

A summary of the NMB RLA process

National Mediation Board processes under the Railway Labor Act. Upon receiving a notice to the NMB from either party requesting release, the NMB will notify the opposing party of the request. There will be a NMB imposed comment period (usually 10 days or 2 weeks), subject to extension at the discretion of the NMB. The Board deliberates upon receipt of the request and corresponding comments, if any, and then issues a determination. The Board may request a meeting with principles for clarification purposes prior to making their final determination of the disposition of the release request. Additionally, during the deliberation process, the NMB will discuss the release notice with the assigned mediators prior to making any determination on whether the parties are 'unable to reach an amicable agreement'.

The term "impasse" is frequently misused. Under the RLA, parties are required to make every reasonable effort to bargain until an "amicable agreement can be reached." This can go on almost indefinitely and the determinations of the NMB are greatly deferred to by Federal courts. The NMB does not technically declare an "impasse"; it determines when an amicable agreement cannot be reached. Once that is determined, a proffer of binding arbitration is given (which has to be voluntarily accepted by both parties - AA and the TWU). Once binding arbitration is refused, that triggers a 30-day cooling off period.

At anytime a Presidential Emergency Board may be requested by the NMB to investigate and report on the dispute making recommendations that it deems appropriate. The President will appoint the board members of the PEB. Once the PEB is formed, this continues the "status quo" to remain under the amendable agreement. There is a 30 day period to form the PEB and issue their report, although that 30 day period is often extended to finalize the report. Once the PEB issues their report, another 30 day cooling off period begins. Congress may then intervene and implement the recommendations of the PEB, or compel arbitration, or request special panels.

Of course, the parties are free to reach an agreement at any time during this process. At the end of any cooling off period, either party is free to engage in self help, including strikes, imposed agreements, etc. Only during self-help can the company can impose a contract.