



FMCS

FEDERAL MEDIATION &
CONCILIATION SERVICE



Annual Report



A Message from FMCS Leadership

Dear Reader,

In a proud occasion for the Federal Mediation and Conciliation Service [FMCS], we celebrated our 70th anniversary in August 2017. In the 70 years since the 1947 Taft-Hartley amendments to the National Labor Relations Act [NLRA] established FMCS, we have compiled a record of service and accomplishment in helping to resolve some of the country's most intractable and economically threatening labor disputes. In recent years, FMCS mediators have joined labor negotiations for movie making, ship building, professional sports, manufacturing, education, and symphony orchestras to name but a few of the commercial areas in which the Agency has provided assistance. Experiencing specialized issues impacting numerous industries, working in a variety of settings, and managing a diverse range of personalities among individual disputants, we have identified new ways and methods to assist labor and management. We have adapted with a changing economy, and we have modernized our Agency's role. We all know that this is a very different world today than it was in 1947. However, as we have adapted we have also remained true to the expressed intent of our statutory responsibilities.

Celebrating a Record of Accomplishments

The Agency's decades of history and its record of accomplishment in U.S. labor relations testify to the skill and adaptability of FMCS mediators at U.S. bargaining tables and also as highly skilled and effective dispute resolution practitioners. Time and again, FMCS mediators have shown themselves to be creative innovators in difficult circumstances. We have compiled a highly effective repertoire of dispute resolution and training techniques, which have enabled labor and management to make workplaces more productive and more efficient while minimizing disruptive workplace conflict. Over its decades of experience, FMCS has consistently applied new techniques and applications found in dispute resolution science and research. We have supplemented our core traditional negotiations and relationship development training programs with innovative technologies and cutting-edge conflict theory.

While the Agency's first priority has always been to prevent or promptly resolve labor disputes that could have an adverse impact on the U.S. economy, FMCS experience has demonstrated the enormous value of training parties in the use of tools and techniques for collaboration and joint problem-solving long before these skills may be needed in a contract dispute. In the private, public, and Federal sectors, FMCS provides a wide range of programs designed to prevent workplace disputes and improve labor-management relationships. Refined over decades of hands-on dispute resolution experience, the FMCS labor relations model encourages an ongoing, joint problem-solving approach, characterized by open communications, respect, trust, and transparency.

Innovation and Change

In its long history, FMCS has also established a record of demonstrated success when Congress expanded our work beyond the original core mission. In 1996, Congress recognized the Agency's conflict resolution expertise and expanded our role with passage of the Administrative Dispute Resolution (ADRA) and Negotiated Rulemaking Acts of that year. In doing so, Congress permitted the FMCS to provide dispute resolution assistance to other Federal agencies through a wide variety of professional services, such as mediating individual workplace disputes, designing and building capacity for effective conflict management systems, and developing tools for interagency and public-private cooperation and collaboration. FMCS has responded to this expanded responsibility with innovation and creativity—leveraging new computer and Internet-based technologies to expand the Agency's reach, enhance content and deliver training and education to wider audiences.

Similarly, in the realm of collective bargaining, FMCS has developed innovative collaborative based bargaining models that leverage computer and Internet-based tools to enhance effective communications skills and enable more effective training. All of these new approaches to collective bargaining are focused on our responsibility to assist labor and management in the prevention of disruptive collective bargaining disputes.



Recent History

In the most recent decade, national headlines have recorded that FMCS mediators helped head off the threat of economically crippling work stoppages that could have closed down the nation's Atlantic and Gulf coast ports during contract renewal negotiations in 2012. In 2014-15 FMCS efforts led to similar success with the nation's West Coast ports. In the same period, FMCS mediators helped bring 45,000 Verizon Communications workers back to their jobs after a two-week strike and then helped the parties reach an agreement in 60 days of tough negotiation. Those efforts averted a second work stoppage that could have disrupted East Coast communications.

Every year, FMCS mediators are called into more than 3,200 bargaining disputes at the joint request of unions and employers who are looking for ways to bridge their divergent interests.

With the beginning of 2013, FMCS mediators brought professional hockey back to the ice by assisting the National Hockey League and the Players Association in reaching a new labor contract, ending a lockout that caused the loss of half the NHL season and the significant loss of both private and public resources resulting from the lockout. In 2015, a team of FMCS mediators assisted in the largest private-sector contract talks ever held in the United States, when health care provider Kaiser Permanente and the Coalition of Kaiser Permanente Unions agreed on a contract covering 105,000 workers. In 2015, Verizon Communications and the Communications Workers of America and the IBEW experienced another major labor dispute. FMCS helped end a six-week strike by some 39,000 Verizon workers in the Northeast. The same year, FMCS played a key role in helping to resolve a month-long southern California supermarket negotiation affecting grocery operations from Los Angeles to the Mexican border and approximately 50,000 supermarket employees.

Every year, FMCS mediators are called into more than 3,200 bargaining disputes at the joint request of unions and employers who are looking for ways to bridge their divergent interests. It is a testament to the skills, perseverance and creativity of FMCS mediators that in most such cases, FMCS mediators find a way to bring the two sides together. The Agency's settlement rate in collective bargaining disputes has hovered at about 80 percent, year after year. In accordance with the Agency's mission, the high settlement rate stands as a consistent badge of pride for all employees at FMCS.

Effectively Managing the Challenging Negotiations of 2017

Again in 2017, FMCS saw that even the best labor-management relationships can be challenged when negotiation involves the kinds of multiple and complex issues currently facing most bargaining partners today. Unquestionably, the work of FMCS is as essential to the success of the U.S. economy today as it has ever been—perhaps even more so. During a challenging year, marked by several national labor-management disputes of significant scope and economic impact, FMCS mediators stepped into key roles as peacemakers and as sources of expert knowledge for labor and management.

The following are brief summaries of FMCS work in major cases and activities during fiscal 2017:

Honeywell Aerospace and United Auto Workers Locals 9 and 1508 (South Bend, IN & Green Island, NY). Thanks to the long-term efforts of a team of FMCS mediators who played a vital role in negotiations, a revised contract offer from Honeywell Aerospace was approved by the membership of two UAW locals, ending a 10-month lockout and returning hundreds of workers to their jobs at plants in Indiana and New York, where Honeywell manufactures wheels and brakes for military and commercial aircraft.

Momentive Performance Materials and IUE-CWA Locals 81359 and 81380. Dedicated behind-the-scenes work by an FMCS mediator in more than a dozen meetings was the critical ingredient in a labor settlement that returned more than 700 striking workers to their jobs at an upstate New York chemical plant, near Albany, ending a disruptive 105-day strike at the facility.



Cleveland Public Schools and Cleveland Teachers Union (CTU). After 16 months of negotiation requiring all the skills of a dedicated FMCS mediator, school system negotiators and teachers’ representatives reached an agreement that was the culmination of a final marathon 24-hour bargaining session, averting a possible strike that would have closed classrooms to tens of thousands of Cleveland school children.

AT&T and Communication Workers of America (CWA). After a recommended tentative agreement was twice turned down by the bargaining unit, an Oakland CA-based FMCS mediator was called in to work with the parties to help them negotiate another settlement. After three days, AT&T announced that Pacific Bell and Nevada Bell had reached a new tentative contract in West Region wireline contract talks. The new agreement covers more than 17,000 employees in California and Nevada.

International Longshore and Warehouse Union (ILWU) and the Pacific Maritime Association (PMA). The July 2017 announcement of a three-year contract extension between the ILWU and the PMA ensured stable labor relations at all 29 West Coast ports until July 2022. With more than 350 million tons of cargo flowing through the West Coast ports each year, the smooth flow of commerce through these ports is critical to the U.S. economy. This agreement was foundationally based upon the previously mediated settlement, and it highlights the importance of taking early and decisive action well ahead of scheduled contract deadlines.

Wyman-Gordon Forgings, Inc. and IAMAW Local 37. In the disastrous aftermath of Hurricane Harvey, a Houston-based FMCS mediator persevered through 90-degree temperatures and flood waters to assist IAMAW Local 37, representing some 275 workers, reach agreement with Wyman-Gordon Forgings, Inc., a Houston manufacturer of aircraft engine components, ending a 20-day strike at the plant.

FMCS experience has demonstrated the enormous value of training parties in the use of tools and techniques for collaboration and joint problem-solving long before these skills may be needed in a contract dispute.

As these recent example cases show and as the long experience of FMCS teaches, well conducted collective bargaining with the assistance of requested FMCS mediation is unquestionably the best mechanism for resolving labor-management disputes and for providing the framework for working together to achieve productivity, innovation and competitiveness – the necessary ingredients for our continued success in the global economy.

Managing to Meet Present and Future Challenges

As an Agency whose primary mission involves direct customer engagement, whether through mediation, joint training, or other dispute resolution activity, the ability to deliver effective and efficient services with comprehensive, versatile, and reliable technology is an essential consideration for

FMCS management. User-friendly and comprehensive technologies have been installed to allow mediators to offer adaptable meetings and training programs or to handle in-person and remote participants for the convenience of Agency customers.

After achieving its initial goals, FMCS has continued to focus efforts toward updating systems and directives to provide the highest levels of operational efficiency and organizational integrity. In addition, by encouraging an organizational culture of continuous improvement, FMCS employees are motivated to explore innovative technologies and new strategies resulting in improved customer engagement and enhanced professional development opportunities. FMCS continues to seek ways to expand its capability to efficiently serve, communicate with and promote collaboration between its geographically dispersed customers and workforce.



Conclusion

In its seventh decade, FMCS is reaching new customers by leveraging the talent and creativity of its work-force with the newest technologies. Agency employees are working harder and innovating more than ever while achieving mission focused results. Agency employees are proud of their central role in ensuring the smooth functioning of the U.S. economy. They are confident that they have the tools, knowledge, abilities, and resources necessary to help our nation's labor and management community create more collaborative, competitive and productive workplaces. They know that because of their work, our country's overall economic well-being is more secure.

As we head into an uncertain future for American workers and the companies that employ them, it is important for all to remember that mediation remains a proven mechanism with demonstrated benefits in resolving labor disputes and averting disruptions to our economy. Those disputes and disruptions are well known to negatively affect businesses, their workers, their families, and communities. America has always responded strongly to challenging times and stands today as the world's leading economy. To achieve world leadership, we have always overcome adversity, and will continue to do so. FMCS is eager and prepared to play its part in aiding labor and management in creating and sustaining a resilient and prosperous economy that will continue to lead the world.

Sincerely,

John Pinto, Deputy Director, Field Operations

Scot Beckenbaugh, Deputy Director

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Handwritten signature of Scot Beckenbaugh in cursive script.

FY 2017 Agency Services

Agency Mission

The Federal Mediation and Conciliation Service (FMCS) is an independent agency of the Federal government established by Congress in 1947 to help employers and unions avoid costly work stoppages and minimize their potentially devastating effects on regional or national commerce. FMCS, headquartered in Washington, D.C., has mediators located in 66 field offices and ten regional offices across the country, and is best known for its history of providing innovative services to labor-management relationships that promote joint problem-solving and for successfully resolving major collective bargaining disputes.

In 1996, Congress recognized this long and successful record and called upon the FMCS to help other Federal, state and local agencies minimize costly litigation by resolving disputes arising under their jurisdictions. Thus, while its core activity remains the prevention or resolution of labor-management disputes, FMCS also provides its sister agencies with a wide variety of alternative dispute resolution services.

Collective Bargaining Mediation

Through collective bargaining mediation, FMCS helps avert or minimize the cost of work stoppages to the U.S. economy. FMCS's core work is to mediate collective bargaining negotiations for initial contract negotiations—which take place between an employer and a newly certified or recognized union representing its employees—and for negotiations for successor collective bargaining agreements. FMCS provides mediation services to the private sector, and also to the public sector, including Federal agencies, and state and local governments.

During mediation, the mediator's task is to identify alternative solutions and compromises, encourage settlement where appropriate, control the critical timing of offers, and persuade the parties to honestly discuss their differences. In FY 2017, FMCS mediators were actively involved in more than 3,200 collective bargaining contract negotiations in every major industry throughout the United States.

Grievance Mediation

Grievance mediation involves the use of a neutral party to mediate disputes that may arise over the terms and conditions of a collective bargaining agreement. FMCS

mediators provide this service to the private and public sectors with the goal of preventing unresolved contract interpretation issues from becoming contentious issues in future contract negotiations. Lengthening contract terms increase the importance of resolving contentious issues arising during the term of a contract. In FY 2017, FMCS mediated 1,719 grievance mediation cases and helped the parties reach agreement in 1,224 of these cases (74 percent).

Relationship-Development and Training

Preventing conflict that may arise during the term of a collective bargaining agreement is another important goal of FMCS. The Agency's relationship-building training programs are designed to improve labor-management relationships by helping labor and management to develop collaborative problem-solving approaches. Use of these programs better enables the parties to jointly respond to rapidly changing business and economic conditions during the term of the contract and also make future mediation efforts more effective.

In FY 2017, FMCS mediators conducted nearly 2,000 training programs with collective bargaining partners.



ADR Services

Outside the collective bargaining arena, FMCS provides professional services to a wide range of Federal, state, and government agencies on a cost-reimbursable basis. ADRA authorizes FMCS to assist in resolving disputes, train persons in skills and procedures employed in alternative means of dispute resolution, design conflict management systems, build capacity for constructive conflict management, and strengthen inter-agency and public-private cooperation. Through this work, FMCS seeks to reduce litigation costs and to promote better government decision-making.

In this context, FMCS provided conflict management and ADR services more than 1,200 times in FY 2017.



During a challenging year, marked by several national labor-management disputes of significant scope and economic impact, FMCS mediators stepped into key roles as peacemakers and as sources of expert knowledge for labor and management.



International Training and Exchange

Beyond the nation's borders, FMCS plays an important role in promoting collective bargaining and conflict resolution around the world. FMCS delivers its international training programs using cost-reimbursable funds, largely through inter-agency acquisition agreements with other government agencies, such as the Departments of State, Labor, and USAID.

The FMCS international work is a small, but integral, part of its services. FMCS helps establish the labor relations institutions that are essential to the smooth functioning of free market economies. These programs are also a knowledge-sharing experience: FMCS mediators gain familiarity with complex issues affecting the global economy and, as a result, are more effective in resolving domestic labor-management disputes with international implications. In FY 2017, FMCS completed training and consultation programs in Honduras, Thailand, and Burma (Myanmar). Additionally, FMCS conducted web-based training for



labor relations professionals in the ready-wear garment industry of Bangladesh and met with international delegations from the International Visitors Program sponsored by the U.S. Department of State at the FMCS headquarters in Washington, D.C. During all these programs, FMCS trainers/mediators provided instruction for government labor inspectors, labor representatives, employer representatives, government officials and other labor dispute stakeholders. They also provided consultative support for governments in these countries to assist in their efforts to develop effective dispute resolution systems and organizations.

In addition to programs delivered abroad, every year FMCS mediators host numerous foreign delegations visiting the United States and educate them in U.S. labor-management relations and conflict resolution practices.

Arbitration Services

National labor policy favors arbitration over litigation for settling contractual disputes. The FMCS Office of Arbitration Services maintains a roster of approximately 1,000 independent arbitrators who are qualified to hear and decide disputes over the interpretation or application of collective bargaining agreements. Upon request from the parties, FMCS furnishes a list of names from which they may choose an arbitrator to hear their case and render a decision. FMCS administers its established policies and procedures on arbitration, which also incorporate the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, to which FMCS is a signatory.

During FY 2017, the Office of Arbitration Services processed nearly 12,000 arbitration requests and oversaw the appointment of more than 5,200 arbitrators nationwide.

FMCS Institute for Conflict Management

The FMCS Institute for Conflict Management (Institute) delivers accessible, innovative, and experience-based conflict resolution training for individuals and small groups of employees and managers. The training is specifically designed to meet the challenges of labor-management relations and organizational change. The Institute's training programs provide participants the opportunity to interact with and learn from experienced practitioners who use these skills every day. Federal mediators and private-sector arbitrators constitute the Institute faculty. The Institute runs as a reimbursable program and is funded by fees received from training participants.



After achieving its initial goals, FMCS has continued to focus efforts toward updating systems and directives to provide the highest levels of operational efficiency and organizational integrity.

Mediation Services Program Data



PROGRAM SERVICES	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual
1. COLLECTIVE BARGAINING MEDIATION					
Assigned Cases ⁱ	12,938	12,054	11,636	11,734	11,280
Private Sector	11,802	10,856	10,620	10,678	10,465
Public Sector (state and municipal)	843	905	749	738	564
Federal Sector	293	293	267	318	251
Mediated Cases ⁱⁱ	4,122	4,009	3,719	3,540	3,230
Private Sector	2,826	2,697	2,600	2,435	2,352
Public Sector (state and municipal)	981	1,020	842	808	641
Federal Sector	315	292	277	297	237
Closed Cases	12,651	12,032	11,644	11,605	11,261
Closed Mediated Cases	3,339	3,299	3,081	2,941	2,616
Activity Rate ⁱⁱⁱ	26%	27.4%	26.5%	25.3%	23.2%
Settled and Closed Mediated Cases	2,807	2,852	2,605	2,516	2,278
Percentage of mediated cases settled w/FMCS ^{iv}	84%	86.5%	84.6%	85.5%	87.1%
Activity rate in significant cases ^v	47%	40.6%	42.6%	38.7%	36.4%
2. GRIEVANCE MEDIATION					
Assigned Cases	1,872	1,762	1,729	1,713	1,719
Mediated Cases	1,809	1,704	1,676	1,670	1,650
Private Sector	1,398	1,330	1,319	1,269	1,283
Public Sector (state and municipal)	267	256	240	267	229
Federal Sector	144	118	117	134	138
Settled GM Cases	1,383	1,308	1,221	1,264	1,224
Percentage of cases settled w/ FMCS ^{vi}	76%	76.8%	72.9%	75.7%	74.2%
3. RELATIONSHIP-DEVELOPMENT AND TRAINING					
Number of training programs provided	2,027	1,884	1,923	1,941	1,956
Private Sector	1,174	1,111	1,090	1,107	1,179
Public Sector (state and municipal)	533	436	472	471	410
Federal Sector	320	337	361	363	367
4. ADR Services					
Mediated Cases	1,118	910	1,193	1,076	1,200
Federal Sector	1,089	884	1,152	1,057	1,185
Public Sector (state and municipal)	1	6	3	3	4
Private	28	20	38	16	11
Settled ADR Cases	488	410	536	479	594
Percent of ADR cases settled w/ FMCS ^{vii}	44%	45.1%	44.9%	44.5%	49.5%
5. OUTREACH					
Outreach cases ⁱ	2,911	2,710	2,722	3,049	2,837
6. ARBITRATION SERVICES.....					
Number of panels issued	13,361	13,179	12,744	12,250	11,836
Number of arbitrators appointed	6,020	5,836	5,415	5,296	5,247
7. GRANTS					
Number of grants funded	0	0	8	3	11
8. INSTITUTE					
Number of courses provided	10	8	8	9	9
Number of participants	188	114	151	142	189

Mediation Services Program Data



	2013	2014	2015	2016	2017
Work stoppages carried from preceding FY	21	16	14	12	15
Work stoppages beginning within FY	154	106	110	100	98
Work stoppages closed within FY	159	108	112	97	102
Work stoppages open at end of FY	16	14	12	15	11
Average duration of work stoppages in closed cases (number of days)	44.3	75.7	64.9	40.1	50.5

ⁱ Section 8(d) of the National Labor Relations Act, as amended, 29 U.S.C. §158(d) requires that any employer or labor organization provide notice to the FMCS 30 days prior to contract expiration. Not all cases providing notices are assigned. Actual 2017 FMCS case intake was more than 19,400.

ⁱⁱ Mediated cases represent the number of cases in the FY where mediators have become active in the negotiations.

ⁱⁱⁱ Defined as the number of closed cases where there was at least one meeting divided by the number of total closed assignments.

^{iv} Defined as the number of mediated cases settled divided by the total number of mediated cases.

^v Significant cases are generally defined as situations where the bargaining unit exceeds 1,000.

^{vi} Defined as the number of grievance mediation cases settled and closed within the fiscal year divided by the number of closed GM assignments.

^{vii} Defined as the number of ADR cases settled divided by the number of mediated cases closed.

^{viii} FMCS requires all mediators to engage in outreach efforts. These kinds of activities include non-bargaining meetings with labor and management representatives, attendance at conferences, meetings with local and state officials to offer FMCS services, and presentations designed to increase public knowledge.

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