

THE _____
TRAIN DISPATCHER

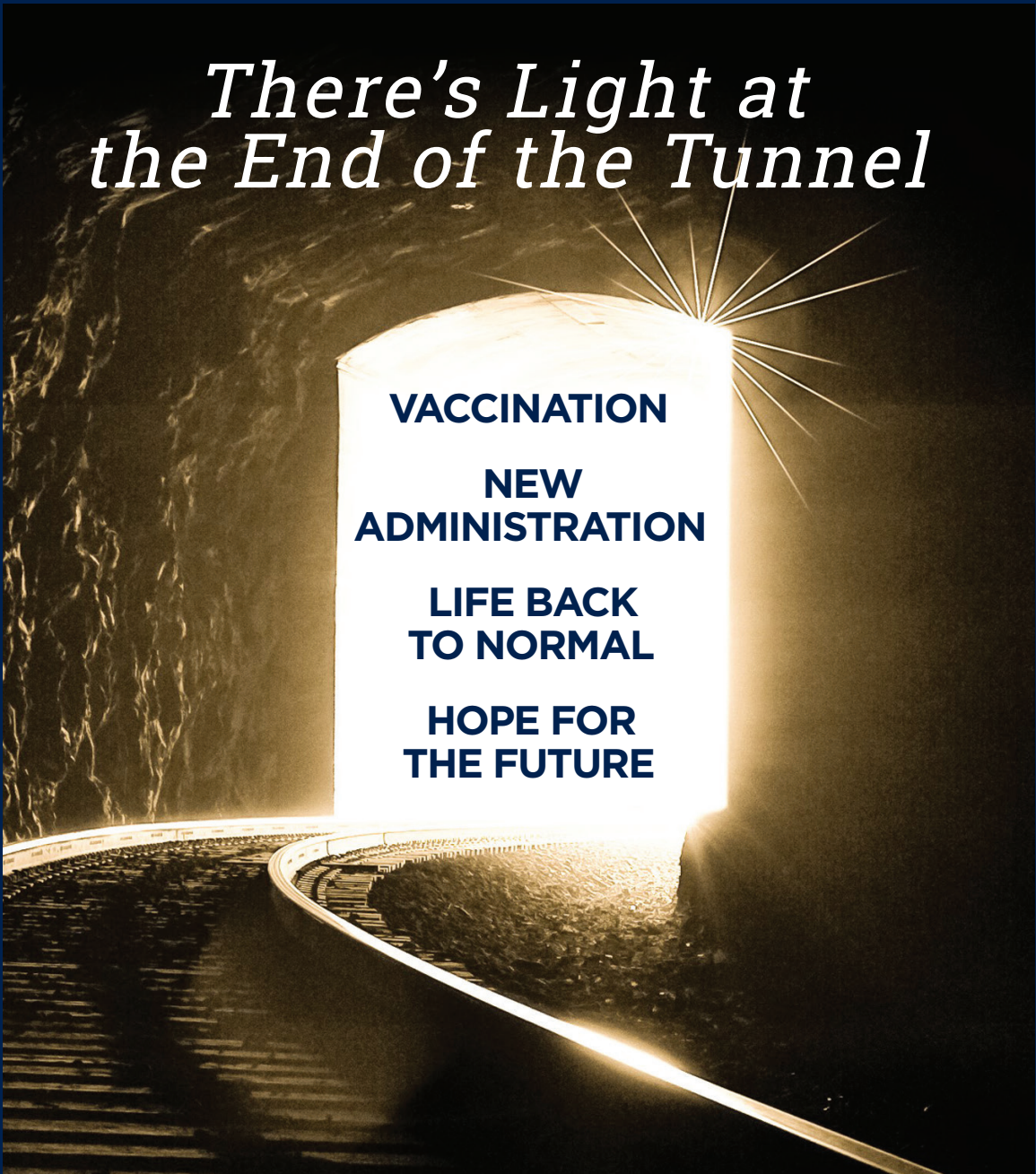
*There's Light at
the End of the Tunnel*

VACCINATION

**NEW
ADMINISTRATION**

**LIFE BACK
TO NORMAL**

**HOPE FOR
THE FUTURE**



Legal Notice – Dues

Article 2, Section 4(b) defines the national dues rate. Effective October 1, 2020, the national dues rate is \$109.50 per month. System dues are determined separately by each system committee as shown below. To determine your monthly obligation, add the system dues amount shown below to the national dues rate.

4b. (1) The monthly National dues of all Active members of this Association, except as otherwise provided in this Section shall be determined annually by multiplying the average truck rail traffic controller (train dispatcher) total daily rate of pay (eight hours straight time pay plus allowances) in effect on July 1 by .295 and rounding up to the next five cents, provided such dues shall not be less than what was in effect on the preceding June 30.

(2) The monthly National dues for active members holding positions rated less than \$300.00 per day shall be determined annually by multiplying the average daily rate of pay (eight hours straight time pay plus allowances) in effect on July 1 for each craft by .295 and rounding up to the next five cents.

System Dues Rates –

Effective October 1, 2020

ALASKA \$20.00	KEOLIS \$15.10	PanAm \$15.10
AMTRAK \$17.85	KIAMICHI \$10.00	PATH \$18.35
BNSF \$20.75	L&I \$9.90	SIRT \$18.65
BRC \$20.15	METRA \$17.35	SOO \$17.90
CONRAIL \$18.25	MRL \$18.25	SUNRAIL \$16.80
CSX – South \$25.00 – East \$19.65	NICTD \$13.90	TRA \$33.40
IHB \$21.15	NJT-P \$17.60	TRI-RAIL \$18.95
KCS \$19.65	NJT-TD \$17.60	WC \$19.45
	NS INT \$19.00	

Death Benefit Beneficiary

The Executive Board adopted the following policy change:

“If you have not designated a Beneficiary at the time of your death for any amount of benefits payable because of your death, the benefit amount will be paid to:

1. your surviving spouse, if any;
2. your surviving children, if there is no surviving spouse; or
3. your estate, if there are no surviving children.

Any payment will discharge our liability for the amount so paid.”

If you would like to establish a beneficiary or modify an existing beneficiary form, go to our website www.atda.org go to member forms and select ATDA Beneficiary Form. Print out the form and once completed, return the form to the Office of the Secretary-Treasurer.

AMERICAN TRAIN DISPATCHERS ASSOCIATION

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atda.org

*Affiliated with the A. F. L./C.I.O
and the Transportation Trades
Department/Rail Division*

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PAUL ARDEN
Director of Research

DAN LANIGAN
Accountant

AMBER DAVIS
Assistant to the President

From the President



We close out 2020 with a heavy heart for all those family members who lost their love ones to the dreadful COVID-19 disease and offer our deepest sympathy and prayers during this difficult time of pain and sorrow. Although the dark days are still with us, we are beginning to see

positive signs with the distribution of vaccines.

Change is on the way for the labor movement as the new administration takes office in Washington DC on January 20, 2021. President-elect Biden has a proven record in the senate for protecting the rights of union workers and we look forward to working with him in the next four years. Amtrak needs to be adequately funded to efficiently run its passenger service. The Railroad Retirement Board must receive the necessary resources to service our retirees along with our sick, disabled and furloughed members. Key government positions need to be filled at the FRA, DOL, NMB and NLRB. For our train dispatchers, certification will again be a major issue as technology increases and work responsibilities change. Other important issues in the rail industry must be addressed, including accountability metrics for Precision Scheduled Railroad (PSR), two-person crew preservation, hours of service requirements and cross-border protection to ensure our work remains on American soil. Legislation and regulatory action must be worker friendly where unions are free to organize without interference and employees can work in a safe environment without retribution. An infrastructure bill needs to be passed to replace our crumbling bridges, tunnels and roadways. We intend to push our agenda to the forefront with vigor and determination. It's our time!

In Arbitration, the ATDA has had several favorable decisions. Kansas City Southern Railroad, using the pandemic as an excuse to abolish our Guaranteed Assigned Train Dispatcher positions and advertise part-time, non-guaranteed train dispatchers to replace the GATDs, resulted in the parties going to expedited arbitration. Arbitrator Lynette Ross ruled in the Organization's favor that the agreement did not allow the Carrier to supplant the GATD positions with part-time, non-guaranteed train dispatchers. The GATD positions have been reestablished. Also, we received two favorable awards from renowned Arbitrator David Twomey. Vice President and Labor

Member Rory Broyles argued these cases. The first was a Scope Case where NS transferred our work to the yardmaster that has historically been performed by train dispatchers, as defined in the collective bargaining agreement. The Neutral found this work is reserved to train dispatchers and must be returned to our craft. On a precedent setting vacation dispute, Arbitrator Twomey ruled the parties who negotiated the agreement knew how to distinguish between "compensated dispatcher service" from "other service" and the National Vacation Agreement did not exclude the claimant's compensated service as a trainee for the calculation of qualifying time for vacation.

In October 2019, the ATDA Executive Board promoted Paul Arden to Director of Research. Paul has been an invaluable asset to the Organization and his hard work, perseverance, and dedication has been stellar. In addition to his arbitration duties, Paul assists the President in special projects and provides support to all our officers. Please review the article on Paul in this newsletter.

Sadly, we had to say goodbye to members and former officers of the ATDA family. (See obituary page) I personally knew all the deceased members. Brother John Campbell served as BRC General Chairman for many years and was always eager to assist us in organizing drives. Brother Bianco retired from the Pittsburgh office in 1997. He was a shining example of how to live your life by helping others. Dave's railroad career spanned over 42 years.

As information, you will find a page devoted to explaining the rights of union members as published by the Department of Labor. Also, the important numbers for the National Health & Welfare plan can be found on the back page of this newsletter.

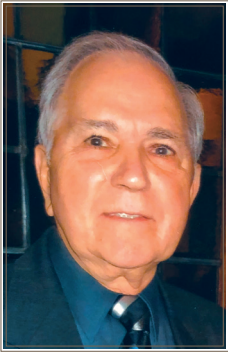
In closing, I know that many of our members and their families have suffered and sacrificed through this COVID-19 crisis. We honor your service as courageous front-line transportation workers who have professionally performed your duties day in and day in a safe and efficient manner. Wishing everyone a safe and healthy Holiday Season and New Year.

A handwritten signature in blue ink that reads "Leo McCann". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Leo McCann
President

American Train Dispatchers Association

Joseph Bianco



David Bianco, 84, passed away suddenly Wednesday morning at St. Elizabeth Youngstown Health Center. He was born Nov. 11, 1935 in Harvey, West Virginia, a son of the late Joseph Luis and Elsie M. (Muncy) Bianco. Dave was a chief train dispatcher for Conrail for 42 1/2 years, retiring in

1997. He was a dedicated and active member of Old North Church and volunteered his time in their food ministry and the library. Dave enjoyed RV adventures and traveled across the US. He also had a great interest in genealogy and stayed in close contact with all his family.

John P. Campbell Sr.

It is always difficult saying goodbye to someone we love and cherish. Brother John P. Campbell Sr. of Monee, Illinois passed away at the age of 62, on October 19, 2020. John started his career on the BRC on October 2, 1976. He was a leverman until October 1979. On October 9, 1979, he became a train dispatcher and served as BRC General Chairman for several terms. He was proud of his ATDA membership and worked on many organizing drives to unionize train dispatchers who were unrepresented.

Randall Robertson



Randall Keith Robertson passed away on October 5, 2020. Randy was born August 29, 1956 in Hugo, Oklahoma, the son of William "Leo" Robertson and Shelba Jean (Mcfadden) Robertson. Randy

married Gwen Gipson on October 8, 1998 in Paris Texas. He was preceded in death by his parents, his sister, Nichola Jo (Robertson)

lives and granddaughter Rose Allen. Randy was the current Choctaw County District #2 Commissioner, a position he had held since 2007. Randy worked as a dispatcher for Kiamichi Railroad for many years. He also served as the Choctaw County Tag Agent and worked as a fireman and EMT for the county. Randy enjoyed the outdoors and spent his time, fishing, hunting and camping. He loved a good joke and enjoyed playing tricks on people. Randy will be missed by all who knew and loved him.

Paul Syverson

Philip Syverson, a resident of Wrentham, MA, passed away peacefully on September 6 at the age of 79. He was the beloved brother of Cheryl Cochran and her husband Edward of E Sandwich, MA, Jean Wennerstrom and her husband Bruce of Laconia, NH, Gini Baker and her husband Brad of Libertyville IL, Donald Syverson and his wife Dana of Wrentham, MA, and Roger Syverson and his wife Diana of Franklin, MA. He was the uncle of nine nieces and nephews and great-uncle to fourteen great-nieces and great-nephews. Phil was born on January 2, 1941 in Boston, MA. He attended Norwood Elementary Schools and graduated from Boston Trade School with a specialty in printing. He was a printer for a number of years but then connected his love of trains to a career in railroading. He started working for the New Haven Railroad in 1965 as a dispatcher in control towers from Readville, MA to Mechanicsville, NY. He moved to Wrentham when he retired in 1991. After retirement from the railroad, Phil earned a degree in accounting, specializing in tax preparation which he practiced in the area. He was active at the Evangelical Baptist Church in Norfolk, MA for many years. During his later years, Phil drove a school van for YCN for eight years and was well-loved by the children and their families. Phil enjoyed meeting with work friends for coffee at McDonald's. In the past few months, he hosted a weekly gathering of friends outside on the porch of his house—socially distanced, but still a congenial time of coffee and conversation.

Special Board of Adjustment No. 1190 ATDA v. KCSR

ATDA Defeats Kansas City Southern in Major Arbitration Case

In May 2020, KCSR abolished all guaranteed assigned train dispatcher positions (GATDs), except one in Kansas City, KS and one in Spring, TX. In turn, the carrier took the unprecedented action of advertising part time train dispatcher positions to replace the full time GATD positions. In the strongest of terms, the ATDA advised the carrier that these "ghost" positions must be immediately abolished and the full time GATD positions restored. The carrier refused and after several meetings and discussions the issue remained unsettled. Finally, without relinquishing our position that the carrier's actions constituted a major dispute, the ATDA agreed to expedited, party pay arbitration. On September 29, 2020, the parties argued this case in front of Arbitrator Lynette Ross. The Arbitrator issued her decision on October 22, 2020, finding in favor of the ATDA. In her ruling she stated, "(h)owever, based on the totality of the facts and evidence presented, which, again, the Board has duly considered during our careful study of the record, we find that KCSR's June 1 abolishment of the five Kansas City GATD positions (7 through 11), reducing the Kansas City GATD Extra Board to one dispatcher and its simultaneous advertising for five ETDs at Kansas City violated Article VI, in which the GATD dispatcher alone is referenced throughout each Section A through J. While the Carrier may certainly keep lists of ETDs qualified or approved for filling vacancies or performing extra work pursuant Article VII. (Filling Positions), Sections A, B, C, the Agreement, per se, provides no mechanism for creating train dispatcher extra boards for the purpose of allowing the Carrier to supplant GATDs to reduce personnel costs or gain other savings or efficiencies." The ATDA was represented at the arbitration hearing by President McCann, as Labor Member, and ATDA General Counsel Kevin Brodar.

Paul Arden promoted to Director of Research at National HQ



Upon Executive Board action in October 2019, Paul Arden was appointed to the Director of Reserch position. His main responsibilities consist of preparation of submissions for arbitration, assisting the President, research, and providing support for the system committees in grievance handling, appeals and discipline. President McCann stated, " Paul has become a huge asset to our arbitration department and has grown in experience and writing skills that the Director of Reseach position was a well-deserved promotion and recognizes his hard work and contributions to the Organization." Paul is a native of Gary, Indiana. He began his railroad career as a clerk for the Chicago South Shore and South Bend Railroad in Michigan City, IN. in April

of 1985. From 1986-1995, he worked for Amtrak, in various clerical positions, such as station agent, timekeeper, yard clerk and in 1990 he became a Train Director (Tower Operator) at Chicago Union Station. While at Amtrak, he served as Union Committeeman for TCU Local 2500 and in 1992 he was elected President/Secretary-Treasurer of the local. After working as a Train Dispatcher from 1995-1997 at the UP in Omaha and BNSF in Schaumburg, IL, he began working for CSX in December of 1997 in its Chicago area office as a Train Dispatcher and Assistant Chief Dispatcher until joining the ATDA full time in June 2015. In 2005 he was elected Vice General Chairman of the CSX system committee for Chicago and Wallaceburg, Ontario, a position he held for 3 terms. At the 2011 General Assembly, Paul was elected as an Alternate Trustee and in June 2015, he was elected by the Joint Board to fill a vacant position as an ATDA Vice President. In November 2015, Paul joined the national office as Assistant Director of Research. At the 2019 General Assembly, he was elected 1st Alternate Trustee.

In an effort to inform the membership of some Arbitral Awards, below are summaries of some recent awards.

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PLB No. 6744 Case No. 58, Neutral Twomey – Norfolk Southern

Disallowance of Third Week of vacation in violation of the National Vacation Agreement

The Organization filed claims for multiple Claimants when they were disallowed a third week of vacation based upon the clear and unambiguous language of Article 1(b) of the National Vacation Agreement. A lead case was chosen to take before the Board, and the other cases would be settled based on this award.

This case hinged on the definition of "compensated dispatcher service" and "compensated service" and how those terms are applied in eligibility for vacation entitlements.

The Claimant was hired as a Train Dispatcher on February 14, 2011, and established seniority on November 11, 2011.

The Carrier contended that the Claimant was required to perform 100 days of "compensated dispatcher service" in 2011 for that year to count toward his total years of service for vacation entitlement and that the Claimant only performed 39 days of "compensated dispatcher service" in 2011, the balance of the days being training days. The Carrier also claimed that its position was supported by past practice on the property.

The Board found no merit to the Carrier's past practice defense and found the following:

The Claimant rendered compensated dispatcher service during the preceding year, the Claimant has been employed continuously with the Carrier and has eight (8) or more years of continuous service and that the Claimant rendered compensated service on not less than 100 days...in each of eight (8) such years of service. The Board also found that the parties who negotiated the Agreement knew how to distinguish "compensated dispatcher service" from other "compensated service" and that the National Vacation Agreement does not explicitly exclude the Claimant's compensated service as a trainee.

Claim sustained.

PLB No. 6744 Case No. 59, Neutral Twomey – Norfolk Southern

Transfer of Train Dispatcher's work to other crafts.

On March 1, 2019, the Carrier issued an Operations Bulletin removing control of the Reed Running Track from the Train Dispatcher and gave control of the track to the Yardmasters located in Canton, Ohio. The Yardmasters are not covered by the Train Dispatchers' Schedule Agreement. The Organization filed a timely continuing claim on behalf of multiple members for the violation of Article 1, which states in pertinent part: "This class shall include positions in which the duties of the incumbents are to be responsible for the movement of trains by train order or otherwise"; Article 1(c) – "Train Dispatcher positions or work shall not be removed from the application of the rules of the Schedule Agreement; covered work encompasses those duties of dispatching trains enumerated in existing Schedule Agreements, which by custom, practice or agreement have been accepted as train dispatching work."

The Carrier denied the claim, arguing that the physical track structure had actually been changed and that control of the track was transferred to the Yardmasters for efficiency purposes. The Board found that prior to the March 1, 2019 Operations Bulletin, the Reed Running Track, together or separate, were in charge of the Train Dispatcher as designated by Carrier Time Table and that all the track(s) in question were being controlled by "train orders or otherwise", which is work reserved for dispatchers. While some physical changes were made to the track(s), the track still required "control" and cannot be unilaterally transferred to others. The Board found that the Carrier was in violation of Article 1(b), Item 2, and Article 1(c). The Carrier was required to return control of the work in question to the Dispatcher's craft.

Claim sustained and work was subsequently returned to the Train Dispatchers.

PLB No. 7650 Case No. 64, Neutral Zimmerman – CSXT

Failure to deliver Slow Order.

The Claimant was charged with failing to issue a speed restriction to a train, which was subsequently stopped by the positive train control (PTC) system. An investigation was held and the Claimant was found guilty and dismissed.

The Claimant was working a desk where PTC system was in effect and operating. A Surfacing Gang was set to work on the Main Track under the direction of a Roadway Worker in Charge (RWIC). The RWIC gave the Claimant a 10 MPH restriction within his work limits. The Claimant entered the restriction into the dispatching system, but never contacted a train that was operating within the limits of the speed restriction which caused PTC to enforce the speed restriction, causing the train to enter braking suppression and stop.

The Carrier charged the Claimant with a violation of the operating rules which states, "Prior to creating a dispatcher message that could cause a PTC enforcement, the Train Dispatcher must ensure any trains that could possibly be affected are advised and acknowledge that they can comply with the entire restriction." The Claimant maintained that he "absolutely" complied with the rules and contended that the RWIC was responsible for all movement within the working limits. The Organization argued that the Carrier violated the Claimant's due process rights when they failed to provide RWIC as a witness and instead only offered a statement from him. The Organization also argued that the Carrier misapplied the violation by considering it a "Major Offense". The Board disagreed with the Organization's procedural argument about providing the RWIC as a witness and found his presence irrelevant since the Carrier's basis for their case was the Claimant's violation of the operating rule, that it was undisputed that the Claimant violated the rule in question and that the testimony of the RWIC was irrelevant to the lack of compliance by the Claimant. The Board also found that nothing prevented the Organization from obtaining witnesses to support its defense.

With regard to the Carrier contending that this is a "Major Offense", the Board found that even if it were considered a lesser "Serious Offense", it would have been the Claimant's third such event in a three-year period. In addition, the Board agreed with the Carrier that the Claimant's failure to accept any responsibility for this matter is a factor in the appropriateness of the penalty. Considering this, along with the nature of the incident and the Claimant's previous record; the Board determined that the Carrier did not exceed its discretion to dismiss the Claimant.

Claim denied.

PLB No. 7814 Case No. 20, Neutral Bell – BNSF

Claimant left his assigned position without permission.

The Claimant was charged with leaving his assignment mid-shift without permission and was subsequently dismissed from service.

The Claimant was assigned to train on 3rd shift. The record indicates that he showed up on time and trained until he and the working dispatcher took a break, at about 1:45 AM. This is the last time that any person in an official capacity with the Carrier has ever seen or heard from the Claimant. He did not return from the break and he did not participate in the end-of-shift turnover. The Carrier charged the Claimant with leaving his assigned position without permission and scheduled an investigation. After several postponements, an investigation was held, but the Claimant did not appear at the hearing.

The Claimant was hired as a Dispatcher in 2012. Beginning in the second half of 2018, the Claimant accumulated a formal reprimand for excessive absenteeism and two successive Level S violations for failure to protect his assignment. This incident came early in the review period from the earlier violations.

Based on this incident and his recent record, the Board found no reason to overturn the Carrier's assessment of discipline.

Claim denied.

STATUS OF DISPUTES

Docket	Carrier	Claimant	Subject	Status
TD-190441	CSX	L. Patrick	Discipline	Awaiting Decision - Arb. Zimmerman
TD-190444	CSX	K. M. Graham	Temp. Vacancy	Awaiting Decision - Arb. Zimmerman
TD-190442	CSX	M. D. Stewart	Discipline	Awaiting Decision - Arb. Zimmerman
TD-190443	CSX	L. D. Riley	Discipline	Awaiting Decision - Arb. Zimmerman
TD-190439	CSX	L. D. Riley	Discipline	Awaiting Decision - Arb. Zimmerman
TD-190440	CSX	L. D. Riley	Discipline	Awaiting Decision - Arb. Zimmerman

PLB-7644-37	WC	M. Cleve	Discipline	Hearing Held 11/5/2020 - Awaiting Decision- Arb Darby
PLB-7644-38	WC	M. Fasel	Discipline	Hearing Held 11/5/2020 - Awaiting Decision- Arb Darby
PLB-7644-39	WC	M. Brown	Discipline	Hearing Held 11/5/2020 - Awaiting Decision- Arb Darby
PLB-7644-40	WC	K. Gebhardt	Discipline	Hearing Held 11/5/2020 - Awaiting Decision- Arb Darby

PLB-7575-49	BNSF	S. W. Brown	Discipline	Denied - 8/20/2020 - Arb. Meyers
PLB-7575-50	BNSF	R. G. Richie	Discipline	Denied - 8/20/2020 - Arb. Meyers
PLB-7575-51	BNSF	R. G. Richie	Discipline	Denied - 8/20/2020 - Arb. Meyers
PLB-7575-52	BNSF	R. G. Richie	Discipline	Denied - 8/20/2020 - Arb. Meyers
PLB-7575-53	BNSF	E. K. Mayfield	Discipline	Denied - 8/20/2020 - Arb. Meyers

PLB-7650-64	CSX	J. R. Herndon	Discipline	Denied - 10/27/2020 - Arb. Zimmerman
PLB-7650-65	CSX	D. Neeley	Discipline	Sustained in part - 10/27/2020 - Arb. Zimmerman
PLB-7650-66	CSX	S. Barnes Jr.	Discipline	Sustained in part - 10/27/2020 - Arb. Zimmerman
PLB-7650-67	CSX	A. Larson	Discipline	Denied - 10/27/2020 - Arb. Zimmerman
PLB-7650-68	CSX	K. Bartlett	Discipline	Denied - 10/27/2020 - Arb. Zimmerman
PLB-	CSX	C. L. Ozark	Discipline	Awaiting NMB Funding
PLB-	CSX	J. M. Rodgers	Discipline	Awaiting NMB Funding
PLB-	CSX	J. H. Rodgers	Discipline	Awaiting NMB Funding
PLB-	CSX	R. M. Toms	Discipline	Awaiting NMB Funding

PLB-6744-57	NS	V. Morns	Discipline	Sustained in part - 9/21/2020 - Arb. Twomey
PLB-6744-58	NS	Multiple	Vacation	Sustained - 9/21/2020 - Arb. Twomey
PLB-6744-59	NS	Multiple	Scope	Sustained - 9/21/2020 - Arb. Twomey
PLB-6744-60	NS	G. Orr	Discipline	Sustained - 9/21/2020 - Arb. Twomey
PLB-6744-61	NS	E. Shores	Discipline	Denied - 9/21/2020 - Arb. Twomey
PLB-6744-62	NS	K. Armbruster	Discipline	Denied - 9/21/2020 - Arb. Twomey
PLB-6744-63	NS	G. Parsley	Discipline	Settled on property
PLB-7299-34	NS	Z. Wray	Discipline	Awaiting NMB Funding
PLB-7299-35	NS	W. Slone	Discipline	Awaiting NMB Funding
PLB-7299-36	NS	V. Morns	Discipline	Awaiting NMB Funding
PLB-7299-37	NS	P. Davis	Discipline	Awaiting NMB Funding

PLB-7469-46	KCS	D. Everett	Discipline	Awaiting NMB Funding
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STATUS OF DISPUTES

Docket	Carrier	Claimant	Subject	Status
PLB-7814-18	BNSF	M. Carter	Discipline	Denied - 11/5/2020 - Arb. Bell
PLB-7814-19	BNSF	R. Smith	Discipline	Denied - 11/5/2020 - Arb. Bell
PLB-7814-20	BNSF	R. G. Richie	Discipline	Denied - 11/5/2020 - Arb. Bell
PLB-7814-21	BNSF	R. G. Richie	Discipline	Denied - 11/5/2020 - Arb. Bell
PLB-7814-22	BNSF	J. R. Wilkerson	Discipline	Denied - 11/5/2020 - Arb. Bell
PLB-7814-23	BNSF	M. L. Penney	Discipline	Sustained in part - 11/5/2020 - Arb. Bell
PLB-7814-24	BNSF	D. Rosas	Discipline	Sustained - 11/5/2020 - Arb. Bell
PLB-7814-25	BNSF	J. B. Perry	Permanent Vacancy	Settled on property
PLB-7814-26	BNSF	S. R. Burgin	Permanent Vacancy	Settled on property
PLB-7576-70	BNSF	L. E. Laughlin	Discipline	Awaiting NMB Funding
PLB-7576-71	BNSF	H. S. Kahan	Discipline	Awaiting NMB Funding
PLB-7576-72	BNSF	T. A. McClaim	Discipline	Awaiting NMB Funding
PLB-7576-73	BNSF	J. D. McDade	Discipline	Awaiting NMB Funding
PLB-7576-74	BNSF	R. A. Miller	Discipline	Awaiting NMB Funding
PLB-7576-75	BNSF	R. A. Miller	Discipline	Awaiting NMB Funding

PLB-7520-15 | AMTK | J. Cannon | Disqualification | Hearing Held - 12/4/2020 - Arb. Bierig

New ATDA Members

New Member	System Committee	New Member	System Committee
Jordan M. Howell	Alaska Committee	Juan T. Evans	Norfolk Southern Integrated Committee
Chris H. Butler	Amtrak Committee	Catquella P. Farmer	Norfolk Southern Integrated Committee
Joshua A. Mitchell	CSXT Committee	Caleb T. Gordon	Norfolk Southern Integrated Committee
Hunter A. Sinyard	Kiamichi Committee	Brent D. Jennings	Norfolk Southern Integrated Committee
Casey J. Pioli	MBCR Committee	Kimberly T. Krzyzanowski	Norfolk Southern Integrated Committee
Bailey R. Royer	MBCR Committee	Jared C. Leeson	Norfolk Southern Integrated Committee
Steven E. Pahl Jr.	METRA, NIRC Committee	Tracy P. Lucas	Norfolk Southern Integrated Committee
Evelina A. Zielinski	METRA, NIRC Committee	Rebecca L. McKinney	Norfolk Southern Integrated Committee
Colton W. Bucher	Norfolk Southern Integrated Committee	Daniel M. McRoy	Norfolk Southern Integrated Committee
Shayla R. Conley	Norfolk Southern Integrated Committee	William Moggio	Norfolk Southern Integrated Committee
Kayla M. Dick	Norfolk Southern Integrated Committee	Caleb B. Tyree	Norfolk Southern Integrated Committee
Loal C. Donaldson	Norfolk Southern Integrated Committee	William G. Volk	Norfolk Southern Integrated Committee

Mandating COVID-19 Testing and Vaccination in the Workplace

By Y. Tony Yang and Dorit Rubinstein Reiss

The novel coronavirus has brought with it changes to workplace medical testing. As policymakers work on plans to distribute COVID-19 vaccines, employers are now questioning the permissibility of mandatory COVID-19 vaccinations.

The Equal Employment Opportunity Commission (EEOC) has provided some guidance on COVID-19 testing; however, there is no current guidance or rule on mandatory COVID-19 vaccinations. The EEOC has issued prior guidance on mandatory flu vaccination, which suggests that any vaccinations for COVID-19 should be recommended rather than mandatory.

Still, with the substantial impact of COVID-19 and the virus's highly contagious nature, many employers may choose mandatory testing or mandatory vaccination once available. To help employers comply with the law, we propose guidelines for testing and vaccination in the workplace.

Vaccines for COVID-19 are starting to become available—but the EEOC has yet to issue guidance on what employers may be able to demand when they do become more widely available. The EEOC, however, has indicated that its position on mandatory flu vaccination would likely also apply to a COVID-19 vaccine, providing some guidance. Employers can mandate flu vaccinations; some states already mandate them for certain industries such as health and education, as do some private employers. As with mandatory testing, the right to mandate vaccination is limited, and employers should understand the required exemptions.

The legal framework is similar to the exceptions from mandatory testing. Individuals may refuse a mandatory vaccination on the basis of an ADA-covered disability or a sincerely held religious belief, practice, or observance. In either situation, substantial documentation and interactive communication with the employee are necessary to determine whether an accommodation is available and whether the employee's request requires such accommodation.

Employers may make the following accommodations: additional personal protective equipment, change in workstation or assignment, teleworking, or even a leave of absence. As with testing, an accommodation is not required if it causes an undue hardship.

Accommodations are also not required for medical exemptions, such as an allergy, but

employers may make such accommodations. In addition, employers with union employees should review collective bargaining agreements for any relevant consent requirements.

Some states have provided exemptions from vaccinations for individuals with personal beliefs. Those exemptions may also apply to COVID-19 vaccines.

As with testing, employers can refuse to accommodate disabilities if they have a reasonable belief that the employee causes a "direct threat" to the organization. Employers should create objective and consistently applied policies on which to base such determinations. These policies should educate employees on expectations, provide information on available exemptions and the process to request an exemption, and outline a clear confidentiality statement and privacy procedures.

Health, education, and hospitality industries are already familiar with mandatory vaccination protocols for the flu, and they are well-situated to apply those same policies to COVID-19 vaccinations. But as COVID-19 has a greater national impact—and given its highly contagious nature—more industries may implement a mandatory vaccine policy, some for the first time.

Longstanding fears of infringing on individual rights, as well as the legal consequences of infringement, weigh on employers. To prevent rights-based issues from occurring, employers should review any updates to EEOC guidance that may come out as vaccines start to become more available.

All medical records must be kept confidential for individuals who receive a vaccine—whether getting the vaccine at work or providing proof of compliance. The ADA mandates that any medical records obtained must be kept separate from employee personnel records.

As the COVID-19 pandemic continues, many employers face challenges with re-opening and returning to work. They may reasonably consider mandatory testing and vaccination as part of their reopening strategy. If employers implement mandatory testing or mandatory vaccination, they should adopt a clear, consistently applied policy that follows EEOC guidance and seriously considers any appropriate requests for accommodations.

Union Members: Know Your Rights



U.S. Department of Labor
Washington, D.C. 20210

Office of Labor-Management Standards

The Labor-Management Reporting and Disclosure Act (LMRDA) guarantees certain rights to union members and imposes certain responsibilities on union officers to ensure union democracy, financial integrity and transparency. The Office of Labor-Management Standards (OLMS) is the Federal agency with primary authority to enforce many LMRDA provisions. If you suspect a violation of these rights or responsibilities please contact the Department of Labor at 1-866-4-USA-DOL.

Union Member Rights

Bill of Rights - Union members have:

- equal rights to participate in union activities
- freedom of speech and assembly
- voice in setting rates of dues, fees, and assessments
- protection of the right to sue
- safeguards against improper discipline

Copies of Collective Bargaining Agreements -

Union members and nonunion employees have the right to receive or inspect copies of collective bargaining agreements.

Reports - Unions are required to file an initial information report (Form LM-1), copies of constitutions and bylaws, and an annual financial report (Form LM-2/3/4) with OLMS. Unions must make the reports available to members and permit members to examine supporting records for just cause. The reports are public information and copies are available from OLMS.

Officer Elections - Union members have the right to:

- nominate candidates for office
- run for office
- cast a secret ballot
- protest the conduct of an election

Officer Removal - Local union members have the right to an adequate procedure for the removal of an elected officer guilty of serious misconduct.

Trusteeships - Unions may only be placed in trusteeship by a parent body for the reasons specified in the LMRDA.

Protection for Exercising LMRDA Rights - A union or any of its officials may not fine, expel, or otherwise discipline a member for exercising any LMRDA right.

Prohibition Against Violence - No one may use or threaten to use force or violence to interfere with a union member in the exercise of LMRDA rights.

Union Officer Responsibilities

Financial Safeguards - Union officers have a duty to manage the funds and property of the union solely for the benefit of the union and its members in accordance with the union's constitution and bylaws. Union officers or employees who embezzle or steal union funds or other assets commit a Federal crime punishable by a fine and/or imprisonment.

Bonding - Union officers or employees who handle union funds or property must be bonded to provide protection against losses if their union has property and annual financial receipts which exceed \$5,000.

Labor Organization Reports - Union officers must:

- file an initial information report (Form LM-1) and annual financial reports (Forms LM-2/3/4) with OLMS.
- retain the records necessary to verify the reports for at least five years.

Officer Reports - Union officers and employees must file reports concerning any loans and benefits received from, or certain financial interests in, employers whose employees their unions represent and businesses that deal with their unions.

Officer Elections - Unions must:

- hold elections of officers of local unions by secret ballot at least every three years.
- conduct regular elections in accordance with their constitution and bylaws and preserve all records for one year.
- mail a notice of election to every member at least 15 days prior to the election.
- comply with a candidate's request to distribute campaign material.
- not use union funds or resources to promote any candidate (nor may employer funds or resources be used).
- permit candidates to have election observers.
- allow candidates to inspect the union's membership list once within 30 days prior to the election.

Restrictions on Holding Office - A person convicted of certain crimes may not serve as a union officer, employee, or other representative of a union for up to 13 years.

Loans - A union may not have outstanding loans to any one officer or employee that in total exceed \$2,000 at any time.

Fines - A union may not pay the fine of any officer or employee convicted of any willful violation of the LMRDA.

<http://www.olms.dol.gov>

OLMS-Public@dol.gov

1-866-4-USA-DOL



American Train Dispatchers Association
4239 West 150th St
Cleveland, Ohio 44135
E-Mail: dowell@atda.org
atda.org

PRESORTED STD
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NATIONAL HEALTH AND WELFARE BENEFIT DIRECTORY

United Healthcare

National Plan-GA-23000

Managed medical Care Programs (MMCP) & Comprehensive Health Care Benefit (CHCB)
1-800-842-9905
myuhc.com

Retiree Claims-GA-46000

UnitedHealthcare
P.O. Box 30985
Salt Lake City, UT 84130-0985
1-800-842-5252

Retiree Supplemental-GA-23111

UnitedHealthcare
P.O. Box 30304
Salt Lake City, UT 84130-0404
1-800-842-5252

Aetna Healthcare

3541 Winchester Road
Allentown, PA 18195
1-800-842-4044
aetna.com

Highmark Blue Cross Blue Shield

Railroad Dedicated Unit

P.O. Box 890381
Camp Hill, PA 17089-0381
1-866-267-3320
bcbs.com

Life Insurance

MetLife

P.O. Box 6122
Utica, NY 13504-6122
1-800-310-7770
metlife.com

Vision Service Plan

EyeMed

Member Support
1-855-212-6003
eyemedvisioncare.com/railroad

Mental Health and Substance Abuse Benefits

For treatment, claims or inquiries call:

United Behavioral Health
1-866-850-6212
liveandworkwell.com
Access code: Railroad
Company identifier: RR

Dental Benefits under Group Policy No. GP-12000

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1-800-842-0070
Express-Scripts.com