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The NLRB Resets Its Enforcement Priorities: What Every Employer Needs to Know Now

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On February 27, 2026, newly appointed National Labor Relations Board (NLRB) General Counsel Crystal S. Carey issued Memorandum GC 26-03, providing updated case handling guidance to regional offices nationwide. The memorandum is an early and consequential signal of how the new General Counsel intends to prioritize case processing to address the significant case back log created by the instructions of the prior General Counsel and recent government shutdowns. Employers and HR professionals should take note: the enforcement posture the NLRB has materially changed, and the practical implications are significant.

The General Counsel's memorandum directs regional offices to prioritize settlement, addresses the scope of investigations, and pulls back from enforcement theories that the NLRB views as an inefficient use of its resources. For employers, this guidance creates meaningful opportunities that were not available even six months ago.

Renewed Emphasis on Early Settlement. The memorandum encourages a focus on early settlement in several ways. The memorandum directs regions to approve lawful settlements and grant withdrawal requests without condition, regardless of the nature of the allegations, as opposed to its prior practice of rejecting settlements in "serious" cases or those which the Region considers a good test case. The guidance is direct on this point: "[W]hen 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." The memorandum also encourages the regions to accept closure by settlement without agreement of the charging party.

The Board's retreat from enhanced remedies should make settlement easier. Notice readings, public apology letters, and nationwide posting requirements have become increasingly common demands in recent years. Under GC 26-03, those measures are restricted to genuinely egregious or recidivist situations. The memorandum states that "enhanced remedies . . . should not be routinely included in settlement agreements or complaints" and that the NLRB is actively reviewing pending matters to rescind such requests where they do not meet that elevated standard.

Handbook and Workplace Policy Cases Are Being Wound Down

Another key development is the General Counsel's deemphasis of cases based solely on allegations that a handbook rule of policy could have a chilling effect on protected employee rights. The memorandum expressly rejects the past Board's pursuit of cases involving overbroad rules. The General Counsel noted that her office identified "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" and concluded that "[p]ursuing such cases is not an efficient use of our already limited NLRB resources." Regions have been directed to seek settlement, accept withdrawal upon modification of the rule, or dismiss such cases outright.

That said, this is not a wholesale retreat. According to the memorandum, the NLRB will continue to enforce rules that present clear, facial violations. Policies that expressly prohibit employees from discussing wages with one another, for example, remain squarely within the NLRB's enforcement focus. As a practical matter, employers should continue to review their policies proactively for restrictions on protected activity, while understanding that ambiguous or borderline policies are far less likely to generate active enforcement under this administration than they were previously.

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Document Requests to Companies Will Be Narrower and More Targeted

GC 26-03 builds upon the meaningful procedural changes to how the NLRB conducts investigations recently announced in prior memos (See GC 26-01 and GC 26-02). Charging parties are now required to present supporting evidence within two weeks of filing a charge. More significantly, the NLRB may not issue a formal investigative demand (also known as a request for evidence letter, or "EAJA letter" for short), to the employer until the board agent has first determined that the charging party's evidence supports a *prima facie* case. That is a notable procedural protection for employers, and one that represents a departure from prior practice.

When investigative requests do go out, they must be specific and proportionate to the allegations. As the memorandum states, "[r]equests 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." Wholesale requests for entire employee handbooks are disfavored. If a single policy is at issue, only that policy will be requested. Employers retain the right to voluntarily provide additional materials they believe support their position, and doing so proactively might influence the direction of an investigation in a favorable way.

Should you have any questions about the impact of this Memorandum GC 26-03 to your workplace, please contact the authors of this e-alert.