



February 18, 2025

## NLRB General Counsel Rescinds Numerous Memos

On February 14, NLRB acting General Counsel William B. Cowen [rescinded numerous General Counsel Memoranda](#) from Jennifer Abruzzo under the premise of an untenable backlog of cases at the NLRB preventing progress in handling more pressing matters. The move has effectively reshaped federal labor law and signaled a new policy direction for the NLRB under the Trump administration.

### **Memos Rescinded of Note**

#### **GC 23-02 Electronic Monitoring and Algorithmic Management of Employees Interfering with the Exercise of Section 7 Rights**

Issued on October 31, 2022, this memorandum highlights concerns about consistent surveillance in workplaces, including tracking movements, recording conversations, and monitoring computer activity which can discourage protected activities like union organizing. It also emphasized interagency collaboration to address workplace surveillance issues across multiple federal agencies.

#### **GC 23-05 Guidance in Response to Inquiries about the McLaren Macomb Decision**

Issued on March 22, 2023, this memorandum reinstated a longstanding precedent that employers violate the NLRA when they offer employee severance agreements that broadly waive their rights under the Act. This established even offering such agreement was unlawful regardless of whether an employee signed it. It was applied retroactively meaning employers had to modify or null existing agreements.

#### **GC 23-08 Non-Compete Agreements that Violate the NLRA**

Issued on May 30, 2023, this memorandum stated that non-compete agreements generally violate the NLRA because they restrict employees' Section 7 rights and deter workers from leaving jobs to seek better conditions. The memo argued proffering, maintaining, or enforcing an overly broad non-compete was unlawful unless tied to a special circumstance.

#### **GC 25-01 Remediating the Harmful Effects of Non-Compete and "Stay or Pay" Provisions that Violate the NLRA**

Issued on October 7, 2024, this memorandum expanded GC 23-08 by outlining remedies for unlawful non-competes, even without direct enforcement. It directed employers with unlawful provisions must rescind and compensate employees for lost opportunities and make whole for financial harm.



## **NLRB General Counsel Memos Rescinded**

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### **Memos Rescinded Pending Further Guidance of Note**

#### **GC 21-06 Seeking Full Remedies**

Issued September 8, 2021, this memorandum expanded remedies for victims of ULPs under the NLRA. This included full relief for workers affected by unlawful conduct including compensation for damages such as healthcare costs and late fees resulting from employer actions. This memo also detailed various remedies for unlawful firings and proposed stronger measures to address labor law violations during union organizing efforts such as access to employees, reimbursement for organizational costs, public notices, and mandated training for management. Lastly, it suggested remedies for bargaining violations.

#### **GC 21-07 Full Remedies in Settlement Agreements**

Issued September 15, 2021, this memorandum outlined the importance of securing full remedies in settlement agreements for victims of ULPs. It emphasized comprehensive compensation beyond backpay, consequential damages, reinstatement, and additional measures such as letters of apology and security provisions to ensure compliances. It also included guidance encouraging expanded notice dissemination, sponsorship of work authorizations for immigrant workers, and stronger remedies to deter future violations.

#### **GC 24-01 (Revised) Guidance in Response to Inquiries about the Board's Decision in the Cemex Construction Materials Pacific, LLC**

Issued April 29, 2024, this memorandum clarified that employers must recognize a union upon demand and promptly file an RM petition to challenge the union's majority status within two weeks or face a bargaining order if they committed ULPs. It eliminated alleged delays and tactics that disrupt elections for faster representation.

### **Memos Rescinded Cited as No Longer Relevant**

#### **GC 22-04 The Right to Refrain from Captive Audience and other Mandatory Meetings**

Issued April 7, 2022, this memorandum argued that mandatory "captive audience" meetings where employees are forced to listen to employer speeches on unionization violated Section 7 rights and prohibited employers from compelling attendance without voluntary consent. This was deemed no longer relevant due to the Board's decision in [Amazon.com Services LLC, 373 NLRB No. 136 \(2004\)](#).

### **Looking Ahead**

The recession of the former General Counsel memos was expected and will lead to more changes at the NLRB and in labor policy, as Acting General Counsel Cowen indicated the review was ongoing and that future adjustments will be made as needed. NECA members are encouraged to stay up to date on the latest changes at the NLRB as this will significantly alter how an employer may act beyond the terms and conditions of a Collective Bargaining Agreement or within organizing campaigns.



## **NLRB General Counsel Memos Rescinded**

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NECA remains committed to ensuring that our industry's interests are represented as this situation continues to unfold. We will continue to provide updates as more details emerge. If you have any immediate concerns or specific questions, please contact NECA's Labor Relations and Government Affairs teams for guidance.

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