

management of “the 19 principal air carriers of the United States.”<sup>117</sup> In the decision arising out of those first hearings, the NMB reached two significant conclusions. First, due to the absence of contrary airline industry precedent, the NMB adopted the railroad industry distinction between “operating employees”—those who worked aboard the carrier’s equipment to transport the carrier’s passengers and cargo—and “nonoperating employees”—everyone else.<sup>118</sup> This distinction established the basic framework for subsequent craft or class determinations in the airline industry. Second, the NMB established a nonoperating craft or class of mechanics and related employees to encompass all employees responsible for the maintenance of equipment, including aircraft mechanics, radio mechanics, ground service personnel, plant maintenance personnel, and fleet service personnel.<sup>119</sup>

In 1947, the Board followed the 1945 developments with a second round of industrywide hearings leading to a decision (known as the R-1706 determination) that the traditional railroad grouping of clerical, office, fleet, passenger, and stores was an appropriate craft or class in the airline industry—thus treating airline fleet and passenger service employees as analogous to “station employees.”<sup>120</sup> The resulting R-1706 craft or class was extremely diverse, including nearly all airline classifications except operating employees (e.g., pilots and flight attendants) and mechanics and related employees.

In the early 1950s, as the airline industry rapidly expanded, the number of employees in the R-1706 craft or class on the major carriers substantially increased, and some employees included in that craft or class began to seek designation of separate crafts or classes for their respective subgroups. In 1956, after another round of public hearings on this subject, the NMB concluded that it should recognize stock clerks and store employees of two airlines as a distinct craft or class on each of those carriers.<sup>121</sup>

During the 1960s and 1970s, the NMB continued to carve new crafts or classes out of the R-1706 craft or class. Thus, in 1966, the NMB, while emphasizing that this determination would not necessarily apply to other cases, recognized a separate craft or class on one airline consisting solely of fleet and passenger service employees.<sup>122</sup> In 1977, the NMB recognized a separate craft or class of passenger service employees at another carrier.<sup>123</sup> In 1978, the NMB determined that the office clerical employees and the passenger service employees of still another airline should be treated as two separate crafts or classes independent of the traditional R-1706 grouping,<sup>124</sup> although the Board reached a different conclusion in other cases.<sup>125</sup> Finally, the NMB held in 1980 that fleet service employees and passenger service employees would presumptively constitute two separate crafts or classes independent of the traditional R-1706 grouping.<sup>126</sup> Still, the Board has occasionally certified a craft or class of fleet and passenger service employees at smaller airlines where neither party has objected.<sup>127</sup>

By 1982, when the NMB rescinded a certification of an R-1706 craft or class issued in 1952 because “growth by the Carrier brings into serious question the appropriateness of the original craft or class determination,”<sup>128</sup> the R-1706 grouping had been replaced on several carriers by separate craft or class groupings for the job classifications originally included in the integrated office, clerical, stock, storehouse, fleet and passenger service craft or class. Since then, the NMB has rejected most new applications of the R-1706 grouping, even in cases where planned cross-training and cross-utilization of employees has suggested the possibility of a broader grouping.<sup>129</sup>

#### 4.II.E.2. Current Crafts Or Classes In The Airline Industry

The NMB currently recognizes the following principal crafts or classes in the airline industry:

- **Flight Deck Crew Members.** The NMB long ago recognized pilots and copilots as a single craft or class.<sup>130</sup> The craft or class of flight deck crew members now includes pilots, copilots, and, in most cases where this job function still exists, flight engineers.<sup>131</sup>
- **Flight Engineers.** On certain carriers, flight engineers who are not required to maintain a pilot’s license are a separate craft or class. Flight engineers’ primary responsibility is to provide inflight monitoring of several of the mechanical systems of an aircraft.<sup>132</sup>

- **Flight Attendants.** The Board has long held that cabin crew members (formerly flight stewardesses, stewards, and pursers) are in the same craft or class.<sup>133</sup> Today, this grouping is described as the flight attendant craft or class.<sup>134</sup>
- **Mechanics and Related Employees.** In the leading case recognizing a craft or class of mechanics and related employees, *United Airlines*,<sup>135</sup> the NMB outlined three principal categories of employees within this grouping:
  - mechanics who perform maintenance work on aircraft, engine, or accessory equipment;
  - ground service personnel who perform work generally described as follows: washing and cleaning airplane, engine and accessory parts in overhaul shops, fueling of aircraft and ground equipment, cleaning and maintaining the interior and exterior of aircraft, servicing and control of cabin service equipment, air conditioning of aircraft; and
  - plant maintenance personnel.<sup>136</sup>

While acknowledging that the “related employees” in this definition—e.g., aircraft cleaners, fuelers, custodians, and the like—are “of different skill levels from the mechanics,” the Board found in *United Airlines* that these employees should be placed in the same craft or class as mechanics “in that they are engaged in a common function—the maintenance function.”<sup>137</sup>

In several cases during the early 1990s, unions filed representation applications requesting the NMB to exclude from the mechanics and related craft or class certain non-FAA-licensed groupings, such as cabin servicemen, fuelers, cleaners, utility employees, and janitors, and to reclassify these occupations as fleet service employees.<sup>138</sup> The NMB rejected these requests, holding that it would follow its “firmly settled and repeatedly reaffirmed craft or class determination” absent “substantive and compelling evidence” of a change in circumstances.<sup>139</sup>

Following the 1977 *United Airlines* decision, the Board has identified on a case-by-case basis a number of specific job functions that, although not mentioned in that decision, are nonetheless included within the mechanics and related employees craft or class because the employees performed maintenance-related functions.<sup>140</sup> These include planners,<sup>141</sup> technical specialists,<sup>142</sup> maintenance controllers,<sup>143</sup> maintenance operations control supervisors,<sup>144</sup> maintenance planning analysts,<sup>145</sup> maintenance data controllers,<sup>146</sup> quality assurance consultants,<sup>147</sup> maintenance training instructors,<sup>148</sup> and technical writers.<sup>149</sup>

- **Fleet Service Employees.** The NMB issued a standard definition of the craft or class of fleet service employees following 1972 industry hearings,<sup>150</sup> defining this craft or class to include employees who “preponderantly perform” the duties of loading and unloading aircraft or baggage, express, freight, mail, company material, buffet and food supplies; delivering baggage and freight to and from baggage and freight areas; sorting baggage and freight; operating ramp equipment and motorized ground equipment; completing paperwork directly associated with the movement of baggage, freight, buffet and food supplies; performing other duties generally considered as ramp duties such as interior cabin cleaning, cleaning ramp and ramp equipment, reporting repairs needed on ramp equipment, and other miscellaneous ramp duties; and, at smaller stations, sometimes refueling, spotting, blocking, and waving off aircraft, standing fire guard, maintaining the ramp area and equipment (including preventive maintenance but not repairs), and refueling aircraft and/or motorized ground equipment.<sup>151</sup> Since that decision, the Board has maintained this classification without substantial change.<sup>152</sup>

- **Passenger Service Employees.** These employees perform a variety of services including processing of passenger reservations through telephone reservation systems, serving passengers at ticket counters and gates, and transporting passengers to and from gates.<sup>153</sup>

Historically, the passenger service craft or class included customer service agents,<sup>154</sup> gate and tickets agents,<sup>155</sup> reservations agents,<sup>156</sup> city ticket office personnel,<sup>157</sup> skycaps,<sup>158</sup> traffic representatives,<sup>159</sup> and supervisors performing these functions as “subordinate officials.”<sup>160</sup> In a series of more recent decisions, the NMB has included within the passenger service craft or class other employees who deal with customers regarding the airline’s frequent flier program,<sup>161</sup> employees who assist in rerouting customers following flight disruptions,<sup>162</sup> and employees who assist on-line customers and other customer service employees in reservations and resolving errors with electronic ticketing even though they have little direct customer contact.<sup>163</sup> The Board has stated that the essence of the passenger service function is customer contact, and that it will include in the passenger service craft or class any nonoperating employees whose job duties include substantial customer contact.<sup>164</sup>

- **Office Clerical Employees.** In the R-1706 decision,<sup>165</sup> the NMB applied to the airline industry the existing railroad industry craft or class of office, clerical, station, and storehouse employees. In subsequent decisions, however, the NMB placed stores employees,<sup>166</sup> passenger service employees,<sup>167</sup> and fleet service employees<sup>168</sup> in separate crafts or classes, leaving only office clerical employees in the original craft or class. Thus, the craft or class of office clerical employees includes a number of miscellaneous airline employees who do not fall within one of the other established crafts or classes.<sup>169</sup>

Accordingly, the Board has held that the office clerical craft or class includes such diverse positions as secretaries,<sup>170</sup> clerks,<sup>171</sup> computer operators,<sup>172</sup> receptionists,<sup>173</sup> load planning agents,<sup>174</sup> accountants,<sup>175</sup> auditors,<sup>176</sup> financial analysts,<sup>177</sup> chauffeurs,<sup>178</sup> crew schedulers,<sup>179</sup> and drivers.<sup>180</sup> The common element of these employees’ job function, the NMB has stated, is that the employees handle the “internal operations” of the carrier but do not otherwise fall within one of the established crafts or classes.<sup>181</sup>

- **Dispatchers.** Dispatchers are ground employees, certificated by the Federal Aviation Administration (FAA), responsible for authorizing release of aircraft and monitoring their position in flight.<sup>182</sup> Because of the licensing requirements, the NMB long ago held that dispatchers are a separate craft or class,<sup>183</sup> excluding from the craft or class any individuals who were not licensed dispatchers although they performed clerical or other duties in support of the dispatch function.<sup>184</sup> More recently, however, the Board, although retaining the craft or class of dispatchers, has included within the craft or class certain unlicensed employees who perform related functions. For example, the NMB has included within this craft or class unlicensed “assistant dispatchers” because they worked in the same flight control department and performed the same tasks as licensed assistant dispatchers that the NMB had previously included in the dispatchers craft or class.<sup>185</sup> The Board also has included in the same craft or class individuals who are licensed as dispatchers but who perform somewhat different functions, such as “flight following.”<sup>186</sup> The Board, however, has excluded maintenance controllers and field technician supervisors from the craft or class because, although the three employee groups communicated often and used the same documents, the flight dispatcher’s primary task, unlike that of maintenance controllers and field technicians, was the creation of flight plans.<sup>187</sup> The NMB has also excluded customer service coordinators from the flight dispatchers craft or class where the coordinators did not have dispatcher licenses and their primary task was to assist in the routing and accommodations of customers during times of irregular flight operation and cancellations, whereas the flight dispatchers were responsible for control and authority over initiating, conducting and terminating flights.<sup>188</sup> It similarly has excluded crew schedulers who are not required to have FAA dispatcher certificates or to comply with dispatcher federal aviation regulations from the craft or class as they traditionally are part of the Office Clerical craft or class.<sup>189</sup>

- **Instructors.** The NMB’s treatment of employees who perform training functions for an air carrier has changed significantly over time. Thus, although the NMB generally does not recognize that instructors constitute a craft or class distinct from the employees they instruct, it has been increasingly likely to do so with instructors who do not perform line work.<sup>190</sup>

The earliest decisions to recognize instructors as a distinct craft or class concerned employees responsible for some aspect of pilot training, including ground school instructors, flight simulator instructors, flight instructors, and check airmen. Although the NMB originally considered flight instructors—carrier employees who were responsible for training pilots in flight—to be management officials,<sup>191</sup> since 1965 the Board has held that flight instructors are subordinate officials who constitute a distinct craft or class.<sup>192</sup> The Board has also held that pilot ground school instructors, who instruct pilots in a classroom setting, are a separate craft or class,<sup>193</sup> though they may be combined with flight instructors when the two groups share a community of interest.<sup>194</sup> By contrast, the Board has held that check airmen—employees who conduct FAA-mandated proficiency checks on flight deck personnel—should be included in the same craft or class as flight deck crew members rather than in a separate craft or class or in one comprised of instructors.<sup>195</sup>

The NMB has also recognized instructors of other types of employees as a separate craft or class. In two cases, the NMB certified a craft or class of maintenance instructors, but did so without discussing whether this group was properly treated as a separate craft or class.<sup>196</sup> In another case, the NMB certified a separate craft or class of flight attendant instructors,<sup>197</sup> although it had previously held that such employees were part of the flight attendant craft or class so long as they also performed flight attendant duties.<sup>198</sup>

- **Engineering and Related.** The craft or class of engineering and related employees includes employees who are primarily responsible for the design of aircraft components and the procedures to be followed in making modifications and repairs on aircraft.<sup>199</sup> The NMB has also found the craft or class to include draftsmen, technical manual writers, chemists, and analysts.<sup>200</sup>
- **Other Licensed Employees.** The NMB also has placed in separate crafts or classes other groups of employees who are required to have specialized education or to hold special licenses or certificates. Thus, the NMB has determined that meteorologists,<sup>201</sup> link trainer instructors,<sup>202</sup> flight simulator technicians,<sup>203</sup> and nurses<sup>204</sup> each constitute a separate craft or class.

#### 4.II.E.3. Cross-Utilization In The Airline Industry

Where a carrier cross-utilizes employees to perform functions that fall within two or more recognized craft or class lines, the NMB generally declines to recognize a separate craft or class for the cross-utilized employees but includes the employees in the craft or class in which they generally spend a preponderance of their time working.<sup>205</sup> The Board has recognized a separate craft or class for cross-utilized Fleet and Passenger Service employees when there was no clear distinction between those functions for a majority of the employees at issue.<sup>206</sup>

### 4.III. The NMB'S Bars To Processing Of Representation Applications

#### 4.III.A. Introduction To The Board'S Bar Rules

Although the RLA contains no procedural rules for filing an application for representation, the NMB imposes two time bars on processing such an application; a one-year “dismissal bar,” in which the Board declines to accept an application filed within one year of dismissal of a representation application,<sup>207</sup> and a two-year “certification bar,” in which the Board declines to accept an application filed within two years of the certification or decertification of a collective bargaining representative.<sup>208</sup> The purpose of both bars is to provide stability in labor-management relations and to avoid the disruptive effect in the workplace from frequent elections.<sup>209</sup> The dismissal bar avoids the potential of continual representation elections.<sup>210</sup> The certification bar allows a newly certified representative and a carrier two years in which to negotiate an agreement before other potential representatives are permitted to seek to displace the incumbent representative.<sup>211</sup> The Board extended the bar to the decertification context in 2019, suggesting that it allows the employees the chance to experience the effects of their choice on their workplace.<sup>212</sup>