

May 29, 2026

Surface Transportation Board
395 E Street SW
Washington, D.C. 20423

RE: Advanced Notice of Proposed Rulemaking; Amendments to Regulations Governing Ex Parte Communications
Docket No. EP 782

Board Members Fuchs, Hedlund, and Schultz:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Surface Transportation Board's (STB) Advanced Notice of Proposed Rulemaking (ANPRM) in response to a petition for rulemaking regarding amendments to the regulations governing ex parte communications. By way of background, TTD represents 39 affiliate unions whose members work in all modes of transportation, including rail workers whose employers and unions would be impacted by the broadening of allowable ex parte communications. As such, we are concerned that broadening acceptable ex parte communications will reduce public transparency and diminish the credibility of the STB's proceedings.

This ANPRM responds to a petition for rulemaking filed by the Association of American Railroads (AAR) on May 16, 2025. The AAR's petition seeks six changes to the STB's rules governing ex parte communications. The AAR first asks the Board to add language to clarify that the ban on ex parte communications does not prohibit communications occurring in any proceeding regarding routine, procedural matters. The AAR next asks the Board to revise the existing regulatory language to clarify that communications with Board staff concerning submitted evidence and compliance with orders seeking additional information are permissible, subject to the disclosure requirements in 49 CFR 1102.2(g)(4). In its third request, the AAR asks the Board to revise section 1102.2(b) to explicitly permit ex parte communications in uncontested proceedings involving only one party, such as petitions for exemption or petitions for declaratory order. The AAR's petition next requests the Board to change the regulatory text to state that ex parte communications are permissible in transactions involving Class I railroads, subject to the disclosure requirements in 49 CFR 1102.2(g)(4). Finally, the AAR's petition seeks two changes to the ex parte meeting rules for informal rulemaking proceedings set forth in section 1102.2(g).

The AAR's petition frames the majority of its requested modifications as improving efficiency and reducing the burden required of STB staff and parties to proceedings. However, in broadening the

scope of allowable ex parte communications, and thus expanding the extent of proceedings conducted outside of public view, the STB will damage not only the credibility of individual proceedings, but of the Board itself.

It is our position that ex parte communications should be generally prohibited, discouraged, and strictly limited when allowed, in keeping with current regulations. In order to prevent abuse, ensure public transparency, and reduce potential confusion around prohibited versus allowable ex parte communications, the Board should require public disclosure subject to 49 C.F.R 1102.2(g)(4) of all ex parte communications that it may decide to allow.

In addition to other modifications, the AAR requests that the Board permit ex parte communications regarding procedural and technical issues and confirmations of compliance with Board orders. We strongly encourage the Board to limit such communications to solely technical, procedural, or compliance questions, and apply the disclosure rules of 49 C.F.R 1102.2(g)(4). In order to promote transparency, the record in the proceeding should reflect the occurrence of the communication and its subject.

In addition to generally maintaining the limited scope of ex parte communications and requiring public disclosure, the Board should reject the AAR's request to allow ex parte communications in transactions that involve Class I railroads. The complex nature of these proceedings, the high level of public engagement, and potentially extremely impactful outcomes, public disclosure and transparency is paramount. The Board indicated that it does not intend to move forward with the AAR's requested changes in this regard, and we support this decision.

Again, we encourage the Board to maintain a limited scope of allowable ex parte communications and extend disclosure requirements for ex parte communications it chooses to allow in order to maintain the transparency and legitimacy of its proceedings. We appreciate the opportunity to comment on this matter and look forward to working with the Board in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Regan", enclosed within a circular stamp or seal.

Greg Regan
President