

United States Senate

WASHINGTON, DC 20510

March 14, 2006

The Honorable Marion Blakey
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Administrator Blakey:

I understand that the Federal Aviation Administration (FAA) and the National Air Traffic Controllers Association (NATCA) are now in mediation talks as part of ongoing collective bargaining negotiations. I also understand that mediation talks are scheduled to end this Thursday, March 16, 2006.

Like you, I hope that mediation ends in a contract acceptable to both sides. If it does not, I understand that the FAA may consider sending the contract impasse to Congress, and if Congress does not act, the FAA will be free to unilaterally impose its last offer on the air traffic controllers.

I write to urge you not to send a negotiation impasse to Congress. It remains an unanswered legal question whether referral to Congress is the proper course of action in the case of an impasse. Moreover, unilaterally imposing terms and conditions on your employees would hurt this vital agency.

There are conflicting interpretations of the law. NATCA argues that the law and the FAA's Personnel Management System require that you submit any unresolved bargaining issues to the Federal Service Impasses Panel (FSIP). The FAA, on the other hand, believes that in the case of an impasse, the law requires the FAA to submit its final compensation proposals, together with NATCA's objections, to Congress.

Last month, the U.S. Court of Appeals for the District of Columbia reiterated that the proper impasse-resolution procedures remain an open question. The Court also characterized the respective legal arguments of the FAA and NATCA as equally compelling and referred the issue to the Federal Labor Relations Authority (FLRA) for resolution in a pending case involving other FAA/NATCA bargaining units. The FLRA should be given an opportunity to resolve the legal issue of the appropriate impasse-resolution process before the FAA sends an impasse to Congress.

I believe that you have at least two alternatives to sending an impasse to Congress. If mediation fails, NATCA and the FAA could voluntarily submit their positions to the FSIP or to another neutral third party for resolution without waiving their

legal positions for future cases. The parties also could agree to maintain existing terms and conditions of employment of air traffic controllers until there is resolution in the dispute over the proper procedures for impasse resolution.

But beyond the question of the FAA's legal right to submit an impasse to Congress, I believe that a decision by the FAA to unilaterally impose its last offer on the air traffic controllers would hurt the agency. FAA employee morale is already low because management has failed to reach a voluntary agreement with any of the 11 non-air traffic controller NATCA bargaining units and failed to reach agreement with four of the five Professional Airways Systems Specialists (PASS) bargaining units. Failing to reach voluntary agreement with the air traffic controllers or failing to find an alternative process that everyone agrees is fair could push employee morale to dangerously low levels.

I ask that the FAA pledge to refrain from attempting to unilaterally declare and resolve an impasse in the current negotiations with NATCA and instead work with its employees to find an alternative to sending an impasse to Congress. I look forward to your reply. In the meantime, if you would like to discuss this matter further, please feel free to contact Danny Sepulveda on my staff at (202) 224-2854.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barack Obama', with a long horizontal line extending to the right.

Barack Obama
United States Senator