OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 26-03 **February 27, 2026**

TO: Regional Directors, Officers-in-Charge, and Resident Officers

FROM: Crystal S. Carey, General Counsel

SUBJECT: Case Handling Guidance

Since assuming the role of General Counsel, I have engaged in a comprehensive review of case handling practices. While my review is ongoing, and further guidance is expected, I have identified several initial opportunities to promote fair, efficient, and consistent enforcement of the National Labor Relations Act. This memorandum provides updated guidance based on those initial observations, with a focus on best practices, settlement considerations, and investigatory procedures in unfair labor practice cases. In addition to reinforcing prior guidance, it remains a priority to clarify procedures and expectations as we move forward. As new challenges and questions arise, my office is committed to addressing them promptly, to ensure that each region is equipped with clear, actionable direction.

Continuation of Prior Guidance

My office has received a number of questions regarding whether the prior guidance set forth by former Acting General Counsel Cowen remains in effect. The answer is – yes. This includes the rescission of prior General Counsel Memoranda (GC 25-05); *Seeking Remedial Relief in Settlement Agreements* (GC 25-06); *Surreptitious Recordings of Collective-Bargaining Sessions* (GC 25-07); *Guidance for Investigating Salting Cases* (GC 25-08); *Guidance for Referring Cases to the National Mediation Board* (GC 25-09); *Guidance for Deferring Unfair Labor Practice Cases* (GC 25-10); and the implementation of the Agency-Wide Docketing Protocol (GC 26-01).

To be clear, based on these memoranda, the Office of the General Counsel will no longer seek to have the Board revisit case law such as *Ex-Cell-O Corp.*, 185 NLRB 107 (1970); *Care One at New Milford*, 369 NLRB No. 109 (2020); and *Caesars Entertainment*, 368 NLRB No. 143 (2019). Accordingly, we are actively reviewing pending matters and rescinding any related allegations in pending complaints, as well as arguments in briefs or motions currently before an Administrative Law Judge or the Board.

Settlement Practices

The NLRB advocates for the resolution of cases through settlement rather than litigation whenever feasible. Consequently, when parties agree to particular settlement parameters and the terms are lawful, regions should approve informal Board settlements and/or grant withdrawal requests based on non-Board settlements, irrespective of the allegations before the region.

Enhanced remedies—such as notice readings, apology letters, or nationwide postings—should not be routinely included in settlement agreements or complaints. Enhanced remedies exist to address egregious and recidivist situations, and should be used for those purposes, in specific instances requiring stronger remedies. If parties have questions about the appropriateness of specific remedies in individual cases, these should be referred to Operations or the Division of Advice as appropriate for further guidance. Accordingly, we are actively reviewing pending matters and rescinding, where appropriate based on the above guidance, any request for enhanced remedies in pending complaints, as well as arguments in briefs or motions currently before an Administrative Law Judge or the Board.

This approach ensures that settlements remain focused on lawful and practical resolutions, streamlining case handling and supporting the Agency's commitment to consistent enforcement of the National Labor Relations Act.

Allegations Based on Maintenance of Rules

During my review of pending cases, I noted multiple instances where allegations were based solely on the maintenance of potentially unlawful rules, without any concurrent allegation of enforcement or evidence demonstrating actual impact on employees. Pursuing such cases is not an efficient use of our already limited Agency resources.

Regions should promptly seek settlement in any pending complaints or merit charges of this nature. If the charged party consents to modify or rescind the rule(s), regions should request a withdrawal of the charge based on remediation. Should withdrawal not be attainable after agreement on the remediation, the charge may be merit dismissed, or may be dismissed for lack of merit or non-effectuation, as deemed appropriate.

When reviewing rules related cases, regions should focus on an evaluation of rules that are alleged to present clear, facial violations—such as outright bans on discussing wages among employees. In this context, it is essential that regions assess each alleged unlawful rule within the framework of the charged party’s industry and consider any legitimate business justifications provided. In this same vein, rules should not be sustained simply due to vagueness; rather, a nuanced approach must be applied, ensuring that only those rules with obvious, unjustifiable restrictions are pursued further.

Requests for Evidence

Consistent with our updated docketing protocol, a charging party should be prepared to present evidence to support their allegations within two weeks of filing a charge. Once a charge is assigned to a board agent for investigation, the board agent will communicate with the charging party regarding any additional materials required to support their case. A request for evidence letter ("EAJA letter") should not be sent to the charged party until the board agent is satisfied that the charging party's evidence suggests a prima facie case. This does not prevent a charged party from providing information in advance of receipt of the EAJA letter. In fact, doing so may assist the board agent in achieving a quicker determination on the case – a recommendation for dismissal, a potential settlement with more favorable terms, or a merit finding.

EAJA letters must be concise and provide adequate information for the charged party to respond appropriately. This will require more than a recitation of the allegations from the face of the charge. Requests for documents to all parties should be specific, relevant, and confined to what is necessary to make a determination on the merits of the case. For example, requests for entire handbooks should be avoided unless it is directly pertinent to the allegations before the Agency. If a single rule is alleged to have violated the Act, only that particular rule should be requested. This does not prevent a party from providing additional materials they believe would be helpful to the investigator.

Not every case is appropriate for 10(j) and inquiries regarding a party's stance on Section 10(j) relief should be made only when an initial review of the charging party's materials suggest seeking the charged party's position on 10(j) is necessary. Additionally, regions should continue to accommodate reasonable requests for extensions of time to respond to regional inquiries to all parties.

By adhering to these evidentiary request protocols, regions can promote transparency and efficiency in case management, ensuring that investigations remain focused and do not unnecessarily burden either party. This approach aligns with the Agency's broader commitment to fair and effective enforcement, and fostering the timely resolution of disputes while maintaining procedural integrity.

By prioritizing settlements, concentrating investigative resources where they have the greatest impact, and ensuring clarity in evidence requests, we promote practical, timely resolutions that benefit all parties. This ongoing approach positions the Agency to fulfill its statutory mission, with further guidance to follow as we continue enhancing our processes and outcomes.

C.S.C.