

## National Mediation Board

## § 1202.13

the selection of representatives, and either party makes application by letter for a formal hearing before the Board to determine the dispute, the Board may in its discretion hold a public hearing, at which all parties interested may present their contentions and argument, and at which the carrier concerned is usually invited to present factual information. At the conclusion of such hearings the Board customarily invites all interested parties to submit briefs supporting their views, and after considering the evidence and briefs, the Board makes a determination or finding, specifying the craft or class of employees eligible to participate in the designation of representatives.

### § 1202.9 Appointment of arbitrators.

Section 5, Third, (a) of the Railway Labor Act provides in the event mediation of a dispute is unsuccessful, the Board endeavors to induce the parties to submit their controversy to arbitration. If the parties so agree, and the arbitrators named by the parties are unable to agree upon the neutral arbitrator or arbitrators, as provided in section 7 of the Railway Labor Act, it becomes the duty of the Board to name such neutral arbitrators and fix the compensation for such service. In performing this duty, the Board is required to appoint only those whom it deems wholly disinterested in the controversy, and to be impartial and without bias as between the parties thereto.

### § 1202.10 Appointment of referees.

Section 3, Third, (e) title I of the act makes it the duty of the National Mediation Board to appoint and fix the compensation for service a neutral person known as a "referee" in any case where a division of the National Railroad Adjustment Board becomes deadlocked on an award, such referee to sit with the division and make an award. The National Mediation Board in appointing referees is bound by the same requirements that apply in the appointment of neutral arbitrators as outlined in §1202.9

### § 1202.11 Emergency boards.

Under the terms of section 10 of the Railway Labor Act, if a dispute between a carrier and its employees is

not adjusted through mediation or the other procedures prescribed by the act, and should, in the judgment of the National Mediation Board, threaten to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the Board shall notify the President, who may thereupon, in his discretion, create an emergency board to investigate and report to him respecting such dispute. An emergency board may be composed of such number of persons as the President designates, and persons so designated shall not be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of emergency board members is fixed by the President. An emergency board is created separately in each instance, and is required to investigate the facts as to the dispute and report thereon to the President within 30 days from the date of its creation.

### § 1202.12 National Air Transport Adjustment Board.

Under section 205, title II, of the Railway Labor Act, when in the judgment of the National Mediation Board it becomes necessary to establish a permanent national board of adjustment for the air carriers subject to the act to provide for the prompt and orderly settlement of disputes between the employees and the carriers growing out of grievances, or out of the application or interpretation of working agreements, the Board is empowered by its order made, published, and served, to direct the air carriers and labor organizations, national in scope, to select and designate four representatives to constitute a Board known as the National Air Transport Adjustment Board. Two members each shall be selected by the air carriers and the labor organizations of their employees. Up to the present time, it has not been considered necessary to establish the National Air Transport Adjustment Board.

### § 1202.13 Air carriers.

By the terms of title II of the Railway Labor Act, which was approved April 10, 1936, all of title I, except section 3, which relates to the National

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Railroad Adjustment Board, was extended to cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and to all employees or subordinate officials of such air carriers.

### § 1202.14 Labor members of Adjustment Board.

Section 3, First, (f) of title I of the Railway Labor Act relating to the settlement of disputes among labor organizations as to the qualification of any such organization to participate in the selection of labor members of the Adjustment Board, places certain duties upon the National Mediation Board. This section of the act is quoted below:

(f) In the event a dispute arises as to the right of any national labor organization to participate as per paragraph (c) of this section in the selection and designation of the labor members of the Adjustment Board, the Secretary of Labor shall investigate the claim of such labor organization to participate, and if such claim in the judgment of the Secretary of Labor has merit, the secretary shall notify the Mediation Board accordingly, and within 10 days after receipt of such advice the Mediation Board shall request those national labor organizations duly qualified as per paragraph (c) of this section to participate in the selection and designation of the labor members of the Adjustment Board to select a representative. Such representatives, together with a representative likewise designated by the claimant, and a third or neutral party designated by the Mediation Board, constituting a board of three, shall within 30 days after the appointment of the neutral member investigate the claims of the labor organization desiring participation and decide whether or not it was organized in accordance with section 2, hereof, and is otherwise properly qualified to participate in the selection of the labor members of the Adjustment Board, and the findings of such boards of three shall be final and binding.

### § 1202.15 Length of briefs in NMB hearing proceedings.

(a) In the event briefs are authorized by the Board or the assigned Hearing Officer, principal briefs shall not exceed fifty (50) pages in length and reply briefs, if permitted, shall not exceed twenty-five (25) pages in length unless the participant desiring to submit a brief in excess of such limitation re-

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quests a waiver of such limitation from the Board which is received within five (5) days of the date on which the briefs were ordered or, in the case of a reply brief, within five (5) days of receipt of the principal brief, and in such cases the Board may require the filing of a summary of argument, suitably paragraphed which should be a succinct, but accurate and clear, condensation of the argument actually made in the brief.

(b) The page limitations provided by this section (§1202.15) are exclusive of those pages containing the table of contents, tables of citations and any copies of administrative or court decisions which have been cited in the brief. All briefs shall be submitted on standard 8½×11 inch paper with double spaced type.

(c) Briefs not complying with this section (§1202.15) will be returned promptly to their initiators.

[44 FR 10601, Feb. 22, 1979]

## PART 1203—APPLICATIONS FOR SERVICE

Sec.

1203.1 Mediation services.

1203.2 Investigation of representation disputes.

1203.3 Interpretation of mediation agreements.

AUTHORITY: 44 Stat. 577, as amended; 45 U.S.C. 151-163.

### § 1203.1 Mediation services.

Applications for the mediation services of the National Mediation Board under section 5, First, of the Railway Labor Act, may be made on printed forms N.M.B. 2, copies of which may be secured from the Board's Chief of Staff's Office or on the Internet at [www.nmb.gov](http://www.nmb.gov). Such applications and all correspondence connected therewith should be submitted in duplicate. The application should show the exact nature of the dispute, the number of employees involved, name of the carrier and name of the labor organization, date of agreement between the parties, if any, date and copy of notice served by the invoking party to the other and date of final conference between the parties. Application should be signed by the highest officer of the