



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the Application of the TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended involving employees of FEDERAL EXPRESS CORPORATION d/b/a FEDEX EXPRESS	50 NMB No. 8 CASE NO. R-7589 FINDINGS UPON INVESTIGATION- DISMISSAL December 21, 2022
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FINDINGS UPON INVESTIGATION

This determination addresses the application of the Transport Workers Union of America, AFL-CIO (TWU) alleging a representation dispute pursuant to the Railway Labor Act (RLA),¹ 45 U.S.C. § 152, Ninth (Section 2, Ninth), among “Aircraft Dispatchers” at Federal Express Corporation d/b/a FedEx Express (FedEx or Carrier). During the investigation, the Carrier asserted that pursuant to *Federal Express Corp.*, 22 NMB 215 (1995), the employees who perform the aircraft dispatch function at FedEx are part of the Global Operations Control Specialists (GOCS) craft or class.

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 Global Operations Control Specialists (GOCS) and dismisses TWU’s application.

¹ 45 U.S.C. § 151, *et seq.*

PROCEDURAL BACKGROUND

On June 9, 2022, TWU filed an application alleging a representation dispute involving “Aircraft Dispatchers” at FedEx. At the time of the application, these employees were not represented by any organization or individual. The application was given NMB Case No. R-7589 and Josie G. M. Bautista was assigned as the Investigator.

On June 24, 2022, FedEx filed its initial position statement and supporting documents. TWU filed its initial position statement and response to FedEx on August 19, 2022. In support of its position, TWU submitted a declaration from Gary Peterson, Air Division Director and Vice President of TWU. On September 16, 2022, FedEx filed its reply to TWU with supporting documents.

ISSUE

Do the employees who perform aircraft dispatch functions at FedEx by themselves constitute a distinct and separate craft or class or are they part of a larger craft or class comprised of all GOCS employed at FedEx?

CONTENTIONS

The Carrier argues there are no “materially different circumstances” that would compel the Board to revisit its 1995 decision. All GOCS perform the same functions they performed in 1995 and all GOCS are required to possess Federal Aviation Administration (FAA) dispatcher licenses and complete annual recurrent training. All GOCS continue to be functionally integrated, work in the same location, have common management, receive substantially identical pay, and share a work- related community of interest. FedEx requests that the Board decline to fragment the GOCS craft or class as requested by TWU.

TWU argues that there has been a material change in circumstances in the work being performed by the aircraft dispatchers at FedEx because FedEx now operates a domestic and flag carrier governed under Part 121 of the Federal Aviation Regulations (FARs). It argues that this change is a drastic difference from 1995 when FedEx was only a supplemental air carrier and had only a flight following system. TWU argues that the FARs provide that aircraft dispatchers at a domestic and flag carrier are jointly responsible with the pilot in command (PIC) for the release of a flight, whereas GOCS did not have that joint release authority when FedEx was operating a supplemental carrier in 1995. Further, TWU argues that FedEx now separates employees between aircraft dispatch work with active flight release authority and air carrier recovery work which is inactive flight release authority. It asserts that it is not seeking to “fragment the class but rather petitions for Aircraft Dispatchers to be placed in the appropriate craft or

class based on longstanding Board precedent defining the Aircraft Dispatchers craft or class, and the conditions in existence at FedEx today.”

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.

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

II.

TWU 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

FedEx employs a total of 209 GOCS today. Marcus Martinez, Vice President of FedEx’s Global Operations Control and Service, is responsible for planning, organizing, directing, and controlling package and freight movement for FedEx’s global operations. He supervises three Managing Director positions,

two of which are in GOC. GOC Managing Directors plan, organize, and control the integration of aircraft and truck operations between major sort locations and station operations, including aircraft dispatch. GOC Managing Directors manage and supervise GOC Senior Managers and GOC Managers. GOC Senior Managers in turn manage and supervise GOC Managers, who in turn manage GOCS. GOC Departments are divided based on international and domestic work. Currently, GOCS direct a fleet of over 600 aircraft and 44,000 vehicles.

All GOCS work in one of three job classifications: GOC Specialist I, GOC Specialist II, and Senior GOC Specialist. There are 22 GOCS I, 24 GOCS II, and 163 Senior GOCS. GOCS advance to the GOCS II and Senior GOCS positions at two-year intervals through time-based career progressions.

All GOCS must possess the following minimum qualifications:

- An associate degree or the equivalent preferably in aviation and the transportation industry.
- An FAA-issued aircraft dispatch license.
- One year of flight operations experience or active participation in the daily planning, and operational control of aircraft or freight movement.

Dispatching is one of several functions performed by GOCS. There are six (6) disciplines that make up the GOCS job classification: 1) dispatching of FedEx flights; 2) recovery of packages, including control and coordination of packages through FedEx's line haul system; 3) air traffic control; 4) technical flight dispatcher duties, including the management of technical issues arising during dispatch; 5) management of the day-to-day linehaul network communicate, command, and control duties (C3); and 6) training, and standards discipline. The FedEx Global Operations Control Operations Manual (GLOCOM) contains the following job descriptions of the six disciplines that make up the GOCS job classification.

1. GOCS Dispatcher

GOCS who work in the discipline of dispatching have the following duties:

- Exercise joint release authority with the PIC; plans for safe and efficient operation of FedEx trunk flights; monitors flights both on the ground and airborne within a twenty-minute parameter of scheduled/rescheduled departure time.
- Monitors navigation facilities/equipment of en-route airports, additional duties and responsibilities for operational control are detailed in the GOCOM and in the Flight Operations Manual.

- Ensures appropriate shift briefings and turnover procedures are completed.
- Ensures all applicable manuals are reviewed and updated.
- Ensures compliance with all parts of FARs relating to operational control and flight following.
- Maintains official flight following continuity through the shift change in accordance with the flight following procedures in GOCOM 4-4-0.

2. GOCS Recovery Specialist

The job description for GOCS who work in the recovery discipline includes the following duties:

- Maintains system form over their assigned flight region and must ensure the volume makes service at its intended destination. When recoveries cross over lines of tactical responsibility, the transfer of ownership must be clearly stated and acknowledged by both GOCS.
- Directs and makes decisions concerning aircraft and truck routing, rerouting, overflights, additions and cancellations to ensure line haul resources are adequate to meet service commitments, maintenance and safety requirements.
- Maintains shift note to record occurrence of all exceptions and significant events that directly affect the line haul systems.
- Documents and notifies management and all appropriate departments of actual or potential emergencies.
- Uses the line haul database to monitor exceptions, ATC delays, and aircraft/ground vehicle schedules; makes recommendations to improve system form.
- Initiates operational notification to the United States Customs and Border Protection.
- Provides aircraft weather and contingency plans and provides FedEx with an early warning network for server weather conditions.
- Ensures comprehensive shift turnover is completed.
- Communicates all changes to line haul system operations to all affected departments.
- When exceptions occur and recoveries must be implemented, ensures adequate movement is set up to ensure the volume still makes service,

subject to Guidelines for Recovery, documenting how it is moved, if it cannot make service, documents only why it was not possible and completes a Failed Recovery form.

3. GOCS Air Traffic Control

GOCS who work in the air traffic control discipline have the following duties:

- Acts as liaison between the FAA and Global Operations Control (GOC) on tactical traffic management issues and responds with appropriate actions.
- Provides coordination for specific hub airport arrival and departure configuration issues.
- Assists dispatchers with traffic management and en-route issues.
- Briefs customers and provides internal and external feedback on tactical traffic management initiatives and concerns.

4. GOCS Technical Flight Dispatch

GOCS who work in the technical flight dispatch discipline have the following duties:

- Maintains currency as a flight dispatcher in international or domestic operations.
- Receives and completes GOCSTDS instructor Training.
- Serves as technical expert on flight dispatch issues and procedures.
- Involved in abnormal and contingency operations in support of shift managers and affected dispatchers.
- Serves as coach/mentor role for dispatchers as needed and acts as a resource regarding flight issues.
- Balances workloads and adjust for abnormalities, including coordination with shift managers on changes or problems; maintains and publishes On-the-Job-Training (OJT) schedule; coordinates OJT schedule with managers and schedule administrators.
- Serves as subject matter expert on applications used by aircraft dispatchers; participates in systems development, documentation of bugs, user acceptance testing, and deployment of systems changes/updates; gathers information on Information Technology systems and hardware

issues and provides follow-up and documentation to ensure action is correct; provides shift communication regarding system problems.

- As representative for GOC Training and Standards, conducts shift briefings, training, etc. as required.
- Serves as Air Transportation Supervisor on international or domestic operations.
- Assist the dispatchers in obtaining information for flight or shift notes in non-Aviation Safety Action Program (ASAP) related events.
- Assumes project leadership or participation and represents the departments in meetings as directed by the Training and Standards managers.

5. GOCS C3

GOCS who work in the management of the day-to-day linehaul network through communicate, command, and control duties (C3) discipline have the following duties:

- Oversees and is responsible for the completion of certain duties of the service recovery specialist.
- Monitors ACARS traffic for events that might impact the system.
- Assists International GOC in providing assets when needed.
- On each shift, creates a shift note with time lines of spare status to include starting count per fleet, as well as additions to, subtractions from, and reasons for change.
- On each shift, creates a shift note carryover page that consists of several sections. These include, but are not limited to, the following system form changes: 1) These changes take place during present shift, the next shift, and the following shift, to encompass a 24-hour period followed by a future section, which covers any flight changes beyond 24 hours; and, 2) following these sections is the accounting of field spares followed by a free text listing of any pertinent information needed by other GOCS.
- Coordinates with Maintenance Operation Control Center C3/Maintenance Duty Officer to provide ample lift for each flight segment.
- Coordinates with Routing to correct imbalances in system form.
- Coordinates with Crew Resource Scheduling to ensure flight stand by crews for correct fleet type are available to match the available aircraft spares.

- Aids new hires who have completed OJT to become more comfortable in their decision-making roles.
- Assists management.

6. GOCS Training and Standards

The GOCOM also sets forth the following duties of GOCS who work in the GOC Training and Standards discipline:

- Responsible for the manuals in the GOC manual system.
- Maintains liaison relationships with outside department such as Flight Training, Flight Standards, Air Ground Freight Systems Ramp Engineering, Flight Safety, Airworthiness, and Quality Assurance as a resource for GOC in conducting safe, legal, and efficient flight dispatch and service recovery operations.
- Supports projects with other departments.
- Develops and teaches training curriculum in accordance with Chapter 7, GOC Training.
- Develops and maintains standard procedures for GOC dispatchers.
- Supports FedEx in corporate safety philosophy by administering programs such as the Aviation Safety Action Program and Safety Management System.
- Serves as subject matter experts on assigned aircraft types.
- Prepares and disseminates alerts to GOC employees.
- Monitors fuel policy compliance.
- Assists in performing departmental internal audits.

Upon hiring, GOCS are placed into the GOCS I classification and focuses on one of the internal disciplines above. They maintain an active license for a minimum of 12 months, even if moving into a discipline that does not require active status. GOCS who actively releases flights are considered “active” and perform a live desk check which allows the GOCS current release authority under the applicable federal regulations. GOCS who are “inactive” do not actively release flights and perform offline desk check. Any GOCS who does not actively dispatch flights can obtain the ability to do so by completing an on the job training and a live desk check. GOCS who move from domestic dispatch to international dispatch must also complete on the job training and a new live desk check.

When a GOCS job opens, it is first posted within the GOC department for other GOCS to bid on. Any GOCS may bid on any open GOCS position and GOCS with an active license may bid on open positions within the recovery discipline and GOCS with an “inactive” license may bid on open positions within the flight dispatch discipline. If FedEx is unable to fill the position internally through the GOC department, the position will be made available to all FedEx employees and/or through an external posting.

All GOCS work in the same location, even within the same room. GOCS regularly interact and communicate with other GOCS of a different discipline. While GOCS focus on one of the six disciplines above, they often perform multiple functions. GOCS in the dispatch discipline and those in the recovery discipline have overlapping responsibilities and work closely together. They communicate daily in person, via phone, and/or email. Some of those overlapping responsibilities are as follows:

- During severe weather events both disciplines have responsibility for monitoring conditions including review of winds, runway directions, and operating limitations of both the airplane and the airport. Both disciplines have responsibility for determining the impact of the weather on flights and work together to select the best alternatives for the flight, whether it is delaying the flight, finding alternate available airports, or canceling the flight. Even when there are not severe weather events, GOCS in dispatch and recovery are both responsible for monitoring the weather in and around their assigned areas of responsibility and working with their peers across disciplines to make any changes necessary as a result of weather changes.
- GOCS in recovery and dispatch work together to redirect a flight in progress. In redirecting a flight, the recovery GOCS will determine which flight can be redirected and alert the dispatch GOCS that this direction needs to occur. The dispatch GOCS will make the necessary changes to the flight plan and work with the PIC of that flight to make the change identified by the recovery GOCS.
- Both GOCS in recovery and dispatch are responsible for monitoring the maintenance status of all aircraft within their area of responsibility and mitigating the line haul impacts on any maintenance issues. For example, both GOCS review the Minimum Equipment List (MEL) associated with specific aircraft and determine if changes to payload or routing are required. Many of the MELs contains restrictions on how a flight can operate and GOCS in recovery work with a GOCS in dispatch to swap the aircraft assigned to a specific flight based on a restrictive MEL. In this situation, either GOCS has the ability to initiate the changes in aircraft.

- GOCS in both dispatch and recovery must be familiar with the slots available at a given airport as well as the overfly rights, traffic rights, and permits for the various countries over and into which FedEx flies and they must identify any change to the various slots, rights, and permissions as well as their effects on scheduled flights, and work together across disciplines to determine how to address any necessary changes. When ad-hoc flights are added to the schedule, GOCS from both recovery and dispatch work jointly to secure all required airport slots, traffic lights, and overfly permits to allow operation of the flight as needed.

GOCS regularly work interchangeably with both flight dispatch and recovery disciplines based on FedEx's operational need. Devin Simons is a GOCS in the dispatch discipline who has worked 26 shifts in the recovery discipline in the past 12 months. He also worked one shift as a C3 Senior. Lauren Walker is a GOCS in the dispatch discipline who has worked two shifts in the recovery discipline since changing discipline from recovery to dispatcher in October of 2021. Jason Reynolds, Jeffrey Livingston, and James Johnson are GOCS in the recovery discipline who worked in the flight dispatch discipline from September 2021 into February 2022 due to FedEx's operations need. Since February 2022, all three GOCS have been working in the recovery specialist discipline for which they were originally hired. Lindsay K. Jones is a GOCS in the recovery discipline who has worked seven (7) shifts in the dispatch discipline in the last 12 months. David C. Kidwell is a GOCS who was originally hired in the recovery discipline. He moved into the dispatch discipline in January 2022 but before doing so, had worked eight (8) shifts in the dispatch discipline from October 2021 until moving into the dispatch discipline.

All GOCS are salaried employees and are scheduled to work 1,820 hours per year. All GOCS are eligible for comp time (paid/taken as days off) when they work more than their scheduled hours. They have personal jumpseat privileges (domestic/international and cockpit eligible) and access to the FedEx system for personal air travel. The GOCS current pay program allows for merit increases in October and promotional increases when they change pay grades at years two and four. GOCS reach top of pay range in year 12 and receive a longevity bonus in years 12-19, and receive an enhanced bonus for years 20 and beyond. GOCS also have access to a Sick Bank that can be used after Medical Absence Pay and before Short-Term Disability and Long-Term Disability.

DISCUSSION

In determining the appropriate craft or class for employees, the Board considers a number of factors, including functional integration, work classifications, terms and conditions of employment, and work-related community of interest. *Philippine Airlines*, 49 NMB 12 (2022); *Southwest Airlines*, 42 NMB 110 (2015); *Frontier Airlines*, 41 NMB 202 (2014). The factor of work-

related community of interest is particularly important. *Philippine Airlines*, above at 21. The purpose of the community of interest test is to ensure that a particular grouping of employees “possess a sufficiently distinct community of interest and commonality of functional characteristics to ensure a mutuality of interest in the objective of collective bargaining. *Id.* at 21; *Continental Airlines/Continental Express*, 27 NMB 99, 109 (1999).

The Board is also 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 considered.

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). In making its craft and class determinations, the Board must consider the “historical relationships” between employees and carriers. *American Airlines, Inc.*, 42 NMB 35, 62 (2015). The Board has long recognized that it should refrain from disturbing an established, customary, or historical craft or class in the absence of material change in circumstances. *Id.* at 62 (citing *Eastern Airlines*, 4 NMB 54, 62 (1965)). In 1995, the Board determined that GOCS constitute a separate craft or class at FedEx. *Federal Express Corp.*, 22 NMB 215 (1995). In 1995, the primary duties of the GOCS at FedEx were associated with the carrier’s flight release function, and the Board found that the GOCS also had the significant responsibility of monitoring the flow of packages throughout FedEx’s system, in addition to their flight release duties.

The record in this case does not establish that a material change has occurred that would compel the Board to deviate from its 1995 determination. TWU argues that FedEx’s change from a supplemental carrier to a domestic and flag carrier under the FARs presents a material change in circumstance because the FARs now require aircraft dispatchers to release flights with joint responsibility with the PIC. However, the evidence demonstrates that the FAR requirement did not result in any material change in the nature of the dispatching work performed by the GOCS. While there was no regulatory requirement for GOCS to release flights in 1995 when FedEx was a supplemental carrier, the GOCS performed this function and they used flight release forms that are similar to the forms they use today. In its 1995 decision, the Board explicitly found that one of the principal duties of the GOCS was the “exercise [of] joint dispatch authority with the PIC, plan[ning] the safe and efficient

operation of FedEx trunk flights; monitoring the flights under this control, and the activities of airports as they relate to those flights.” *Id.* at 217. Thus, the critical duty that TWU relies on as the “drastic difference” was clearly performed by the GOCS in 1995 albeit not required by the FARs in light of FedEx’s then status as a supplemental carrier.

Further, in his declaration, C. David Bradford, GOC Manager, confirmed that FedEx’s authorization to operate as a domestic/flag carrier did not result in any material change in the certification required to be GOCS, the training they are required to complete, or the functions they actually perform. Bradford worked as a GOCS in 1990 until becoming a GOC Manager in 2000. He stated that today, as in 1995, all GOCS are required to have an aircraft dispatcher certification from the FAA, go through initial training to perform flight dispatch functions and recurrent training, and are required to complete at least one familiarization ride in the cockpit of a FedEx aircraft or flight simulator annually.

The Board finds no merit in TWU’s arguments that FedEx separates the GOCS in two categories of active and inactive GOCS and that the active GOCS dispatchers do not share a substantial community of interest with the inactive GOCS who spend the preponderance of their work time doing non-dispatch recovery work. The record in this case demonstrates that the GOC departments are divided between international and domestic work and not between active and inactive GOCs as asserted by TWU. According to Michael J. Cannon, former GOCS Recovery Specialist and current GOC Manager, GOCS regularly work interchangeably in both flight dispatch and recovery disciplines based on FedEx’s operational need. He stated that GOCS in flight dispatch and recovery roles regularly interact and communicate with GOCS of a different discipline and both regularly interact with the C3 Senior GOCS. The efficiency of the entire FedEx network and operation requires a collaborative effort between flight dispatch and recovery GOCS. An example of the collaborative effort required between flight dispatch and recovery is the manner in which GOCS manage sweep/recovery aircraft. Sweep/recovery aircraft operate to provide aircraft recovery support to large regions of the United States or to a specific destination. Sweep or recovery aircraft travel empty or with partial payloads and provide recovery support. These aircraft can be assigned to replace aircraft that experience maintenance issues and are unable to fly and provide lift support for volume that can’t be moved without additional aircraft lift. Flight dispatch and recovery must constantly communicate to determine in-flight diversions of routes affected by a number of events such as weather or maintenance issues. GOCS working in both dispatch and recovery disciplines must be familiar with events such as changes in weather, adequately plan for the fuel necessary to make any in-flight route changes, determine the load capacity of aircraft before a flight is dispatched to an alternate destination, ascertain the availability of alternate airports and appropriate runway access, and determine the effect of required maintenance of aircraft. Cannon also elaborated on the various GOCS

who worked for him and gave specific examples of when the GOCS worked interchangeably in both flight dispatch and recovery disciplines.

The strong functional connection and community of interests between the GOCS were also demonstrated by the overlapping responsibilities of the GOCS and confirmed through the declaration of Donald Rider, GOC Senior Manager. Before becoming a GOC Senior Manager, Rider worked as a GOCS in domestic flight dispatch and international recovery specialist as well as a former GOC manager in both domestic and international operations. Rider gave specific examples of those overlapping responsibilities and elaborated that GOCS in the dispatch discipline and those in the recovery discipline work closely together on a daily basis. Rider also confirmed that all GOCS are required to possess FAA dispatcher's licenses, attend recurrent training, and complete at least one familiarization ride in the cockpit of a FedEx aircraft or flight simulator annually. All GOCS are required to work the same number of hours, work the same shifts (with the exception of training and standard GOCS who work from 8:00 a.m. to 4:30 p.m.), receive identical pay across relevant job levels (other than minor variation created by monthly overrides) and share the same management structure within GOC.

Finally, although TWU asserts that it does not seek to fragment the existing craft or class, its application effectively requests the Board to do exactly that. The Board has a policy against fragmenting crafts or classes and has long recognized that it should refrain from disturbing an established, customary, or historical craft or class in the absence of a material change in circumstances. *See American Airlines, above* (citing *Eastern Airlines, above*); *see also American Airlines, 45 NMB 1 (2017)*. TWU has not provided any compelling reason or evidence to remove the GOCS who currently perform aircraft dispatch functions from the GOCS craft or class at FedEx. Accordingly, the GOCS who perform aircraft dispatch functions at FedEx are appropriately included in the GOCS craft or class.

CONCLUSION

The Board finds that the employees who perform aircraft dispatch functions at FedEx do not by themselves constitute a separate craft or class but are part of the Global Operations Control Specialists craft or class. Further, the investigation established that TWU failed to support its application with the required number of authorization cards from the employees in the craft or class as set forth in 29 C.F.R. § 1206.2(a) of the Board's rules. Therefore, the Board finds no basis upon which to proceed in this matter and the application is hereby dismissed subject to 29 C.F.R. § 1206.4(b)(2) of the Board's Rules.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in black ink that reads "Maria-Kate Dowling". The signature is written in a cursive, flowing style.

Maria-Kate Dowling
General Counsel