

APPENDIX D

NATIONAL MEDIATION BOARD ORDER

RELEASE NO. 88/15*

**Adoption of the Code of Professional
Responsibility for Arbitrators of
Labor-Management Disputes**

The Code of Professional Responsibility for Arbitrators of Labor-Management Disputes (Code) was developed and adopted by the National Academy of Arbitrators, as well as two respected arbitral referral organizations, the Federal Mediation and Conciliation Service and the American Arbitration Association. At the time the Code was issued in 1974 the arbitrators functioning under Section 3 of the Railway Labor Act, 45 U.S.C. §153, were understood to be Special Government Employees and, therefore, subject to the standards of conduct provided for such employees by the National Mediation Board's regulations, 29 C.F.R. §1200.735.

The Office of Personnel Management subsequently determined that the Section 3 arbitrators are independent contractors rather than employees of the NMB. The arbitrators serving in the airline industry have never been considered to be Board employees. As a consequence, the NMB's standards of conduct are not applicable to any of the arbitrators functioning under the Railway Labor Act.

The National Mediation Board has observed many of the valuable concepts and approaches provided for by the Code. However, based upon the foregoing considerations, and in order to further the public interest, the Board has concluded

**Editor's Note:* Immediately after the discussion on the Code at the Annual Meeting, Chairman Helen M. Witt of the National Mediation Board announced that the National Mediation Board had ruled that effective June 13, 1988, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes would be applicable to all arbitration proceedings conducted under any appointment or referral action taken by the Board. The adoption Order is reproduced herein.

that the agency's official adoption of the Code would best serve the arbitral process, the parties to the disputes, the affected arbitrators, as well as the overall public confidence in arbitration as an effective dispute resolution means.

NOW, THEREFORE, the National Mediation Board hereby adopts, effective June 13, 1988, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes for all arbitration proceedings conducted under any appointment or referral action taken by the National Mediation Board. This action does not expand or contract the scope of the judicial review which may be applicable to arbitration awards issued pursuant to such NMB appointments or referrals. Neither does this adoption require the use of *de novo* evidentiary hearings by the arbitrator nor otherwise require the revision of the arbitral procedures provided for by applicable statutes, agreements between the parties or directives of governmental agencies.

IN TESTIMONY WHEREOF, the Chairman and Members of the National Mediation board have hereunto set their hands and caused the SEAL of the Board to be affixed hereto.

DONE, and ORDERED, in the City of Washington, the District of Columbia, this 26th day of May, 1988.

Approved:

/s/ Helen M. Witt, Chairman

/s/ Walter C. Wallace, Member /s/ Joshua M. Javits, Member