligible Voters. The Carrier must print the same sequence number from the List of Potential Eligible Voters beside each voter's name on the address label. The Carrier must also provide to the Board the name and sequence number of those potential eligible voters on military leave who are serving in foreign countries or who reside outside of the United States.

The Carrier must use the most expeditious method possible, such as overnight mail, to ensure that the Board receives the labels within five calendar days.

By direction of the NATIONAL MEDIATION BOARD.



Maria-Kate Dowling  
Acting General Counsel