



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
UNITED AIRLINES, INC.

52 NMB No. 7

CASE NO. R-7642
(NMB File No. CR-7252)

FINDINGS UPON INVESTIGATION-
DISMISSAL

November 1, 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 “Senior Staff Technical Writers” at United Airlines, Inc. (Carrier or United). The IAM is the certified representative of the Fleet Technical Instructors (Ground Instructors) craft or class at United. *United Air Lines*, 39 NMB 516 (2012) (NMB Case No. R-7334).

¹ 45 U.S.C. §151, *et seq.*

The IAM asserts that the Senior Staff Technical Writers (Technical Writers) belong in the Fleet Technical Instructors (Ground Instructors) craft or class.

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

PROCEDURAL BACKGROUND

On May 23, 2024, the IAM filed an application alleging a representation dispute involving Technical Writers at United. The IAM requested that the Board accrete the employees to the Fleet Technical Instructors (Ground Instructors) craft or class and supported its request with authorization cards. The application was given NMB File No. CR -7252 and Eileen M. Hennessey was assigned as the Investigator.

On June 3, 2024 and June 20, 2024, the Carrier sought and was granted extensions to provide the List of Potential Eligible Voters (List), signature samples and an initial position statement in this matter. On July 3, 2024, the Carrier filed these documents with the Board. The List contained the names of eight Technical Writers. In its initial position statement, the Carrier opposed the accretion of Technical Writers into the Fleet Technical Instructors (Ground Instructors) craft or class. On July 8, 2024, the IAM requested and was granted an opportunity to respond to the Carrier's initial position statement. On August 6, 2024, the IAM requested and was granted an extension of time to respond. The IAM filed its response and supporting evidence on August 23, 2024.

ISSUE

Are United's Technical Writers part of the Fleet Technical Instructors (Ground Instructors) craft or class?

CONTENTIONS

United

United contends that Fleet Technical Instructors (Ground Instructors) is an improper craft or class for Technical Writers because Technical Writers do not share a work-related community of interest with this craft or class. The Carrier also "questions whether the Technical Writers have sufficient evidence of

a showing of interest and requests the Board to inspect the IAM authorization cards.” Therefore, United argues that the IAM’s accretion application should be dismissed.

IAM

The IAM contends that the Technical Writers are part of the Fleet Technical Instructors (Ground Instructors) craft or class, relying heavily on prior NMB determinations that “recognized the functional integration as well as the work-related community of interest among the employees involved in the development, coordination and implementation of the training policies and procedures.” Technical Writers, the IAM argues, share a work-related community of interest with the other members of the Fleet Technical Instructors (Ground Instructors) craft or class since all the positions are central to providing support for pilot instruction. The IAM further contends that the NMB re-examined and reaffirmed this position in its certifications for this craft or class issued after the United-Continental merger.

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.

United 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.

V.

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”

STATEMENT OF FACTS

The IAM became the certified collective bargaining representative of the Ground Instructors at United in 1996. *United Airlines*, 24 NMB 113 (1996). Since the issuance of that original certification, there have been several accretions to the craft or class. The position of Training Program Maintenance Coordinator was accreted to the craft or class in *United Airlines*, 25 NMB 90 (1998); Emergency Procedure Instructors were accreted in *United Airlines*, 27 NMB 165 (1999); and Staff Coordinator — Flight Training Development and Senior Staff Coordinator — Flight Training Development were accreted in *United Airlines*, 28 NMB 275 (2001).

IAM was also the certified representative of Ground Instructors at Continental prior to its merger with United. *Continental Airlines*, 38 NMB 18 (2010). In its post-merger representation application to the Board, the IAM requested that the Board investigate the representation status of the “Fleet Technical Instructors (Ground Instructors)” at the merged carrier. During the course of the Board’s merger investigation, the IAM and the Carriers agreed that United and Continental comprised a single transportation system. However, the Carriers contended that the Board should limit the Ground Instructor craft or class to pilot ground instructors and find that employees whose jobs relate to the development and maintenance of training materials are part of the Office Clerical Employees craft or class. The IAM argued that the Board should adhere to its prior craft or class determinations for this craft or class at United.

In its single carrier determination, the NMB rejected the Carriers’ craft or class arguments, citing its earlier *United* accretion determinations and finding that “there had been no material post-merger changes to alter the Board's prior

conclusion that employees at issue are engaged in a common training function and [that there was] functional integration.” *United Airlines*, 39 NMB 491, 507 (2012). Shortly thereafter, the NMB determined that the IAM was the certified representative of Technical Instructors (Ground Instructors) at post-merger United. *United Airlines*, 39 NMB 516 (2012).

Here, both the Carrier and the IAM provided the NMB with the United/IAM 2023-2025 Fleet Technical Instructors and Related Agreement (CBA) which lists the classifications covered by the CBA and contains brief descriptions of the work performed by each as follows:

Fleet Technical Instructor (FTI) Fleet Technical Instructors conduct the training . . . for pilots assigned to fly Company aircraft utilizing flight simulators or other training devices and in a classroom environment

Fleet Training Specialist (FTS) Fleet Training Specialists coordinate and support the work and training of Fleet Technical Instructors

Emergency Procedures Instructor (EPI) Emergency Procedures Instructors conduct emergency procedures training for flight attendants and/or pilots assigned to fly Company aircraft utilizing emergency procedures training devices and in a classroom environment

Emergency Procedures Specialist (EPS) Emergency Procedures Specialists coordinate and support the work and training of Emergency Procedures Instructors

Flight Training Instructional Systems Designer (FTISD) A Flight Training Instructional Systems Designer conducts the analysis, design, development, maintenance, implementation and evaluation of pilot training programs as assigned

United provided Organizational charts for the Flight Standards Department and the Flight Training Department. Employees within the Flight Training Instructors (Ground Instructors) craft or class are in the Flight Training Department; Technical Writers are within the Flight Standards Department.

United also provided the Technical Writer job description. According to the job description, Technical Writers create and maintain a suite of essential Flight Operations-related publications which must comply with Federal Aviation Administration (FAA) regulations, company guidelines, and established industry safety standards. Technical Writers individually and collectively contribute to safety of flight and operational reliability by producing accurate, timely, and standardized publications.

The position description also states that Technical Writers evaluate proposed Flight Manual changes and source data; and review, interpret, and apply technical information from regulatory authorities, aircraft manufacturers, air navigation service providers, company publications, and pilot/customer feedback. Technical Writers work directly with Subject Matter Experts (SMEs) to evaluate and identify changes and identify other affected content within the publication and across other publications. They also coordinate cross fleet changes.

Technical Writers create, assign, submit, and track work packages for internal and regulatory approval. The position also conducts Quality Assurance review of all revised or new content, including self-proof, peer-proof, and internal stakeholder review to ensure all identified changes are accurately incorporated. The position ensures that content standards and conventions are applied to all new material and revisions and captures compliance-related and other metadata to meet regulatory records requirements.

Technical Writers must have a high school diploma or equivalent and three or more years combined experience in one or more of the following areas: technical writing/editing; managing aviation documentation; and/or other relevant aviation industry experience. Preferred qualifications for the position are an Associate's degree in aviation, technical writing, publishing, or computer science; four or more years combined experience in technical writing/editing, managing aviation documentation and/or other relevant aviation industry experience.

The IAM submitted three sworn declarations from Senior Staff Technical Writers each with 20 years of experience in this position. Each stated that "the primary purpose and scope of my work is to create, update and maintain a suite of Flight Operations-related publications which must comply with (FAA) regulations, industry safety standards and United's company guidelines."

The declarants each stated that they can:

independently initiate a change to a publication I am responsible for and will seek approval from a SME to finalize the change. An employee from the training department or SME may also initiate a 'change order' to a publication I am responsible for, and I will research the requested change and assess its impact on related publications, regulations, and/or United's policy and provide the SME with feedback before finalizing the request.

Each of the declarants stated that the technical information they produce helps "train pilots by providing . . . guidance to safely operate an aircraft, comply with regulatory authority and adhere with United's policies." Each also stated that they regularly communicate and coordinate with Fleet Technical Instructors (FTIs) and Flight Training Instructional Systems Designers (FTISDs). The declarants submitted copies of email exchanges between Technical Writers and FTIs and FTISDs with questions about the Flight Manuals the Technical Writers maintain.

The Technical Writer declarants stated that they work "collaboratively" with SMEs and the Flight Training Department to create the Flight Manuals that are used in pilot training. Declarant A submitted a portion of United's 757-767 Flight Manual that stated that it was "the result of the combined efforts of Flight Standards, Flight Training, and Flight Operations" and that the manual "serves as both a training aid and as an inflight tool." Additionally, Declarant A submitted copies of PowerPoint training slides developed by the Flight Training Department that directly used information from the Flight Manuals. Declarant A also provided agendas from "United's 2022 and 2024 annual Training and Standards meetings demonstrating that both Flight Standards and Flight Training departments work collaboratively in support of pilot training and development." According to Declarant A, United created "challenge coins" in 2023 and 2024 that United distributed to Flight Standards (the department Technical Writers work in) and Flight Training (the department the Fleet Technical Instructors (Ground Instructors) work in) staff. Declarant A states that these challenge coins "[symbolize] the collaborative nature of their efforts and work."

DISCUSSION

Craft and 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. *Southwest Airlines*, 42 NMB 110, 114 (2015); *Endeavor Air*, 41 NMB 281, 285 (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[es] 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 has examined the scope of the craft or class of Fleet Technical Instructors (Ground Instructors) numerous times since first granting the IAM’s certification in 1996. The Board’s earlier *United* decisions “recognized the functional integration as well as a work-related community of interest among the employees involved in the development, coordination and implementation of the training policies and procedures.” *United Air Lines/Continental Airlines*, 39 NMB 491, 506 (2012) (citing *United Air Lines*, 28 NMB 275 (2001)).

The Carrier argues that Technical Writers do not share a work-related community of interest with Fleet Technical Instructors (Ground Instructors) craft or class. The Carrier states that the NMB has defined this craft or class as “employees ‘involved in the development, coordination and implementation of the training policies and procedures.’” Technical Writers, the Carrier argues, have no role in training at United and function as “copy writers” who make changes to publications not training materials and only as directed by SMEs. Technical Writers, according to the Carrier, do not engage with the Training Department at all.

The Carrier further argues that Flight Technical Instructors “may occasionally use an updated Flight Manual that contains material that a Technical Writer typed” in developing training policies and procedures but that

is where the relationship between a Technical Writer and Flight Training Instructors ends. The operational relationship between Technical Writers and the Flight Training Instructors craft or class is too attenuated, according to the Carrier, to serve as a basis to accrete Technical Writers into the FTI craft or class. Under this logic, United argues, Technical Writers share a work-related community of interest with every employee who uses one of United's technical publications- including the pilots who review a Flight Manual for an upcoming flight.

The Board disagrees with the Carrier's narrow interpretation of NMB precedent for this craft or class. Under United's interpretation, only the classifications that actually create and deliver the training, in this case the FTISDs, FTIs and EPIs, belong in the Flight Training Instructors (Ground Instructors) craft or class. However, the FTS and EPS classifications also have a role in the development, coordination, and implementation of pilot and flight attendant training and have been found by the Board to be part of this craft or class. Technical Writers also have a role in the development, coordination, and implementation of this training. The United Technical Writer position description states that the role of the position is to "create and maintain a suite of essential Flight Operations-related publications" These materials are used by pilots and flight attendants during flight training and during their day-to-day work—they are, simply stated, training materials.

Under NMB precedent at this Carrier, work-related community of interest is established by a position's "**involve[ment]** in the development, coordination and implementation of [United's] training policies and procedures." *Id.* at 506 (emphasis added). It is not required that the position be solely responsible for creating or delivering the training. The Board has made this determination as it relates to United's Ground Instructors multiple times. Most recently, in 2012, as part of the post-merger single transportation system investigation, United renewed its argument that "the maintenance of training materials is part of the Office Clerical Employees craft or class." The Board specifically rejected this argument again and reaffirmed its finding that, at United, employees engaged in the development of training programs and materials are within the Ground Instructor craft or class. *Id.* at 505. United's arguments that Technical Writers are not properly within the Flight Technical Instructors craft or class in the instant case is the latest installment of an argument that has been made and rejected by the Board multiple times over the course of almost three decades.

Furthermore, contrary to the Carrier's assertion that there is no interaction between the Technical Writers and the Flight Technical Instructors

craft or class, the IAM provided evidence, summarized above, that the members of the FTI craft or class do regularly interact with the Technical Writers. The declarations from the Technical Writers and supporting documentation demonstrate that the Technical Writers work with the other members of the craft or class to produce accurate publications in support of line operations and flight training.

While it is true that the Technical Writers and the FTI craft or class are in different departments at United, that is not determinative. *Continental Airlines/Continental Express*, 27 NMB 99, 110 (1999) (citing multiple criteria for finding that Flight Instructors and Ground School Instructors are not in the same craft or class including that they are located in different organizational units). Moreover, while Ground Instructors and Technical Writers are in separate departments – Flight Training and Flight Standards—these two departments work collaboratively in support of pilot training and development. For example, the Carrier conducts an annual Flight Training and Flight Standards meeting with speakers from both departments. United also distributes “challenge coins” to Flight Standards and Flight Training staff. These coins have both “Flight Training” and “Flight Standards” inscribed on them, symbolizing the collaborative nature of the work of the two departments.

The Board finds that in the case of the Technical Writers, United’s reading of NMB precedent regarding Ground Instructors is too narrow. Moreover, the Carrier’s assertion that Technical Writers do not engage with the Training Department is contrary to the unrefuted declarations and supporting documentation provided by the IAM. Accordingly, the Board finds that the Technical Writers at United are part of the Flight Technical Instructors (Ground Instructors) craft or class.

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. See, e.g., *ExpressJet Airlines*, 44 NMB 180,

186 (2017).

While 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 fifty percent showing of interest and accretion is appropriate. *See, e.g., Southwest Airlines*, 42 NMB 110, 117 (2015).

CONCLUSION

The Board finds that United's Technical Writers are part of the Fleet Technical Instructors (Ground Instructors) craft or class. As there is no further basis for investigation, NMB File No. CR-7252 is converted to NMB Case No. R-7642 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.



Maria-Kate Dowling
General Counsel

Chairman Sweatt, dissenting,

I write separately because the right to a secret ballot election is vital to the core principles of our democracy. While I have stated this previously, and stand with Board Members before me who have articulated this fact, I continue to think the Board's accretion policy should be reconsidered. *See, e.g., Southwest Airlines*, 42 NMB 110, 117-118 (2015); *Frontier Airlines*, 41 NMB 202, 221-227 (2014)]; *Southwest Airlines*, 38 NMB 87, 105-106 (2011); *Frontier Airlines*, 31 NMB 247, 255-256 (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 continues to overlook the flaws of using authorization cards to determine voter choice. Myriad examples exist of organizations failing to win the election after exceeding the statutorily required fifty percent showing of interest. 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*, 21 NMB 60 (1993); *Eastern Air Lines*, 12 NMB 29 (1984); *The 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.