



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the  
Application of the

AIRCRAFT MECHANICS  
FRATERNAL ASSOCIATION

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

involving employees of  
SOUTHWEST AIRLINES

39 NMB No. 19

CASE NO. R-7314  
(File No. CR-7016)

FINDINGS UPON  
INVESTIGATION-  
DISMISSAL

December 21, 2011

This decision addresses the application of the Aircraft Mechanics Fraternal Association (AMFA or Organization) alleging a representation dispute pursuant to the Railway Labor Act<sup>1</sup> (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth), among the Technical Instructors and Sr. Technical Instructors (Technical Instructors or Instructors) of Southwest Airlines (SWA or Carrier). AMFA is the certified representative of the Mechanics and Related Employees craft or class at SWA (NMB Case No. R-6919). *Southwest Airlines*, 30 NMB 182 (2003). AMFA asserts that the Technical Instructors are part of the Mechanics and Related Employees craft or class.

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

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<sup>1</sup> 45 U.S.C. § 151, *et seq.*

## PROCEDURAL BACKGROUND

On June 9, 2011, AMFA filed an application alleging a representation dispute among the Carrier's Technical Instructors. The Organization requested that the Board accrete these employees into the Mechanics and Related Employees craft or class and supported this request with its initial position statement and authorization cards. This application was assigned NMB File No. CR-7016. Norman L. Graber was assigned as the Investigator. On June 9, 2011, the Board requested that the Carrier provide it with the List and signature samples of the Instructors at SWA, as well as an initial position statement. On July 1, 2011, the Carrier provided the information requested by the Board. On July 15 and 18, 2011, AMFA filed responses to the Carrier's initial position statement. On July 22, 2011, SWA filed a response to AMFA's July 15, 2011 filing.

## ISSUE

Are SWA's Technical Instructors and Senior Technical Instructors part of the Mechanics and Related Employees craft or class?

## CONTENTIONS

### AMFA

AMFA asserts that it was certified in 2003 as the exclusive collective bargaining representative of the craft or class of Mechanics and Related Employees at SWA. *Southwest Airlines, above*. AMFA argues that Technical Instructors and Senior Technical Instructors are part of the Mechanics and Related Employees craft or class and, therefore, these positions should be accreted into the craft or class.

In support of its argument that Technical Instructors and Senior Technical Instructors are properly included in the Mechanics and Related craft or class, AMFA contends that the Instructors are engaged in, and vital to the support of, the maintenance function at SWA. Further, AMFA argues that, like the maintenance instructors in *Spirit Airlines, Inc.*, 33 NMB 363 (2006), the Technical Instructors and Senior Technical Instructors at SWA share a work-related community of interest with the Mechanics and Related Employees based on teaching courses to Mechanics and Related Employees at headquarters and at other SWA airport locations, possessing an FAA Airframe

& Powerplant Mechanic Certificate (A&P license), working directly with Mechanics and Related Employees by providing guidance with training on repairs associated with new aircraft, and possessing five to eight years of experience in the commercial aviation industry, including five years of hands-on commercial aircraft maintenance experience.

### SWA

The Carrier contends that the Technical Instructors and Senior Technical Instructors do not share a work-related community of interest with the Mechanics and Related Employees craft or class, and requests that the Board dismiss AMFA's application. SWA argues that the Instructors at issue here are not functionally integrated with Mechanics; have different job duties than Mechanics and cannot perform any actual maintenance work; have different terms and conditions of employment; have little contact with mechanics; are responsible for testing and evaluating mechanics; have disciplinary responsibilities over mechanics in the classroom setting; and establish company policy that the mechanics must follow. Additionally, SWA notes that the Board has recognized technical or maintenance instructors as a separate 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.

SWA is a common carrier by air as defined in 45 U.S.C. § 181.

#### II.

AMFA 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 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 employees in the event an election is required.

### STATEMENT OF FACTS

#### I. Technical Instructor and Senior Technical Instructor Job Descriptions

The Carrier provided job descriptions for the Technical Instructor and Senior Technical Instructor positions. Both job descriptions state that the Instructors will “[d]evelop and implement training for . . . Maintenance Employees, On-Call Maintenance Providers and Airframe Substantial Maintenance Providers/Designees . . . .” and “[r]emain current on latest technology, equipment, and training procedures as they apply to fleet airplanes.”

The Instructors’ position descriptions list the following duties: provide training to SWA Employees, On-Call Maintenance Providers and Airframe Substantial Maintenance Providers/Designees in accordance with the Maintenance Procedures Manual (MPM); design, develop, implement and revise training curriculums emphasizing system operation and troubleshooting procedures to reduce non-confirmed component failures; design, develop, and implement special training curriculums to provide authorization of AMTs for critical aircraft maintenance functions; develop and operate computer-based training courses; provide training required by governmental regulations (i.e., FAA, OSHA, EPA); provide assistance with aircraft troubleshooting/act as a technical liaison to internal departments or governmental agencies; and provide needs assessment and analysis to provide training solutions to operational problems.

The Technical Instructor position requires an A&P license and a minimum of five years in the commercial aviation industry, with five years of hands-on commercial aircraft maintenance. A college degree and instructional design/courseware development and technical instruction experience is preferred. The Senior Technical Instructor position requires an A&P license and a minimum of eight years in the commercial aviation industry, with five

years of hands-on commercial aircraft maintenance or five years of Boeing 737 instructional design/courseware development and technical instruction experience. A college degree is preferred.

In its response to the Carrier's initial position statement, AMFA contends, inter alia, that employee Danny Lenz, Senior Technical Instructor-Team Lead, should be included in the group being sought for accretion. The Carrier responded with an assertion that Lenz is not properly included in the Technical Instructor group because he is a supervisor over the Technical Instructors.

## II. Duties and Responsibilities of Instructors

David Fischer, Senior Director of Maintenance and Engineering Support for SWA, provided a declaration in this matter. Fischer states that the Mechanics and the Technical Instructors are part of SWA's Maintenance and Engineering Department. The Mechanics, however, work on the operational side of the department managed by Jim Sokol, Vice president of Maintenance Operations, and the Instructors work on the support side of the department managed by Fischer. According to Fischer, Instructors' main duty is to provide specific and specialized training in accordance with the Maintenance Procedures Manual (MPM). Instructors also design, develop, and implement training curriculums and computer-based training courseware.

Fischer states that Instructors train Mechanics in a classroom setting and then test them on the material taught. Instructors verbally test and evaluate Mechanics' answers; and there is a subjective element to some of the tests given to Mechanics. Instructors are responsible for disciplining Mechanics for inappropriate behavior in the classroom and must contact the Mechanics' managers regarding any further discipline that might issue as a result of wrongdoing in the classroom. According to declarations submitted by Floyd Looney, Assistant National Director of AMFA, and by Mark Sheaffer, a SWA Senior Technical Instructor, accretion will not affect the objectivity of Instructors in testing of Mechanics in training because the grading consists of 0% for verbal performance, 70 percent for written performance, and 30 percent for practical performance. Moreover, the MPM section on Training Attendance and Conduct indicates that in-class "[d]isruptions are addressed by the Instructor and/or appropriate discipline Manager Maintenance Training." Further, the MPM provides that when a trainee is dismissed from class, the Training Manager notifies the trainee's Manager with details of the occurrence leading to dismissal from class.

Fischer notes that, although Instructors hold A&P licenses, they do not perform maintenance work, assist Mechanics with maintenance work, or complete any required maintenance documentation. Although Mechanics can request changes to the MPM or the Southwest Maintenance Forms (SA-M), Instructors are responsible for such changes and Instructors are listed as the authors of these changes. According to Fischer, this is an example of Instructors making company policy that Mechanics must follow. According to Sheaffer and Looney, however, employees, contractors, and vendors may propose changes to SWA authored manuals and documents; and the decision regarding changes that are permitted are not made by Instructors.

Fischer also states that Instructors have greater knowledge than Mechanics and are highly specialized on specific items, as opposed to Mechanics' basic training on a broad range of items. Sheaffer and Looney assert, however, that Instructors must be able to instruct on all aircraft systems and aircraft maintenance-related subjects. Fischer alleges that Instructors do not work on the floor with Mechanics, and do not assist Mechanics with troubleshooting or diagnosing maintenance problems. Rather, Instructors work in classrooms at SWA's headquarters in Dallas, traveling occasionally to conduct training at maintenance bases in Phoenix, Houston, and Chicago. The classrooms are separate from where Mechanics actually perform maintenance. Sheaffer and Looney, however, assert that Instructors do routinely receive requests for technical assistance from Mechanics and engage in troubleshooting. In support of their assertion, AMFA provided emails from July, 2011 demonstrating Instructors provided technical assistance for Mechanics with specific problems.

Fischer also states that two Instructors primarily provide training to vendors at airports where there are no maintenance personnel. In addition to interacting with Mechanics, Instructors also interact with other airlines, manufacturers, and government officials. Sheaffer and Looney, however, assert that 97 percent of training performed by Instructors in 2010 was for Mechanics and Engineering employees at SWA. About 3 percent of training was performed by Instructors for 737 familiarization, and training for on-call maintenance providers and heavy maintenance providers.

Instructors work normal business hours Monday through Friday, do not bid for vacation time, and are not subject to mandatory overtime. They also have desks and equipment inside cubicles, and are not required to have their own toolboxes or tools.

By contrast to the Technical Instructors, Fischer states that Mechanics' main duty is to perform maintenance functions on SWA aircraft and to sign off on aircraft maintenance documents. The Mechanics work in hangars at the maintenance bases in Dallas, Houston, Phoenix, and Chicago, as well as various shops and maintenance stations around the country. Rather than imparting knowledge, Mechanics must apply their knowledge to perform maintenance services and solve maintenance problems.

In terms of conditions of employment, Fischer states that Mechanics bid for shifts and vacation time. Shifts may include weekends, holidays, and early morning or evening hours. Mechanics are subject to mandatory overtime, and there must be mechanics on duty and/or available at all times. Fischer additionally notes that Mechanics have no designated offices or workstations; and they must have their own toolboxes and tools.

AMFA alleges that SWA omitted Senior Technical Instructor- Team Lead Danny Lenz from the List. Chris Robbins, Senior Manager of Training for SWA, provided a declaration on this issue. According to Robbins, Lenz's actual job title is Team Leader of Maintenance Training, and he does not work as an Instructor. Robbins states that Lenz does not train Mechanics or design curriculums for that purpose. Rather, the training that Lenz performs is in a coaching or mentoring capacity with the Instructors that he supervises. Additionally, Lenz supervises and manages the Instructors to ensure that they adequately perform their duties. Robbins states that Lenz is a decision maker in the hiring and promotion process for Instructors; and he delivers performance evaluations, as well as issues any necessary discipline, to Instructors. The Carrier provided Lenz's position description, which states that he is responsible for leading, directing, and training the Instructors. The position description also states that Lenz is responsible for Instructors' performance evaluations.

## DISCUSSION

### I. Status as Management Officials

AMFA seeks to accrete Instructors into the Mechanics and Related Employees craft or class. The Carrier asserts that these individuals are management officials, and, therefore, not part of the craft or class.

The Board's Representation Manual (Manual) addresses the ineligibility of management officials. Manual Section 9.211 states:

Management officials are ineligible to vote. Management officials include individuals with:

- (1) the authority to dismiss and/or discipline employees or to effectively recommend the same;
- (2) the authority to supervise;
- (3) the ability to authorize and grant overtime;
- (4) the authority to transfer and/or establish assignments;
- (5) the authority to create carrier policy; and,
- (6) the authority to commit carrier funds.

The Investigator also considers:

- (1) whether the authority exercised is circumscribed by operating and policy manuals;
- (2) the placement of the individual in the organizational hierarchy of the carrier; and,
- (3) any other relevant factors regarding the individual's duties and responsibilities.

When evaluating managerial authority, the Board evaluates the above factors cumulatively. See *USAir*, 24 NMB 38, 40 (1996) citing *Pan American World Airways*, 5 NMB 112, 115 (1973). "In many cases, the Board finds that while there are certain factors indicating some level of authority, when all the the factors are viewed cumulatively the individuals at issue generally are first-line supervisors, not management officials." *USAir*, *above* at 41.

SWA argues that Instructors are management officials because they make company policy by writing changes to the MPM and SA-M forms, which in turn bind the Mechanics. Additionally, SWA asserts that Instructors grade



Mechanics on the classroom training and have the authority to discipline Mechanics based on their behavior in the classroom.

The evidence submitted in this matter does not establish that Instructors are management officials. Although Instructors write the changes to the MPM and SA-M forms, which establishes Carrier policy, the evidence shows that the decision to permit changes is not made by the Instructors. Similarly, although Instructors may play a role in the discipline of Mechanics as a result of inappropriate behavior in the classroom, the evidence demonstrates that this role concerns reporting behavior rather than issuing discipline. It appears that a manager will make the actual decision regarding any possible discipline. Further, while Instructors test Mechanics in training, the grading is largely objective.

The Board has found that SWA Maintenance Controllers who provide guidance for maintenance work, including the ability to remove Mechanics from performing work and recommending discipline, are not management officials. *Southwest Airlines*, 38 NMB 87 (2011). The Instructors at issue in this case have even less managerial authority than the Maintenance Controllers, and the Board finds that they are not management officials.

The Team Leader of Maintenance Training position differs significantly from the Instructor positions. The record evidence demonstrates that the Team Leader plays a significant role in hiring, evaluating, and disciplining Instructors. Based on these responsibilities, it is clear that the Team Leader is a management official, and does not belong in the craft or class.

## II. Work-Related Community of Interest

In determining the appropriate craft or class on a particular carrier, the Board examines a number of factors including functional integration, work classifications, terms and conditions of employment, and work-related community of interest. *United Parcel Service*, 33 NMB 307 (2006); *AirTran Airways, Inc.*, 31 NMB 45 (2003); *United Parcel Serv. Co.*, 30 NMB 84 (2002); *Frontier Airlines, Inc.*, 29 NMB 28 (2001). The factor of work-related community of interest is particularly important. *US Airways, Inc.*, 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, Inc.*, 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, Inc. /Continental Express, Inc.*, 27 NMB 99, 109 (1999).

The Board makes craft or class determinations on a case by case basis, relying upon NMB policy and precedent. *US Airways, Inc.*, 28 NMB 104 (2000); *US Air*, 15 NMB 369 (1988).

The Board has examined the scope of the craft or class of Mechanics and Related Employees in numerous decisions. *AirTran Airways, above; United Parcel Serv. Co., above; US Airways, Inc., above; United Parcel Serv. Co.*, 27 NMB 3 (1999). “The related employees . . . while of different skill levels from the mechanics, nonetheless are closely related to them in that they are engaged in a common function – the maintenance function . . . .” *Eastern Air Lines, Inc.*, 4 NMB 54, 63 (1965). This “functional” connection between mechanic classifications and those employees who perform related maintenance operation has historically formed the basis for their identity as a single craft or class. *Id.*; see also *Federal Express Corp.*, 20 NMB 360 (1993).

The Board includes employees other than mechanics in the Mechanics and Related Employees craft or class. The Board’s inclusion of “related” employees is based on the regular direct contact with the Mechanics and a strong tie to the maintenance function. *Southwest Airlines*, 38 NMB 87, 102 (2011).

The Carrier argues that accretion is not appropriate in this case because the Instructors work in different locations from the Mechanics. However, as the Board has stated, “[w]ork location is not a determinant of craft or class.” *Aloha Islandair, Inc.*, 21 NMB 314, 317 (1994).

Further, the Board included Maintenance Instructors in the Mechanics and Related Employees craft or class in a case very similar to this matter. *Spirit Airlines, Inc.*, 33 NMB 363 (2006). In that case, the Board stated:

Spirit's Maintenance Instructors: teach courses to Mechanics and Related Employees at Spirit's headquarters and at other Spirit airport locations; possess A&P licenses; work directly with Mechanics and Related Employees on the floor by providing guidance with training on repairs associated with new aircraft; and, possess a minimum of five years experience with FAR 121 heavy jet transport maintenance. While the Board has recognized

Maintenance Instructors as a separate craft or class on some carriers, it has also included small groups of maintenance instructors in the Mechanics and Related Employees craft or class.

Id. at 373.

The Instructors in this case have the same basic qualifications and duties as the instructors in *Spirit Airlines, above*. Further, the facts of this case are also similar to those in *Federal Express Corp.*, 20 NMB 360 (1993), and *Frontier Airlines, Inc.*, 7 NMB 84 (1979), where the Board included Instructors in the Mechanics and Related Employees craft or class.

Additionally, the record in this case establishes that there are over 1,600 Mechanics at SWA and only 10 Instructors. Where this small group of employees works directly with the Mechanics and has a strong connection to the maintenance function, the small size of the Instructor group favors a finding of accretion.

Based upon the evidence presented, Instructors perform maintenance-related work in direct contact with SWA Mechanics. Accordingly, the Board finds that these positions share a work-related community of interest with the Mechanics and Related Employees craft or class.

## II. 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). The Court held that in determining the choice of employee representative, the RLA "leaves the details to the broad discretion of the Board with only the caveat that it 'insure' freedom from carrier interference." *Id.* at 668-69.

In *Ross Aviation, Inc., above*, the Board dismissed the Organization's application stating that an election was unnecessary because the employees at issue were already covered by Board certification. Since then, the Board has consistently followed this policy when it finds that particular job functions are traditionally performed by members of a certified craft or class. *Southwest Airlines*, 38 NMB 87 (2011); *United Air Lines, Inc.*, 32 NMB 75 (2004); *AirTran Airways, Inc.*, 31 NMB 45 (2003); *Frontier Airlines, Inc.*, 29 NMB 28 (2001).

The Board bases its accretion determinations upon work-related community of interest. However, the Board requires all applications in representation matters to be supported by an adequate showing of interest. In this case, the requisite showing of interest was provided with AMFA's application and therefore, accretion is appropriate.

CONCLUSION

The Board finds that SWA's Technical Instructors and Senior Technical Instructors are covered by the certification in NMB Case No. R-6919. As there is no basis for further investigation, NMB File No. CR-7016 is converted to NMB Case No. R-7314 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.



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Board Member Dougherty, concurring.

I concur with the outcome of the Board's decision. However, I write separately because I believe that the Board should examine its accretion policy, particularly in light of the recent change to the Board's voting rules.