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NLRB General Counsel Announces Priorities And Positions

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On August 17, 2026, the U.S. Senate confirmed two new appointments to the National Labor Relations Board (“the Board”), providing Republican appointees with the necessary votes to overturn Board precedent. On August 26, 2026, the Board General Counsel Crystal Carey issued Memorandum GC-26-04 providing further guidance regarding General Counsel priorities and positions on specific issues. The General Counsel articulated her two-fold approach to tackling the backlog of cases before the Board: (1) prioritizing the processing of current cases; and (2) implementing strategic case-handling practices to prevent further backlogs. The Memorandum also outlines specific precedents the General Counsel would request the newly constituted Board “to revisit” and her current positions in active cases and anticipated positions in future cases.

The General Counsel’s current positions on specific issues in active cases include:

- Eliminating restrictions on severance and other employment agreements.
 - The General Counsel has advocated that the Board overturn recent decisions imposing restrictions on negotiated severance and employment agreements and, instead, urged the Board to analyze severance and employment agreements consistent with previous Board policy of favoring private resolution of workplace disputes and only finding provisions to be unlawful if the agreements contain an explicit waiver of employee Section 7 rights.
- Overturning many of the restrictions on employer work rules.
 - In a brief filed in a pending case, the General Counsel urged the Board to overturn recent decisions restricting an employer’s ability to promulgate and enforce numerous work rules and handbook provisions in favor of a “more balanced approach that effectuates congressional intent and promotes industrial peace.” The General Counsel asserted that recent Board decisions inappropriately prevent employers from enforcing workplace rules involving anti-harassment, workplace standards, and confidentiality.
- Reversing the prohibition against employer “captive audience” meetings held more than 24 hours before a union election.
 - The General Counsel urged the Board to reverse recent decisions restricting employer speech during a union campaign and revert to past precedent.
- Reducing restrictions on employer dress codes.
 - In a brief filed in a pending case, the General Counsel urged the Board to return to a standard, articulating “that employers have the right to maintain neutral, nondiscriminatory employee uniform and appearance rules absent proof of disparate treatment or interference beyond reasonable time, place, or manner limits.”

Issues of interest to employers that the General Counsel intends to challenge in the future include:

- The requirement that unions only need to apprise union objectors of dues that they will owe after they object to union membership;
- Protecting employee misconduct that is mostly unrelated to protected concerted activities;
- Requiring employers to continue deducting union dues after the expiration of a collective bargaining agreement; and
- The use of “enhanced remedies” by the Board in unfair labor practice cases.

After issuing her directive, the General Counsel also urged the Board to overturn the *Cemex* decision, which modified the standard for issuing mandatory collective bargaining orders. The General Counsel advocated that the Board re-establish pre-2023 (more employer-friendly) Board precedent for determining when the Board should issue mandatory bargaining orders.

Notably, several of the issues referenced by the General Counsel in her Memorandum apply to non-union employers and her positions will result in changes in Board precedent, meaning that unionized and non-union employers may be able to return to common sense workplace rules.

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