

Jackson, Alexis (LR)

From: Bress, Joe
Sent: Friday, May 01, 2009 4:35 PM
To: Weiderhold, Fred
Subject: CORRECTED- April 2009 ORB Memo - J Bress
Attachments: JMB- Weiderhold - ORB Memo- April 2009 CORRECTEDpdf.pdf

Fred,

The revised version attached has two corrections- First paragraph, Page Two the word "bases" was corrected to "basis" and in the second paragraph, on the same page, the word "with" was corrected to "without". There was also a duplicate page 3 in the Adobe scan originally emailed to you that has been removed.

Hard copy will be sent via mail.

Thank You.

Alexis Jackson

Sr. Executive Assistant
Office of the Vice President, Labor Relations
60 Massachusetts Avenue, NE
Washington, DC 20002
Bell: 202.906.2180
ATS: 777.2180
Fax: 202.906.3783
Email: JacksoA@amtrak.com

Memo



Date April 29, 2009

To Fred W. Weiderhold

From Joseph M. Bressi *JMB*

Subject Evaluation of the Operation
RedBlock program (**Corrected**)

This memorandum is written in response to the evaluation of the Inspector General of the Operation RedBlock program and after a review of labor's response to it as well.

I previously submitted a response to Finding 4 in a memorandum dated October 3, 2008, and will not respond to that finding further.

This response will address the recommendations of the Evaluation of Operation RedBlock by the Inspector General. While I will do that specifically, I believe it is important to point out that there have been studies and writings about this RedBlock Program that were not referenced or included in the evaluation. Further, I would like to have seen some outside professional peer or academic look at this program considered as part of the evaluation. The fact that this response does not take issue with or agree with the narrative before each recommendation should not be taken as agreement with the contents of the narrative.

Recommendation 1 (a): Amtrak Senior Management should decide if they want to continue the ORB program. If so, then:

1(b) Amtrak Senior Management should formally endorse the ORB program and work with the ORB Executive Steering Committee to meet on a regular basis.

1(c) The ORB Executive Steering Committee should provide meaningful oversight of the program and set goals and objectives with which to measure the performance of the program.

There should be no question that Amtrak Senior Management formally endorses the program. It has continued the Program and, at no time in my knowledge, has the elimination of the Program been considered. In July, 2004 then President and CEO David Gunn assigned ORB to Labor Relations. The program continued with minimal reduction in funding and meetings and training on a divisional basis. The annual convention was terminated. In its place regional meetings were scheduled. However, it was known that the regional meetings would, in the long run, require greater funding than the convention. David Gunn agreed and ORB has proceeded that way since.

While each President during the time since 2004 endorsed ORB, local management, in some cases, has not been as actively involved as it should be. The labor representatives locally and nationally have been on individual basis. The ORB Executive Committee did not meet during the negotiation period for several reasons. First, the EAP program and ORB were split and separately assigned to Labor Relations and Human Resources. The original combination of these programs had been brought to and endorsed by Labor and Management at the ORB Executive Steering Committee.

The split was implemented by Management without Labor consultation or involvement. That action terminated the meeting of this group until last year, but did not end the individual support and participation of the union leaders in the ORB program.

Second, negotiations for a successor agreement with the unions took almost eight years for many of the unions to complete. This also contributed to the lack of Executive Steering Committee meetings in 2004.

Executive Steering Committee meetings are to be scheduled for twice each year. We met last May, 2008 for the first time since negotiations concluded this round. I recommended to the Committee last March 31 when we met that we meet more than that – at least 3 or 4 times. The Committee is schedule to meet again this June.

In each budget submission since 2004, the ORB budget has contained measurable goals that were to be achieved during the year. The support by the Management of the budget and these goals, I believe, has provided meaningful oversight and direction, at least since Labor Relations became involved. Prior to Labor Relations, ORB was under the direction of different programs and departments over a number of years – with no stable managerial oversight. That changed in 2004 and has addressed this recommendation. In addition one major performance measurement has been met and also has been articulated by FRA; i.e., no drug or alcohol related accident has occurred involving Amtrak trains since the ORB Program began 20 years ago.

Recommendation 3(a): The ORB director should develop a bi-weekly and monthly mark-off report by craft, location and day of the week for trend analysis and emerging identification.

3(b): The ORB director should develop similar reports as discussed above that specifically cover hours of service employees.

3(c): The ORB Director should distribute these reports on a biweekly, monthly and quarterly basis to Senior Management with the need to know basis.

When the ORB Program was assigned to Labor Relations, the ORB Director and I went through the statistical analysis that should be collected and reported. These reports include the data that has been recommended by the Inspector General and provides even more information. Random drug and alcohol test results are not distributed on the same basis and have not been routinely provided to RedBlock or designated Senior Management. That is as important to compare to the mark-offs that occur to identify potential trouble spots in the company.

This ORB data was recently distributed to Senior Management as part of the March 31 Executive Steering Committee meeting. These managers include the Chief Operating Officer, the Vice President, Labor Relations, the Vice President, Human Resources, the Vice President, Operations, the Chief Mechanical Officer and the Chief Engineer. The union leaders also had access to this information at that meeting.

This recommendation has been adopted and implemented.

Recommendation: 4(a) and 4(b) were responded to in a letter to the Inspector General dated October 3, 2008.

Recommendation: 5(a) Amtrak Senior Management should set an appropriate limit to employee RedBlock mark-offs.

5(b): Amtrak Senior Management should require that, following an employee intervention the employee is referred to Amtrak's EAP and in turn required to meet with an EAP counselor.

This recommendation is one with which ORB cannot agree. The apparent basis for this recommendation is the CSX provision of three RedBlock mark-offs, with each having a one year period before it can be expunged. After the second mark-off the employee would be referred to EAP through the CSX By-Pass Agreement; after the third, removal from service may occur.

I have discussed the CSX mark-off program with union officials and local union leaders involved at CSX. I have been told that the procedure does not work and the mark-offs are used for vacations, etc. And, Labor has questioned CSX management support. To provide a number of mark-offs is to give license to use them. I have also been told that interventions do not occur regularly after mark-offs and that union leaders are not involved with the CSX program to the extent at Amtrak even before recent times. CSX only covers 17,000 to 21,000 of its over 36,000 employees, mostly train and engine employees, and does not cover all of its represented employees. Other Class 1 railroads have ORB programs and were not consulted as part of this evaluation. The Labor response points this out and that information will not be repeated here.

The Amtrak ORB mark-off process has no provision permitting multiple mark offs and should not have one. Statistically, it has been rare for an employee to mark off twice in one or two years. Three over several years is so rare as to be negligible. An immediate intervention occurs with any person who marks off. The whole purpose of the mark off is to permit a confidential procedure for an employee to remove him or herself from the property without adverse managerial action. "(O)ne reason MAPS (member assistance programs) have the potential to be so effective at reducing substance abuse is that, unlike EAPs, they exercise communal or normative control over union members....Peers rather than supervisors promote conformity by defining, responding to and controlling what is considered deviant behavior...." Quoted in Member Assistance Programs in the Workplace, Bacharach, Bamberger, Sonnenstuhl, ILR Press, No. 69, 1994, p. 11. As indicated infra., multiple mark-offs will be referred to the UMACs. More on peer counselors later.

EAP is a management program. Trust of EAP would need to be paramount before a peer would use it as a first thought as long as it is a management program. At Amtrak EAP was trusted by Labor when it was part of ORB. And, whether people agreed with the program assigned as it was, the Director was credentialed for it. The split of the program as it occurred, supra., did not receive the confidence or support of Labor. While I do not believe that a management EAP will lead union-represented or non-managerial employees to look to it first unless required to do that, one that was contracted out would more likely be accepted because of the confidentiality from management that employees would accept and trust.

This would be especially true if Labor and Management jointly wrote an RFP, reviewed the bids and participated in the award of such a contract – as has occurred in the Joint Medical Administration Committee (JMAC) for AmPlan health insurance providers.

MAPs (Member Assistance Programs) strive to create working environments in which union members address their own alcohol and drug use issues. In the best of worlds, workers take it for granted that drinking and using drugs at work is unacceptable and those workers who suffer from substance abuse problems will receive treatment and support on the journey toward recovery. No sign that management pins up can take the place of an active committed MAP.

Samuel B. Bacharach, Ph.D., Battling Addiction: The Workplace Matters, 2009 Home Box Office.

Recommendation: 6(a) The ORB Director should meet regularly with EAP to coordinate efforts and involve EAP in ORB training and educational activities.

While I am responding to the recommendations, I do want to state again that it should not be assumed in any response that the narrative leading to the recommendations is accepted as either factual or correct. The Union response was much more particular and lengthy in objection to and difference of opinion with the Evaluation. We agree that the ORB Director should meet regularly with EAP and involve EAP in ORB training and education activities. The recommendation should have recognized that this is a two way street and that Director of EAP (Health Services) must do the same. Regardless of what FRA comments were included in this part, ORB peer counselors should counsel employees that there are alternatives to treatment and advice – e.g., United Behavioral resource list of providers as well as EAP. As Labor was informed by Amtrak, EAP is a management program – and as such, one need not wonder why employees or Labor may have concerns about the compromise of confidentiality. Perception is as, if not more, important than reality. This goes back to the 2004 split of ORB and EAP. We are not past that yet.

Recommendation: 7(a) Amtrak's ORB program should focus solely on it (sic) core mission of employee drug and alcohol education, identification and referral

7(b) The UMAC and Peer Counselor Programs should be relocated and managed within the Human Resources Department -- EAP

7(c) The CARE Program should be relocated and managed within the Human Resources Department – Health Services.

These recommendations are not acceptable for the best operation of the ORB Program and effective peer relationship in an area that requires both confidentiality and trust.

Since the late 1960s, peer counseling (as opposed to professional counseling) has been used with increasing acceptance and success in various situations. (R)evue by Durlak (1979) shows that nonprofessional (peer) counselors were as effective as professionals in helping people cope with many hassles of daily living.

Vincent J. D'Andrea and Peter Salovey, Peer Counseling: Skills and Perspectives, 2nd Ed., Science Behavior Books, 1966, p.4.

The quote from the Peer Counseling book points this out in reference to high school and college student peer counselors. Not professionals, but peer non-professionals make a difference in these programs, even at the high school and college level.

The peer counseling, UMAC and CARE programs were developed jointly by Labor and Management. These programs depend, in the first instance, on peer intervention and support from employees involved and trained to handle these situations; employees who may have previously had such experiences. While it may not be sufficient to say that we should not unilaterally sever these programs from ORB and potentially suffer another union rift, it is important to note that employees' confidence in this program exists because it is union supported and sponsored. The programs were created that way and exist to today because of Labor in addition to Management support. As an example, at the last Executive Steering Committee meeting there was agreement that all multiple mark offs will be referred to the UMACs and the General Chairmen for intervention.

Under CARE after three days of absence, if taken, an engineer or conductor must have EAP approval to continue with treatment and an absence up to seven days. ORB refers these individuals to EAP for that purpose – and it is also part of the CARE agreement. This is an over ten year agreement that has operated without adverse implications for the workers and involved labor cooperation with management. At this point, and with Labor's negative comments in its response, this recommendation would not result in an improvement of the CARE program. Once again, since this is a negotiated labor/management agreement, even if such a recommendation were considered appropriate, labor and management would need to collectively agree.