



NATIONAL MEDIATION BOARD

1301 K St NW, Suite 250E
Washington, DC, 20005

In the Matter of the
Application of the

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE
WORKERS

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

involving employees of

SOUTHWEST AIRLINES

51 NMB No. 12

CASE NO. R-7627
(NMB File No. CR-7247)

FINDINGS UPON
INVESTIGATION -DISMISSAL

April 18, 2024

FINDINGS UPON INVESTIGATION

This determination addresses the application of the International Association of Machinists and Aerospace Workers (IAM or Organization) alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. §152, Ninth (Section 2, Ninth),¹ among “Network Operations Control Customer Planners” (NCPs) at Southwest Airlines (Carrier or Southwest). The IAM is the certified representative of the Passenger Service Employees craft or class at Southwest. *Southwest Airlines*, 9 NMB 446 (1982) (Case No. R-5302). IAM asserts that the NCPs are part of the Passenger Service Employees craft or class.

For the reasons set forth below, the National Mediation Board (Board or NMB) finds that the NCPs are already covered under the IAM’s certification. Therefore, the Board dismisses the application.

¹ 45 U.S.C. §151, *et seq.*

PROCEDURAL BACKGROUND

On November 13, 2023, the IAM filed an application alleging a representation dispute involving the NCPs at Southwest. The IAM requested that the Board accrete the employees to the Passenger Service Employees craft or class and supported its request with authorization cards. The application was given NMB File No. CR -7247 and Josie G.M. Bautista was assigned as the Investigator.

On December 12, 2023, the Carrier filed the List of Potential Eligible Voters (List) containing the names of 36 NCPs. Southwest also filed its initial position statement on December 12, 2023, opposing the accretion of the NCPs to the Passenger Service Employees craft or class.

On December 15, 2023, the IAM filed a request to respond to the Carrier's initial position statement. The Investigator granted IAM's request and the IAM filed its response on February 7, 2024. On February 8, 2024, the Carrier made a request to respond to the IAM's submission and the Investigator granted the request. The Carrier filed its response on February 28, 2024. The IAM replied to the Carrier on March 13, 2024.

ISSUE

Are Southwest's NCPs part of the Passenger Service Employees craft or class currently represented by the IAM?

CONTENTIONS

Southwest

Southwest contends that the NCPs do not share a community of interest with the IAM-represented Passenger Service Employees craft or class at Southwest, are not integrated with the other IAM-represented employees, work in an entirely different environment and have different terms and conditions of employment than IAM-represented employees. Southwest contends further that the primary function of the NCP is to support the Network Superintendent during irregular operations, the NCPs do not have any interaction with Southwest's customers, and the NCPs belong to the unrepresented Office Clerical craft or class.

IAM

The IAM contends that the NCPs are part of the Passenger Service Employees craft or class because they hold positions "whose work scope is communications coordination with other departments regarding the routing and accommodations of passengers in times of irregular flight operations and

cancellations[;]” their job functions and responsibilities are substantially similar to the existing Passenger Service Employees craft or class; and they share a sufficient community of interest with the Passenger Service Employees craft or class.

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.

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

II.

IAM 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. § 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

On June 28, 1982, the Board certified the IAM as the representative of the Passenger Service Employees craft or class at Southwest in Case No. R-5302. At that time, the NCP position did not exist. The Passenger Service craft or class includes Customer Service Agents (CSAs) and Customer Representatives (CRs). In *Southwest Airlines*, 42 NMB 110 (2015), the Board accreted the Source of Support Representatives (SOS Reps) into the Passenger Service craft or class.

The NCP position was created in or around 1988 and was then titled Customer Service Coordinator (CSC). At that time, Southwest recruited unrepresented supervisors from its stations, such as Operations Supervisors and Customer Service Supervisors, to fulfill the CSC role and responsibilities. The CSCs were integrated with the Dispatch group in the early 1990s and primarily supported this group as well as the stations. Over the years, the CSCs

moved across Departments. Initially, the position reported to the Ground Operations Department; it was then reassigned to the Network Operations Control Department in the early 2000s. Throughout this time, the CSCs also underwent several job title changes, including Network Customer Specialist (NCS), CSC, then NCP in 2022.

The role of the NCP is to advocate for the Customer by providing guidance to Network Superintendents and station personnel on ways to minimize the disruptions to Customer travel due to irregularities in flight operations. The NCP's job description lists the primary functions of the position as follows:

- Serve as the advocate for the External Customer within the NOC by collaborating with the Network Superintendents and station personnel to find operational solutions and perform re-accommodation for Customers during irregular operations to provide the highest level of Customer service possible.
- Determine which flights are to be held for connecting Customers and key information into the current or emergent reservations system.
- Assist the Dispatch Superintendent with decisions regarding which flights will be cancelled or delayed during maintenance, air traffic delays, etc...
- Work closely with Revenue Management Team on adjusting booking and lids due to irregular operations.
- Assist stations in complying with the Air Carrier Access Act by helping to determine how Customers with disabilities will be accommodated.
- Provide Customer Relations with information necessary to respond to Customer inquiries.
- Update information within current or emergent computer information systems as necessary regarding Customer accommodations.
- Act as a liaison for Complaints Resolution Official (CRO) at Stations;
- Work with codeshare partners to ensure a seamless Customer Service experience for Southwest's Customers.

The qualifications and experience necessary for the NCP position include:

High School Diploma or GED; experience in station operational area, Customer Support and Services areas (including SOS); ability to perform duties from [limited space workstation/desk/office area] for extended periods of time; ability to communicate and interact with others in the English language to meet the demands of the job; and,

the ability to use a computers or other office productivity tools with sufficient speed and accuracy to meet the demands of the job.

In addition to the above qualifications and experience, the Senior NCP position requires a more advanced level of experience in training and/or facilitation and curriculum development, MS Office Suite including a high proficiency using PowerPoint or other presentation software and project management.

The NCPs sit in small pods within the Network Operations Control Center (NOC) with each pod having one Network Superintendent, two NCPs, and three crew routers. The pods are organized by geographic region and the NCPs interact with the Network Superintendent and crew routers, and have frequent communications with Station personnel.

Two NCPs (initially hired as CSAs) with over 15 years of service at Southwest provided declarations describing their job functions and responsibilities. According to both declarants, the NCP is an advocate for the Southwest customer by developing creative solutions that support the customers in reaching their destinations with the least disruption to their travel as possible. Prior to the creation of the position, decisions to cancel flights, for example, were made without any concern for how the cancellation impacted the customer.

Prior to being promoted to the NCP position, one of the declarants was promoted from her CSA position to an SOS Rep. Her experience as a CSA working in the Station operation area and providing customer support and services as an SOS Rep helped her meet the required experience for the NCP position. As a CSA, she “would contact NCPs regarding cancelled flights, holding a connecting flight, rebooking customers on a later flight, and researching alternative routes for customers to reach their final destination.” As an SOS Rep, she also contacted NCPs to verify if a flight was operating or if there was the potential for a flight to be cancelled.

NCPs receive daily calls and instant messages from Station Personnel (CSAs and their supervisors), CRs, and SOS Reps requesting assistance with customer reservations as a result of flight delays and cancellations. The NCP utilizes bulk booking via its Optimization Passenger Recovery (OPR) system to rebook and reticket customers on alternative flights. The OPR system is only utilized by NCPs because they are the only ones authorized to rebook large volumes of passengers. CSAs and CRs do not have access to the OPR system.

In the past, NCPs did not have access to the Customer Management (CM) system. The CM system is used for individual bookings and it is the same system CSAs, CRs, and SOS Reps use to rebook, reticket and correct passenger reservations. According to one of the NCP declarants, “once NCPs were given access to the CM system, they became primarily responsible for rebooking

passengers with flight irregularities.” The NCPs also utilize the CM system to share notes with Station personnel regarding the actions the NCP has taken to re-accommodate and rebook customers, including the type of compensation customers are authorized to receive resulting from the delays and cancellations of their flights. Such compensation includes hotel vouchers or flight credits, which are processed by Station personnel.

The NCPs’ interactions with Network Superintendents relate to the rerouting of aircraft for purposes of maintenance, weather, flight scheduling and gate conflicts. According to the declarants, the Network Superintendents do not have the capability to rebook customers if they need to make changes to the flight plan of an aircraft. The NCP’s role is to advise the Network Superintendent of the impact rerouting will have on the customers and to accommodate impacted customers by issuing them new reservations.

The NCPs interact with crew schedulers when the Network Superintendent determines that a spare aircraft is available and the NCP will work with crew schedulers to check on availability of a crew to service the flight. Once the aircraft and flight crews have been confirmed, the NCP will rebook and re-ticket the impacted customers.

The NCPs are paid a set salary with an hourly rate of pay and earn additional compensation for working longer than their regularly scheduled shift. Similar to other employees at Southwest, NCPs receive time off for vacation and sick leave. They also receive flight privileges, a 401(k)-company match, and profit sharing similar to all employees at Southwest.

DISCUSSION

Craft or Class Determination

In determining the proper craft or class for a group of 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); *Endeavor Air*, 41 NMB 281 (2014). The factor of work-related community of interest is particularly important. *US Airways*, 31 NMB 324, 334 (2004). To evaluate this factor, the Board examines the actual duties and responsibilities of the employees, the environment in which the employees work, and the interaction among the employees involved. *American Airlines*, 10 NMB 26, 39 (1982). 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.” *Continental Airlines/Continental Express*, 27 NMB 99, 109 (1999). The Board makes craft or class determinations

case by case, based upon Board policy and precedent. *USAir*, 15 NMB 369 (1988); *Simmons Airlines*, 15 NMB 124 (1988).

The Board has examined the scope of the Passenger Service Employees craft or class in *United Airlines*, 6 NMB 180 (1977). The Board described the Passenger Service Employees craft or class as “those [c]arrier personnel who most directly service the customers’ immediate requirements for flight arrangements.” *Id.* at 186. Their duties included the following:

- 1) Answers inquiries and furnishes information regarding rates, schedules, routings and services; 2) Accepts and confirms flight reservations and notifies customers of flight delays or cancellations; 3) Arranges special services required by passengers including auto or hotel reservations; 4) Transports individual customer baggage in immediate vicinity of ticket office, terminal building, off-premises baggage claim facility, and terminal ramp area; 5) Announces flights, directs customers to appropriate check-in counters or boarding gates and services Carrier pre-flight lounges; 6) Computes fares, issues tickets and processes payments and refunds; 7) Weighs and checks baggage; 8) Processes direct receipt of freight from customers including accepting payment; 9) Records necessary booking and passenger information in centralized information systems; 10) Collects tickets and checks in passengers at boarding areas; 11) Initiates and coordinates enplaning and deplaning of passengers; 12) Assists customers in resolving service difficulties including misplaced tickets, flight irregularities and lost or damaged baggage.

Id. at 185.

Industry and technological changes in recent years have changed some of the functions of the Passenger Service Employees craft or class. At Southwest, the switch to electronic tickets in the 1990s led to a change in the way these duties were performed and necessitated employees who were trained in ticketing applications and computer systems. In *Southwest Airlines*, 42 NMB 110 (2015), for example, the Board confirmed that the duties that are done with the purpose of directly assisting the flying public is the defining feature of Passenger Service Employees. *Id.* at 116. See also *US Airways*, 25 NMB 399, 401-402,404 (1998) (Board determined that employees who performed “passenger-related coordination functions - for example, re-routing passengers when a flight is delayed” were properly part of the Passenger Service Employees craft or class).

Here, the greater weight of the evidence supports the finding that NCPs perform work that is similar to the work performed by CSAs, CSRs, and SOS Reps and that they share a community of interest with them. Both NCP

declarants confirmed that their main job responsibility is to serve as an advocate for the customer during irregular operations so that customers reach their destinations with the least amount of disruption as possible. They monitor the operations board and determine if there are delays or cancelled flights that will impact customers and they work with Station personnel and Network Superintendents to minimize the impact to the customers, by holding aircraft, aircraft swaps, rebooking passengers on alternate flights, and authorizing travel vouchers for overnight stays. Essentially, the NCPs directly assist the flying public in the event of delays or cancellations by advocating for the passengers and by minimizing the adverse impact to their travel. NCPs are the only employees who can rebook large volumes of passengers (“bulk booking”) as CSAs and CRs do not have access to the OPR system. Further, because the NCPs now have access to the CM system, NCPs are primarily responsible for rebooking individuals with flight irregularities. Thus, in performing the customer advocacy functions and the rebooking functions for affected passengers, the NCPs share the goal with CSAs, CSRs, and SOS Reps of ensuring that passengers make it to their final destinations with minimal disruption, which is the very essence of passenger air travel and the passenger service function.

The Carrier argues that NCPs are more similar to the Office Clerical craft or class because they support the internal operations of the airline by supporting the Network Superintendents during irregular operations while Passenger Service Employees directly support customers. The evidence in this case does not support Southwest’s position. While it is true that the NCPs are supporting the Network Superintendent in determining which flights will be cancelled or delayed during maintenance, air traffic delays, etc., the support they provide defines their primary function of advocating for the passengers by minimizing the adverse impact to the passengers and ultimately rebooking them onto flights that have the least amount of disruption to those passengers. According to one of the NCP declarants, “NCP supervisors frequently share with us that our role is to put the customer first . . . It is made very clear to us that our principal job is to move people (Customers) and the Network Superintendent’s job is to move metal (aircraft).”

The Carrier argues that NCPs do not share a community of interest and are not integrated with the Passenger Service Employees at Southwest. The Carrier’s position here is contradicted by its own documentation such as the NCP job description and the Network Operations Handbook both of which describe several customer service related functions such as accommodating passengers during irregular operations by rebooking their travel, advocating for the passengers in determining which flights are to be held for connecting customers, assisting station personnel by helping to determine how customers with disabilities will be accommodated, providing customer relations with information necessary to respond to customer inquiries, and working with code share partners to ensure a seamless customer service experience for Southwest’s customers. More importantly, the record demonstrates through direct evidence

from current NCPs who previously performed the work of CSAs and SOS Reps that NCPs have daily contact with Station Personnel (CSAs and Supervisors), CRs, and SOS Reps regarding assistance with customer reservations affected by delays and cancellations.

The Carrier argues further that the IAM “overstates the level of interaction between the NCPs and IAM represented employees” and provided a declaration from Dexter Adams, Senior Manager at the NOC. According to Adams, NCPs are primarily communicating with Customer Service Supervisors and “while NCPs may interact with some CSAs at the Stations directly, this happens to a lesser extent at smaller stations, or where the Customer Service Supervisors are not available.” Adams’ declaration simply corroborates the NCPs’ claims that they interact with CSAs and does not negate the evidence of those interactions. Furthermore, the Carrier’s Ground Operations Manual also confirms that “re-accommodating Customers is a collaborative process between the stations and the NOC.”

With respect to the Carrier’s argument that NCPs work in a different environment and none of the other IAM-represented employees are located or work within the NOC, the fact that NCPs work out of the NOC instead of the same location as the CSAs and the CRs is not considered a defining factor in the craft or class at Southwest. See *Southwest Airlines*, 42 NMB 110 (2015) and *Southwest Airlines*, 20 NMB 116, 124 (1992). Also, the SOS Reps do not work in the same location as the CSAs and the CRs but are still part of the Passenger Service Employees craft or class. *Id.* at 116.

Finally, with respect to the Carrier’s argument that the NCPs have different terms and conditions of employment with regard to their pay scale, time off, and lateral moves compared to IAM-represented employees, the evidence demonstrates that NCPs and Passenger Service Employees are paid similarly in that they are paid hourly and earn additional compensation (e.g. overtime) for working longer than their scheduled shift. The starting salary for the NCP is \$83,500 annually and the top annual rate for the SOS Reps is \$88,296, \$81,932 for the CSA, and \$80,870 for the CRs. According to one of the NCP declarants, it was considered a promotion when she left the CSA position and became an SOS Rep and likewise when she was promoted to the NCP position. As for time off, the NCP gets paid time off like all non-represented employees while IAM-represented employees accrue Flexible Time Off and sick occupational injury pay pursuant to their collective bargaining agreement. While the benefits have different labels, the benefits are exactly the same, which is to provide paid time off when the employee is sick or on vacation. Like all employees at Southwest, including all IAM represented employees, the NCPs also receive flight benefits, a 401(k) match and profit sharing.

Accretion

The Board's broad discretion to determine the manner in which it conducts investigations in representation disputes was upheld conclusively in *Brotherhood of Ry. & S.S. Clerks v. Ass'n for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965). In *Ross Aviation*, 22 NMB 89 (1994), the Board dismissed an organization's application because a Board certification already covered the employees it was seeking to represent, and, therefore, an election was unnecessary. The Board consistently follows this policy where it finds that an application covers employees who are members of a certified craft or class because these employees perform job functions traditionally performed by employees in that craft or class. *E.g.*, *ExpressJet Airlines*, 44 NMB 180, 186 (2017).

While its accretion determinations are based upon a work-related community of interest, the Board still requires all applications in representation matters to be supported by an adequate showing of interest. In this case, the IAM supported its application with the requisite 50% showing of interest and accretion is appropriate. *See, e.g.*, *Southwest Airlines*, 42 NMB 110, 117 (2015).

CONCLUSION

The Board finds that the NCPs are part of the Passenger Service Employees craft or class. As there is no further basis for investigation, NMB File No. CR-7247 is converted to NMB Case No. R-7627 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.



Maria-Kate Dowling
General Counsel

Member Sweatt, dissenting,

I write separately because the right to a secret ballot election is vital to the core principles of our democracy. As articulated by Board Members before me, the Board's accretion policy should be reconsidered. *See, e.g.*, *Southwest Airlines*, 42 NMB 110 (2015); *Frontier Airlines*, 41 NMB No. 45 (2014); *Southwest Airlines*, 38 NMB 87 (2011); *Frontier Airlines*, 31 NMB 247 (2004).

A secret ballot election is the only reliable method for determining employee preference regarding representation. The mere collection of authorization cards has proven unreliable in determining employees' true intention related to representation by the incumbent organization. As the Seventh Circuit has stated, “[w]orkers sometimes sign union authorization cards not because they intend to vote for the union in the election but to avoid offending the person who asks them to sign, often a fellow worker, or simply to get the person off their back.” *NLRB v. Village IX Inc.*, 723 F.2d 1360, 1371 (7th Cir. 1983).

The Majority overlooks the flaws of using authorization cards to determine voter choice. Myriad examples of organizations failing to win the election after exceeding the statutorily-required 50 percent showing of interest exist. *See, e.g., JetBlue Airways*, 50 NMB 41 (2023); *Union Pacific R.R.*, 41 NMB 15 (2013); *Union Pacific R.R.*, 41 NMB 7 (2013). The recent case in *JetBlue Airways* is a significant example because, despite meeting its showing of interest requirement, the organization was overwhelmingly rejected by the employees. Thus, the signing of a card does not always accurately represent an intentional decision by the employee for representation by that organization. The only way to know an employee’s true preference is through a secret ballot election, which is something the Board is capable of executing.

As noted by prior Board Members, I acknowledge that a secret ballot election may result in fragmentation of a craft or class in some instances, and that the NMB has a general policy of not fragmenting a craft or class where possible. *See, e.g., American Airlines, Inc.*, 21 NMB 60 (1993); *Eastern Air Lines, Inc.*, 12 NMB 29 (1984); *Galveston Wharves*, 4 NMB 200 (1962). However, the Board has a competing statutory duty to protect the freedom of association rights of employees and denying employees the right to a secret ballot election leads to harsher results than the potential fragmentation of the craft or class.

Accordingly, I respectfully dissent from an accretion policy that denies employees their right to a secret ballot election to determine workplace representation.