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A More Measured NLRB? GC Memo Suggests a Reset in Enforcement

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The National Labor Relations Board’s (NLRB) General Counsel, Crystal Carey, has issued updated guidance aimed at promoting fair, efficient, and consistent enforcement of the National Labor Relations Act (NLRA). Although additional direction is expected, this memo signals an immediate recalibration in several key enforcement areas — settlements, handbook-rule allegations, and evidence gathering. Overall, the tone and substance reflect a practical, employer-appreciated approach focused on process integrity, predictability, and efficiency rather than headline-grabbing enforcement.

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Importantly, the memorandum underscores the general counsel's commitment to reducing the Agency's significant case backlog — prioritizing clarity and timely resolutions — rather than advancing new enforcement objectives. This is not an effort to forcefully push the pendulum back; it is an effort to steady it.

First, the memorandum confirms that the prior guidance issued by Acting GC William Cowen remains fully in effect. That includes the rescission of earlier, more expansive enforcement memoranda and a clear statement that the GC will not seek to revive controversial NLRB doctrines. The GC's office is actively reviewing and rescinding allegations and legal arguments in pending cases that relied on these now-abandoned theories. This signals a more moderate enforcement posture.

Next, the memorandum signals that the NLRB will push to approve lawful settlements even if the underlying allegations are broad. The GC made it clear that enhanced remedies, such as mandatory apology letters, public readings of notices, or nationwide postings, should not be routinely sought. The GC's office is reviewing pending matters to remove unwarranted enhanced-remedy demands. This settlement-first posture is designed to move cases efficiently, reduce burdens on all parties, and deliver practical outcomes — an approach many employers will welcome.

The memorandum also highlights the GC's concerns about cases based solely on the maintenance of arguably overbroad rules where the rule has not been enforced and there is no evidence of harm. The GC has directed Regions to seek settlement, accept withdrawal upon modification of the rule, or dismiss such cases outright. The memorandum stops short of a complete retreat; the NLRB will still enforce rules that reflect clear, facially unlawful restrictions. Employers should still review their handbooks for compliance, but the risk of litigation over technical or speculative rule concerns is reduced. This

narrower focus allows employers to prioritize addressing obvious risk areas while avoiding protracted disputes over theoretical harms.

Lastly, the memo also clarified evidentiary request protocols, which the GC says can promote transparency and efficiency in case management while ensuring that investigations remain focused and do not unnecessarily burden either party. The GC also emphasized that requests for 10(j) positions should be rare and limited to cases that truly warrant injunctive consideration.

The new memorandum reflects an NLRB leadership aiming for consistency and efficiency rather than expansion of Board doctrine. More updates are expected as the GC continues reviewing agency practices. Employers should stay tuned for further changes, particularly regarding enforcement priorities.

“As we move forward with this new guidance, my office is committed to providing clear and actionable direction for Regional offices to judiciously securing the rights of all American workers,” said General Counsel Carey.

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