



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the Application of the  TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO  alleging representation disputes pursuant to Section 2, Ninth, of the Railway Labor Act, as amended involving employees of  SOUTHWEST AIRLINES	42 NMB No. 21  CASE NO. R-7432  (FILE NO. CR-7135)  FINDINGS UPON INVESTIGATION- DISMISSAL  June 2, 2015
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FINDINGS UPON INVESTIGATION

This determination addresses the application of the Transport Workers Union of America, AFL-CIO (TWU or Organization) alleging a representation dispute pursuant to the Railway Labor Act<sup>1</sup> (RLA or Act), 45 U.S.C. § 152, Ninth (Section 2, Ninth) among Flight Followers at Southwest Airlines (Southwest or Carrier). The TWU asserts that the Flight Followers are part of the craft or class of Flight Dispatchers at Southwest.

For the reasons below, the National Mediation Board (NMB or Board) finds that the Flight Followers at Southwest are not part of the Flight Dispatchers craft or class. Accordingly, the Board dismisses the application.

PROCEDURAL BACKGROUND

On March 20, 2015, the TWU filed an application alleging a representation dispute among the Flight Followers at Southwest. The TWU asks the Board to accrete the employees in the Flight Followers position to the Flight Dispatchers craft or class at Southwest. The TWU supports its request

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

with authorization cards. The application was given NMB File No. CR-7135 and Andres Yoder was assigned as the Investigator. The Board asked Southwest to provide it with the List of Potential Eligible Voters (List) and signature samples for the Flight Followers. On April 28, 2015, Southwest submitted the List and signature samples, along with an initial position statement.

### ISSUE

Are Southwest's Flight Followers appropriately part of the Flight Dispatchers craft or class?

### CONTENTIONS

The TWU contends the Flight Followers are appropriately part of the Flight Dispatchers craft or class because the Flight Followers assist the Flight Dispatchers; and because Flight Followers and Flight Dispatchers collaborate to perform certain tasks, are similarly situated in Southwest's organizational structure, work in the same location, and have similar work conditions.

Southwest argues that Flight Followers are not appropriately part of the Flight Dispatchers craft or class because Flight Followers are not required to have a certification that Flight Dispatchers must hold, and because Flight Followers have different duties and responsibilities.

### 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.

The TWU is a labor organization and/or representative as defined in 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 to designate who may participate as eligible voters in the event an election is required.

STATEMENT OF FACTS

The Position Description for the Flight Followers job<sup>2</sup> describes the position’s general purpose as follows:

Provide legendary Customer Service by obtaining and updating current flight status information to Ground Operations, Customer Support & Services ..., and the Dispatch office. Ensure that all flight information including charters, ferries, and any type of irregular operation is stated clearly in [Southwest’s reservations system] via [current] computer systems and/or emergent technology.

The Flight Followers Position Description also lists the following duties: (1) Notify the Superintendent of Dispatch, the Flight Dispatcher, Customer Service Coordinator, and/or Crew Scheduling of maintenance delays, operational problems, Air Traffic Control (ATC) “flow control/ATC holds in/out of stations” that may take place within the Southwest system; (2) investigate issues and inform Flight Dispatchers, Superintendents of Dispatch, and/or Customer Service Coordinators to alleviate potential operational problems; and (3) provide information with regard to irregular flight operations, cancellations, and/or proposed ATC delays.

Further, the Flight Followers Position Description indicates the job does not require any licenses or certifications. Rather, it requires a high school

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<sup>2</sup> Southwest’s Position Description refers to the job as *Flight Information Agent*. However, the TWU submitted a document indicating that Southwest currently calls the position *Flight Followers* in informal settings.

diploma or the equivalent, and college coursework or a college degree is preferred. Additionally, there are no experience requirements for the job, but Southwest prefers two years of experience with its reservations system or with Customer Service, Customer Support and Services, or Ground Operations.

In her declaration, Karen Matsler – Southwest’s Senior Manager of the Network Operation Control Department – stated that Flight Followers “essentially serve as internal data entry clerks[.]” They are responsible for maintaining updated status information in Southwest’s computer systems; providing notifications on delays, cancellations, or other problems; updating and auditing flight times; and substantiating Southwest’s statistical information. In addition, Matsler made assertions about what is not required of Flight Followers. Flight Followers “do not have any operational control and authority over initiating, conducting, or terminating flights. [Flight Followers] ... do not provide for the coordination of flight movements, cancellations, diversions, equipment routing, and crew assignments.” Flight Followers “are not required to possess or obtain a dispatch certificate issued from the [Federal Aviation Administration (FAA)] or National Transportation Safety Board[.]” And once Flight Followers are hired, they are “not required to obtain any additional classroom or certification training.” They only receive two weeks of on-the-job training with an experienced Flight Follower.

The Position Description for the Flight Dispatchers job describes the general purpose of the position as follows: “Provides operational control and exercises joint responsibility with the Pilot in Command ... by coordinating, releasing, and maintaining flight watch on all [Southwest]-operated aircraft.” The Position Description also states that the job requires a dispatcher license called an “FAA Aircraft Dispatcher Certificate,” and requires a high school diploma or the equivalent. College coursework or a college degree is preferred. Finally, Flight Dispatchers must have at least five years “airline or related experience inside [Southwest] or equivalent[.]” and experience with a “121 carrier under the Code of Federal Regulations” is preferred.

The June 15, 2012 “Agreement between Southwest Airlines Co. and the Dispatchers in the service of Southwest Airlines Co. as represented by Transport Workers Union of America Local 550” (CBA) defines the Flight Dispatcher position. According to the CBA, a Flight Dispatcher is an employee who holds a currently effective Aircraft Dispatcher Certificate of Competency issued by the FAA. Additionally, a Flight Dispatcher is “regularly assigned to be in charge of, and while on duty directly responsible for the conduct of flight operations and the dispatch, clearance, and movement of all [Southwest] aircraft over the routes under his supervision.”

Matsler stated in her declaration that Flight Dispatchers are responsible for “the operational control and authority over initiating, conducting or terminating flights.” She also asserted that all Flight Dispatchers are required to have dispatcher licenses.

In his declaration, Gene Kim – Southwest’s Director of Flight Dispatch of the Network Operation Control Department – describes the Flight Dispatchers as “provid[ing] for coordination of flight movements, cancellations, diversions, equipment routing, and crew assignments.” Further, according to Kim, “Only the Captain or the [Flight] Dispatcher can decide that a flight cannot be operated safely,” and “no person may start a flight unless a [Flight Dispatcher] releases that flight.” Other duties of the job include:

[m]onitoring the progress of each flight; [p]roviding the Captain all available current reports or information on airport conditions and irregularities of navigation facilities that may affect the safety of a flight; [providing] the Captain any additional available information of meteorological conditions including adverse weather phenomena; ... [and canceling] or re-[dispatching] a flight if, in his opinion [or that] of the Captain, the flight cannot operate or continue to operate safely as planned or released.

Kim also asserted that Southwest’s Flight Dispatchers must maintain dispatcher licenses, and that the “requirements to gain a Dispatcher license include age, character, aeronautical knowledge, experience, and skill.” Moreover, Kim stated that “all Dispatchers must take an approved aircraft dispatcher certification course and have a minimum of 200 hours of instruction.”

An organizational chart shows both Flight Followers and Flight Dispatchers are part of Southwest’s Operations Coordination Center (OCC). Although they have different mid-level supervisors, both Flight Followers and Flight Dispatchers are ultimately responsible to Matt Hafner, Vice President of OCC. In addition, a workplace map shows Flight Followers and Flight Dispatchers share a job location.

## DISCUSSION

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 (2015); *Louisville & Indiana R.R.*, 41 NMB 21 (2014). The factor of work-related community of interest is particularly important. *Endeavor Air, Inc.*, 41 NMB 281 (2014); *US Airways, Inc.*, 31 NMB 324 (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. *United Parcel Service Co.*, 33 NMB 307 (2006); *American Airlines, Inc.*, 10 NMB 26 (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).

In this case, Flight Followers’ and Flight Dispatchers’ job functions overlap in that Flight Followers provide information to Flight Dispatchers. However, while the Flight Followers’ primary task is to obtain and update flight status information in Southwest’s computer systems, the Flight Dispatchers possess FAA certificates and are responsible for operational control and authority over initiating, conducting, and terminating flights.

The Board has long recognized that Flight Dispatchers are a separate craft or class based on licensing regulations. For example, in *United Airlines*, 3 NMB 35, 37 (1957) the Board noted that “[Flight] Dispatchers are generally recognized as at least a semi-professional class or craft and one required ... to hold currently effective dispatcher certificates. Their qualifications, requirements, necessary knowledge, aeronautical skill and experience, maximum hours of duty, and provisions for relief from duty are prescribed [by law].” The Board reiterated that in *Trans World Airlines, Inc.*, 7 NMB 465, 473 (1980) when it stated, “[Flight Dispatchers] must obtain Federal licenses, and this fact in itself compels the conclusion that dispatchers are a discrete craft or class by themselves.” Finally, in *America West Airlines*, 22 NMB 260, 263-64 (1995), the Board found no basis for excluding unlicensed Assistant Dispatchers from the craft or class of Dispatchers and Assistant Dispatchers because they were hired “with the intent that they will apprentice as Assistant Dispatchers, obtain a dispatcher license and become Dispatchers.”

In this case, the Flight Followers do not have dispatcher licenses and are not required to obtain them. As a result, the Flight Followers do not share a

work-related community of interest with Flight Dispatchers, and are not properly included in the Flight Dispatchers craft or class.

Accordingly, based on the relevant factors and the evidence in this case, Southwest's Flight Followers are not part of the craft or class of Flight Dispatchers.<sup>3</sup>

CONCLUSION

The Board finds that Southwest's Flight Followers do not share a work-related community of interest with Flight Dispatchers, and as a result they are not part of the craft or class of Flight Dispatchers. The TWU's application is converted to NMB Case R-7432 and is hereby dismissed.

By direction of the NATIONAL MEDIATION BOARD.



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<sup>3</sup> In 1983, the Board certified the Southwest Airlines Employees Association as the representative of Southwest's Flight Dispatchers craft or class. *See Southwest Airlines Co.*, 10 NMB 133 (1983). The Board has a longstanding policy of not accreting positions in the absence of a certification. *See, e.g., Union Pacific R.R.*, 9 NMB 424, 430 (1982). In view of its determination that Flight Followers are not properly part of the craft or class of Flight Dispatchers, the Board finds it unnecessary to pass on whether the TWU is the certified representative.