



NATIONAL MEDIATION BOARD

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52 NMB No. 53
September 18, 2025

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Re: NMB Case Nos. R-7653 & R-7654
Mercy Flight Central / IAEP

Dear Participants:

This determination addresses election interference allegations filed by Mercy Flight Central, Inc. (Mercy) in NMB Case No. R-7653, involving Flight Paramedics; and in NMB Case No. R-7654, involving Flight Registered Nurses. For the reasons set forth below, the National Mediation Board (NMB or Board) finds that Mercy has not stated a prima facie case of election interference in either case. Accordingly, the Board finds no basis for further investigation.

PROCEDURAL BACKGROUND

On January 8, 2025, the International Association of EMTs and Paramedics (IAEP) filed two applications with the Board pursuant to the Railway Labor Act (RLA or Act), as amended, 45 U.S.C. § 152, Ninth, alleging representation disputes involving Mercy's Flight Paramedics craft or class and

its Flight Registered Nurses craft or class. At the time the applications were received, neither craft or class was represented.

The Board assigned Andres Yoder to investigate. On January 21, 2025, IAEP filed Initial Position Statements in both cases. On February 4, 2024—pursuant to NMB Representation Manual (Manual) Section 17.0—Mercy filed election interference allegations in both cases.

On April 8, 2025, the Board determined that under Manual Section 17.0, no extraordinary circumstances existed in either case that would warrant deviating from its practice of investigating interference allegations post-tally. See *Mercy Flight Central*, 52 NMB 129 (2025).

On April 14, 2025, the Board found that disputes existed in both cases, and authorized elections. The ballot counts took place on June 10, 2025. In NMB Case No. R-7653, the Board certified IAEP as the representative of Flight Paramedics after it received eight of 13 votes. See *Mercy Flight Central*, 52 NMB 182 (2025). And in NMB Case No. R-7654, the Board certified IAEP as the representative of Flight Registered Nurses after it received nine of 13 votes. See *Mercy Flight Central*, 52 NMB 184 (2025).

On June 19, 2025, pursuant to Manual Section 17.0, Mercy again filed election interference allegations in both cases, along with a supporting document. On June 20, 2025, IAEP responded. On July 8, 2025, after the NMB invited Mercy to reply to IAEP, Mercy filed a reply and a supporting document. IAEP then filed a rebuttal on July 9, 2025. Finally, following a Board request, Mercy submitted additional documents on August 11, 2025.

ISSUE

Has Mercy stated a prima facie case of election interference?

STATEMENT OF FACTS

NMB Case No. R-7653

Mercy submitted unsigned, handwritten notes and an affidavit from Labor Relations Consultant Mychal Rollins. In his affidavit, Rollins stated that the notes are his and discussed information contained in the notes. Based on those notes, Rollins states that a Flight Paramedic said that an employee “offered to pay my union dues but I’m voting no.”

NMB Case No. R-7654

Mercy submitted an affidavit from a Flight Registered Nurse. In his affidavit, the Nurse described an incident on December 8, 2024 in which another non-managerial employee engaged him on the topic of unionization in a break room. The Nurse told the employee that he would not support unionization and that, at any rate, financial constraints prevented him from paying dues. The employee then offered to pay the Nurse's union dues, but he rejected the offer. The Nurse stated that the employee "berated and degraded" him for 90 minutes until a Pilot intervened.¹

DISCUSSION

A participant that submits interference allegations is required to make its case. *See, e.g., Flight Options/FlexJet*, 43 NMB 165, 167 (2016). Specifically, the participant is required to state a prima facie case by making allegations that, if true, would "reasonably" establish that laboratory conditions were tainted; and by submitting substantive evidence that supports its allegations. *Delta Airlines*, 35 NMB 260, 283 (2008) (*Delta I*); *see, e.g., Express One International*, 25 NMB 420, 426 (1998). After a participant submits interference allegations, the Board reviews them "preliminarily to determine whether a prima facie case has been established." *Delta I*, *above* at 283.

"The Board takes allegations of interference very seriously and believes" that when a participant makes adequately supported interference allegations, the allegations "should be investigated using any and all means necessary and, if found to have tainted laboratory conditions, dealt with severely." *Id.* Nevertheless, the onus is on the participant making the interference allegations. As Manual Section 17.0 states, "Allegations of election interference must state a prima facie case that the laboratory conditions were tainted and must be supported by substantive evidence. Allegations of election interference not sufficiently supported by substantive evidence will be dismissed."

"[P]articipants do not have an automatic right to an on-site investigation merely by virtue of filing interference allegations." *Delta I*, *above* at 283. If the Board were to investigate "unsupported allegations or allegations that do not amount to interference[,]" the result "would be fundamentally unfair to all participants and could potentially result in on-site investigations in every representation proceeding, even where the interference claims have no merit whatsoever." *Id.*

¹ Mercy submitted several other documents containing hearsay statements that appear to overlap with the December 8, 2024, incident—a January 28, 2025 email from former Director of Human Resources Hillarie Aiello, an affidavit from a Flight Paramedic, and portions of Rollin's affidavit.

In NMB Case No. R-7653, Mercy has alleged a single incident of election interference: an employee offered to pay union dues for a Flight Paramedic. And in NMB Case No. R-7654, Mercy has also alleged a single incident of election interference: on December 8, 2024, an employee engaged in a lengthy discussion with a Flight Registered Nurse about unionization and, in response to the Nurse's statement that financial constraints prevented him from paying dues, offered to pay his union dues.

The Board has consistently found that "isolated incidents" do not amount to interference, and that a showing of a "systemic campaign" is required. *Flight Options/FlexJet*, above at 172; see, e.g., *American Airlines*, 26 NMB 412, 452 (1999). Here, there is no evidence of a systemic campaign to influence the election. Based on Board precedent, Mercy has not stated a prima facie case of election interference in either case.

Moreover, in NMB Case No. R-7653, Mercy supported its interference allegation with a single hearsay statement. Mercy submitted Rollins's handwritten notes, which purport to quote the Flight Paramedic at issue. The Board has repeatedly characterized hearsay statements as unreliable. See *Delta Air Lines*, 39 NMB 53, 69 (2011); *Delta I*, above at 283; *US Airways/America West Airlines*, 33 NMB 321, 334 (2006). Mercy cannot meet its burden of proof with only an unsubstantiated second-hand report unsupported by other evidence.


The alleged incidents, even if true, do not amount to election interference. The Board has consistently held that union conduct does not have the same effect on laboratory conditions as carrier conduct. *United Air Lines*, 39 NMB 403, 408 (2012); see also *Air Wisconsin*, 16 NMB 235, 239-40 (1989) (saying that carriers possess "unique power and authority . . . in the workplace"). The allegations here involve isolated incidents between coworkers in support of efforts to unionize. Unlike a conversation with a manager, an employee is free to disagree or disengage from a conversation with a coworker without risk to their employment. An impassioned discussion between employees, without more, does nothing to interfere with an employee's representation choice.

Moreover, an offer to pay union dues in the future is not the receipt of "an item of substantial value" that the Board has found to be troubling. See *American Airlines/US Airways*, 42 NMB 80, 105 (2015). Such an offer is hypothetical and unenforceable, and is distinguished from the facts in *American Airlines/US Airways* where the Board found interference when union locals distributed \$500 gift cards and cashier's checks while collecting authorization cards. *Id.* Further, the carrier's evidence establishes that the employees who opposed unionization did not change their views. There is no evidence that these isolated incidents had any effect on laboratory conditions.

CONCLUSION

The Board finds that Mercy has failed to establish a prima facie case of election interference in NMB Case No. R-7653, involving Flight Paramedics; and has failed to establish a prima facie case of election interference in NMB Case No. R-7654, involving Flight Registered Nurses. Therefore, as there is no further basis to proceed, the Board closes its files in these matters.

By direction of the NATIONAL MEDIATION BOARD.


Maria-Kate Dowling
General Counsel

Chairman Sweatt, dissenting:

I respectfully dissent from my colleagues' decision to not conduct an on-site investigation at Mercy Flight Central (Mercy). The NMB held elections for two craft or class categories, representing a small number of employees at Mercy. In both elections, the margin of victory was slight. Prior to the authorization of that election, Mercy brought concerns about potentially coercive conduct among employees in support of unionization to the Board. The Board followed its precedent of only investigating interference allegations after a tally and delayed addressing those concerns. The majority moves to dismiss these concerns again, but an on-site investigation is the appropriate response under these circumstances.

Troubling incidents were documented for the Board's consideration. Reports include that an employee was berated for not attending a union meeting, an incident that upset the individual so much that it was reported to management.² Separately, there are also reports of two employees offering to pay union dues in exchange for union support. The majority dismisses specific, repeated conduct as, a "hypothetical and unenforceable" "offer to pay union dues

² An employee being berated about attendance at a union meeting is ironic when compared to the vitriol unions expound on employee education meetings or so-called "captive audience meetings."

in the future.” Ostensibly offering illegal reimbursement clouds the conditions of the election.

Flight Nurses and Flight Paramedics are small work groups who partner on flights and likely spend a significant amount of time interacting, in small spaces, and in dangerous conditions. Just because two employees directly told management about these incidents does not mean that there were not more or that they did not impact other employees. These are troubling allegations of conduct that could very likely have tainted the election’s laboratory conditions, but the majority does not wish to discover if this is the extent of conduct.

Instead, the majority relies on precedent that holds that isolated incidents do not amount to election interference. Barring an investigation, however, we do not know whether these are isolated incidents. We are putting the onus on the employees to report union misconduct to management and then doing nothing in response. It is the Board’s responsibility to maintain the integrity of the election process and ensure that employees choose their representative or no representative free from interference or coercion.

The majority states “an employee is free to disagree or disengage from a conversation with a coworker without risk to their employment.” But this is missing the point entirely. These individuals work on helicopters. One cannot easily disengage in this environment. The text of the employee deposition—highlighted by the majority—makes clear the employee was “berated and degraded” for an hour and a half, until a pilot intervened.³ There is no other entity but the Board to protect these workers and to ensure the election was conducted free of interference, and this decision completely abdicates that responsibility.

Further, the majority has determined not to investigate based on hearsay. To repeat my refrain, an investigation would determine if the allegations based on hearsay have merit.

While the employees who reported this conduct to management said they did not change their minds about how they voted, we do not know the impact on other employees who heard about the incidents or had similar experiences and did not report them. Employees may have been swayed by the reports of coercion and might have believed that union supporters would provide them financial

³ According to the Occupational Safety and Health Administration, “In 2010, the Bureau of Labor Statistics (BLS) data reported healthcare and social assistance workers were the victims of approximately 11,370 assaults by persons; a greater than 13% increase over the number of such assaults reported in 2009. Almost 19% (i.e., 2,130) of these assaults occurred in nursing and residential care facilities alone. Unfortunately, many more incidents probably go unreported.” See *Workplace Violence*, OCCUPATIONAL SAFETY & HEALTH ADMIN. (Sept. 17, 2025, 1:23 PM), <https://www.osha.gov/healthcare/workplace-violence>.

compensation in exchange for votes. An investigation would allow the Board to determine whether these were isolated incidents or whether there was, in fact, a concerted campaign within these small work groups. If there was not, the investigation will reveal that and the union will have more legitimacy among the employees it represents. If there was, the remedies available to the Board to eliminate the effects of interference are limited and consist merely of rerunning the election using the same or a modified ballot. *See, e.g., America West Airlines*, 25 NMB 127 (1997); *Key Airlines*, 16 NMB 296 (1989); *Laker Airways*, 8 NMB 236 (1981). A rerun election could affirm the prior results but regardless of the outcome, the Board will have assured that true desire of the employees is represented in that outcome.⁴

Ultimately, there is no harm to the employees, the union, or the process in authorizing an investigation. Failing to investigate, the Board's action could have a chilling effect on employees reporting election interference, coercion, or outright illegal activity during an election in the future. Coming forward to report bad actors—whistleblowing—places an employee in a tenuous position should it ever be discovered by colleagues. Ignoring the allegations places the Board in a tenuous position for stakeholders to question the Board's neutrality.

As with several longstanding Board policies, such as accretion, a reexamination is warranted. The result of this decision leaves employees with no recourse at all.

⁴ The majority cites *American Airlines/US Airways*, 42 NMB 80, 105 (2015), as an example of the Board initiating an investigation around the question of workers "receiving an item of substantial value." An investigation in that case did find questionable use of gift cards, leading to the dismissal of a representation application. Again, without an investigation, the Board leaves itself in ignorance of the facts necessary to determine if employees were offered an item of substantial value.