Chapter 10

AIRLINES: THE INDUSTRY'S FUTURE: IT'S UP IN THE AIR

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Panelists: Cathy McCann, Vice President of People, American Eagle Airlines, Fort Worth, Texas

Brian Sweep, Executive Administrator/Grievance Chair, Eagle Master Executive Council, Air Line Pilots Association, Euless, Texas

Peter Rutter, Senior Staff Specialist, Labor Strategy—Onboard Services, United Airlines, Elk Grove Township, Illinois

Maria I. Torre, Master Executive Council Grievance Chairperson, Association of Flight Attendants, Rosemont, Illinois

Bierig: Cathy is Vice President of People—I have to tell you, I love that title—for American Eagle Airlines. Cathy has been with American Eagle since 1997 and has served as Vice President of People since 2007. In her current role, she has oversight of human resources, compensation, benefits, talent management, and recruitment.

To her right is Captain Brian Sweep. He is Executive Administrator for American Eagle's Unit of the Air Line Pilots Association International. As the Executive Administrator, he is responsible for overseeing contract compliance interpretation in disputes. Along with Cathy, the two have developed and created a system that has drastically reduced disputes through the use of mediation and internal alternative dispute resolution program.

Maria Torre is a flight attendant for United Airlines and has been for the past 24 years. She is currently human advocate as the Master Executive Council Grievance Chairperson and system board member for the Association of Flight Attendants. The Association of Flight Attendants represents 17,000 flight attendants of United Airlines. Her responsibilities include acting as liaison between the local grievance representative and management,

contract interpretation, conducting mediation, and participation in arbitration as a board member.

Finally, Peter Rutter joined United Airlines in 2002 in the labor strategy division. He's been involved in contract interpretation negotiations and policy developments and system boards. He's a member of the bargaining team.

Rutter: I think you've all been given a copy of the new Letter of Agreement. And before we talk about that, I'll give you a brief history that led to that agreement. Prior to this Letter of Agreement, we had a grievance procedure that had been in the contract since at least 1972 in its current form. And apart from some minor changes, such as changing "stewardess" to "flight attendant" to reflect the gender change in the industry with more males wanting to become flight attendants, the current procedures had pretty much remained unchanged.

United Airlines in 1972 was a very different airline than it is today. Its operations were predominantly domestic. With the acquisition of a lot of the Pan Am routes in 1997, it suddenly exploded and became a global international carrier. So obviously, it became a very different airline. In 2000, it was the largest carrier in the world.

There was a set of grievance procedures that were constructed and devised back in 1970, for a very different airline in the year 2000. Those procedures were very prescriptive. We had a disciplinary system that contained seven steps. Four of those steps required a formal adversarial hearing. You had a member of management presenting the case, a member of the union representing the flight attendant, and a company-appointed hearing officer. That was for both contract cases and discipline cases.

The company really didn't have an incentive to agree to the grievance because most grievances were then automatically appealed to the System Board. Those contract grievances, a lot of the time, just sat pending System Board appeal.

The System Board generally had 80 days on its arbitration calendar. There were only so many grievances that could be heard. And those arbitration dates were split between contract grievances and discipline grievances. So, inevitably, the system collapsed under its own weight.

We had about 7,000 unheard grievances. Now, that can't be good for anyone. We had potential liability sitting there with contract grievances, with unheard discipline cases, which had the potential for back pay. And we also had a work force where they

weren't getting their grievances heard. When your employees, who are the face of the company, have unresolved grievances, that translates back into the workplace.

We needed to come up with a new direction. We really needed to think about: "How could we, first of all, address this incredible backlog of grievances?" and second, "How can we improve our relationship with our employees?" There was no advantage to the company having our flight attendants out there interacting with the passengers, customers who weren't having their needs addressed, without having the grievances addressed.

So, the union and the company got together and worked on a new program for resolving contract grievances and discipline grievances. And it really needed a radical change in thinking. The system didn't work. It wasn't serving the needs of the flight attendants and it wasn't serving the needs of the company.

First we looked at the contract regime, and how we could get the contract disputes resolved more quickly so that they didn't linger. Consider the flight attendant who was scheduled to fly to Sydney in January, had bought tickets to the opera house, and then suddenly got pulled off that flight and reassigned to Pittsburgh. What are we going to do for that flight attendant? Because that flight attendant would file a grievance and, under the previous regime, it would never get heard.

So we introduced a new process where the flight attendant would file a Notice of Dispute with the company, and then it would be heard within 30 days. Rather than the company engaging in an adversarial relationship with the union, where one party would present their case and the other party would present their case and then there would be a hearing decision, we would engage in an interest-based dispute resolution process. Rather than focusing on the *individual*, we would focus on the *interests*.

Under the new system, the company, union, and flight attendant would sit down and talk about the interests. They would frame it through some objective criteria. They would listen to the flight attendant. The idea is that you would try to work out a solution that would have a win-win solution. And it might be, for example, that the flight attendant who got reassigned to Pittsburgh instead of being on a beach or at the opera house in Sydney would get a remedy. Sometimes flight attendants just want to hear from the company that it has violated the contract. That's all they want, an acknowledgment.

But in an interest-based dispute resolution, you could go further. Yes, we did violate the contract. What is the remedy? Most flight attendants aren't actually looking a financial remedy. But, they do want to see some kind of change instituted into the company. So, a remedy may be that a Memorandum is sent to the crew schedulers explaining what occurred on that particular occasion, and then explaining how this particular situation will be interpreted going forward.

The flight attendant gets resolution of that issue within 30 days. The company puts in policies and procedures and changes to make sure that the same thing doesn't occur again, and both parties move forward. The issue has been resolved and it's finished. It doesn't just linger for the next 15 or 20 years, where that flight attendant thinks about that particular grievance and the fact that the company just doesn't care. That's also good for the union as well, because previously it was unable to get some kind of remedy for that flight attendant, but under the new situation, it can.

The other aspect of the new dispute resolution procedure deals with discipline. It was also inconsistently applied. A supervisor in Washington would apply the disciplinary system differently from a supervisor in San Francisco. So you had different rules, different procedures that were inconsistent across the system. Of course, whenever someone is treated disparately from another person, that always leads to resentment and anger and a sense of unfairness. So we decided to move to an objective points-based system. We wanted a system that was clear, that was transparent, that was objective, and that was easy to administer. So flight attendants now know the amount of points that they will get for, say, a late boarding of an aircraft or a sick call. They know that they will be reduced by half a point if they have a sick call but bring in a doctor's note. They know exactly what points attach to a particular infraction. So they now have a transparent disciplinary process where they know what the consequences are for any particular action, and how they move to the next level.

Under the new regime, letters of warning are issued for performance issues. But there's also an interest-based discussion. So, if a flight attendant violates an article and a letter of warning is issued, there is still an opportunity for both parties to get together and have an interest-based discussion, and talk about what were the reasons and circumstances surrounding that. And there's an opportunity then to resolve that particular issue and work out some kind of program.

So, those are the two main changes to the process in terms of contracts and discipline. It's working very well. The contract grievances, we now feel, are resolving at first instance. We are resolving those at the domicile level. It's not being escalated to headquarters. Flight attendants are getting a quick resolution to their problems. They're getting a solution and their issues can then be closed.

Regarding discipline, there is now a clear, objective system, which means that each flight attendant now is being treated in the same way as every other flight attendant. That's good from the flight attendant's perspective. It's good from a company engagement perspective. It's also good from a company liability perspective. You know, it's much harder to file an Equal Employment Opportunity Commission (EEOC) claim and have that sustained if you're treating flight attendants objectively and consistently.

Torre: I'm going to expand a little bit on what Peter said. Through the years, as grievances increased, we were hearing from our members that they were frustrated. Their issues were not getting resolved. The contract violations were continuing. It was not until 2007, with continuing insistence from the union, that the company seriously sat down with us and said, "What can we do to change this grievance process?"

In July 2007, we sat down with the assistance of a mediator, and he functioned as a facilitator in this process for us. It was an overwhelming task to handle. We were basically all over the map on what we were going to do. What do we need to do first? Do we handle the discipline part of it? Do we handle the contractual part of it? We were completely apart in discipline. So we thought, let's work on what we have in our agreement under contract issues. We shortened the time span to handle disputes and we focused on resolving grievances by utilizing an interest-based dispute resolution process. The focus was to get resolution at the earliest point.

In discipline, we set up two tracks: attendance and performance. As I said, we started in July 2007, and the Letter of Agreement was not signed until February 2008. So we did extensive backlog. We had people from American Airlines come and talk to us. We worked with the unions at Continental and Northwest. We looked at the point system that Southwest and Alaska Airlines had. And we derived a lot of our point system from what they had already negotiated.

The hardest to handle was that the discipline was very subjective, like Peter said. The flight attendants were not sure exactly what was okay or what was not. So, it was just very subjective.

We focused on attendance. If you're sick, then you get two points. If you lose an assignment, then it's three points. That way each flight attendant would know that when he or she hit a certain level of points, then he or she would be disciplined.

Another part that we added in the signed letter was the dispute resolution committee. There are two members from the company and two members from the union. They could make a decision and the decision could be to award the dispute in whatever way that the dispute resolution committee deemed fit: there is a violation; there isn't a violation. This is what the remedy will be if that can't happen. The dispute resolution committee can then send the issue to expedited arbitration or choose traditional arbitration.

We also addressed backlogging in the Letter of Agreement. If we notice that discipline is moot, then we would withdraw the grievances. Flight attendants may have left the corporation, or perhaps negotiations have made the issue moot. So we could withdraw those cases. Regarding the ones that were left, we would sit down with the company and decide if those are the cases that we believe have merit and issues that we need to address.

We wanted everyone who had any involvement with flight attendants to be trained in interest-based problem solving, not just the day-to-day supervisors, but also the payroll clerks, the schedulers, anybody who had a liaison in contact with the flight attendant. We started our training in May 2008 and finished the training in August 2008.

So where we are now? We have approximately 50 Notices of Disputes on file. Three quarters of those have been resolved. They're acted on immediately. The flight attendants are getting resolutions to their issues. We have assessed more than 5,000 grievances and we are continuing that process. We are currently trying to have refresher training in the process for different locations. We encourage our leadership to stay abreast of the issues that are happening day-to-day, so that we can handle these issues as soon as possible to correct them. We've placed Questions and Answers on both the company's and the union's Web sites to answer questions for the members and any clarification on the Letter of Agreement. As we know, change is very hard, and we're working on that aspect.

Bierig: Thank you. Now I'm going turn the panel over to Cathy and Brian for their presentation.

McCann: Thank you, Steven. With American Eagle, we also looked at our grievance resolution process and took a slightly different approach. Although in hearing what Maria and Peter had to say, it's almost as though we're part way through the process they have started.

To begin with, our grievance procedures are not as complicated as theirs were. Our collective bargaining agreement outline of how we handled grievances is much more simplified than what they had. We have a first-step hearing with very strict time limits. We honor those time limits and have not had much of a backlog. We usually managed to get those first-step hearings scheduled and handled pretty expeditiously. We have centralized to keep our decisions uniform, so we don't have the challenge they have of having disparate resolutions of grievances at that step. At the first step, if the union does not like the answer, then we deny the grievance and the union can then submit it to System Board for adjustment. At Eagle, the System Board of Adjustment is one neutral with a representative from the company and a representative from the union.

Many times, by the time of the first-step hearing all the research wasn't done. So neither side had a full picture of what had happened. By the time we got to grievance resolution, there were more facts and either the company would agree, "yes, there was a violation" or the union would agree to withdraw. And a fair amount was resolved at that point. But still, we found there were a fair number that were submitted to the System Board of Adjustment awaiting a formal hearing and these were piling up. That was a frustration for the pilots and, as Maria and Peter said, it was also a building liability on the company side.

So we looked at this. ALPA took the first crack at saying, "Maybe we should look at an alternative dispute resolution process. What would it look like?" They passed us a Letter of Agreement, which, interestingly, had a provision that United has just said they're using, which was a company and union board that would meet and look at these grievances first. We have that System Board of Adjustment that exists with our Transport Workers Union (TWU) crews. And we have found that the majority of the time, frankly, the union votes for the union side and the company votes for the company side. And my concern was that this might just put

another level in the process that would be time consuming and really wouldn't get us where we wanted to be. So our counter back to them is "Let's not even do that. We've got the grievance resolution process in place, which sort of addresses this already. Let's just look at how could we use alternative dispute resolution in another way as another step prior to going to a single, neutral in a formal hearing." And I'm going to let Brian give you more details on that.

Sweep: Cathy hit on one of the keys on grievance resolution meetings, where the same players sit down and discuss the same issues. And where I think mediation can often help in the process is if we need to get some people together and find a way to start talking about the issue.

But, we had several cases that were waiting resolution, which at the end of the day needed a "yes" or a "no" answer. And the reality is, we can talk about that all we want, through grievance resolution. We're good at talking. Cathy and I get along. Sometimes it's hard to get that "yes" or "no". And that's really what we needed. So we were looking at how to resolve a lot of these small issues. Peter used the example of the flight attendant who was reassigned to Pittsburgh instead of Sydney and lost her opera ticket. Well, in the regional industry we might be talking about the pilot who got reassigned to go to Hartford and didn't get to go to the Monster Truck Rally. At the end of the day, is it worth $10,000 for a full-blown arbitration hearing to have this very unique set of circumstances decided? And so we sat down and talked about how to resolve some of these backlog grievances.

Many of our cases didn't need a full-blown record, nor did we need, necessarily, a precedential decision. What we were talking about were cases where the circumstances were very unique and wouldn't impact contract interpretation.

With this kind of informal advisory arbitration, attorneys are not required. In fact, we haven't used them. The company typically brings the same people who talk on their side. The same people who handle grievances from Employee Relations come in and then I present the case from ALPA. And then if it's a discipline issue, the neutral can be there to explain his or her side of the story or answer any questions. To a large extent, what changes is that the neutral (George Nicolau has been used in this capacity) ends up having to be a bit of a facilitator and also asks a ton of questions to get the decision that they want.

If we go to grievance mediation, then there is a very good chance that we're going to talk about an issue for three or four

hours. And we're going to have everything put on a whiteboard and on charts about everything that happened.

Our process has worked very, very well. We've resolved probably more than a hundred cases with about five sessions. If we schedule two days, then we're usually done in a day and maybe an hour the next morning. And so I'm always thinking, "Gosh, we need to add more cases." And every time I think there's no way we can get through this. So that's working pretty well.

These labor-management discussions with arbitral advice have reduced the cost for both Eagle and ALPA. And the pilots certainly appreciate not awaiting a full-blown arbitration hearing. One of the biggest complaints from pilots about the entire grievance and arbitration process was "What good does it do to file a grievance? It really doesn't mean anything, does it? Because I'm never going to hear an answer. And it's going to sit and it's going sit for years." But ultimately using this discussion process has helped us eliminate grievances. It's one piece of the puzzle.

McCann: How many grievances have we resolved?

Sweep: Probably a hundred.

McCann: We've been able to resolve about a hundred grievances through this process over a couple of years, which I think is outstanding. Those are all the grievances. It may be taking business away from some of you arbitrators, but at least they aren't on a backlog, with the time clock ticking away.

Another point is that we allow the individual to come to the hearing, if he or she wants to, to say his or her piece. And sometimes that helps in and of itself. Just for the pilot to have his or her day in court, so to speak. Even if the final resolution doesn't go his or her way, at least it's somewhat empowering to have come, and to know that somebody other than just the company and union heard it. So I think that's good.

Sometimes there are grievances that, perhaps politically, the union can't settle even though it knows that it doesn't have the strongest case. Going through this process and having the neutral say, "You know what, if this went to arbitration, you'd lose it," gives the union the cover without spending all that money to be able to go back and say, "A neutral heard it. This is what they told is going to happen. This is the right thing to do."

Bierig: Thank you very much to our participants.