June 21, 2017

Re: FOIA ID: LR-2017-0097

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated October 10, 2016 and received on October 11, 2016, in which you requested an electronic copy of “the NLRB Field Manual of Casehandling Memoranda, located on the Division of Operations Management internal employee intranet website.” You agreed to assume financial responsibility for the processing of your request.

We acknowledged your request on October 10, 2016. We regret the delay in our final response.

I have attached a copy of the requested document. A few redactions have been made pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5), which protects intra-agency communications and records from disclosure on the basis of, among other things, the deliberative process and attorney work-product privileges, as discussed below.

Specifically, the deliberative process privilege protects the internal decision-making processes of government agencies in order to safeguard the quality of agency decisions. The basis for this privilege is to protect and encourage the creative debate and candid discussion of alternatives. Two fundamental requirements must be satisfied before an agency may properly withhold a document pursuant to the deliberative process privilege. First, the document must be predecisional, i.e., prepared in order to assist an agency decision-maker in arriving at the decision. Renegotiation Bd. v. Grumman Aircraft Eng’g Corp., 421 U.S. 168, 184 (1975); Judicial Watch, Inc. v. FDA, 449 F.3d 141, 151 (D.C. Cir. 2006). Second, the document must be deliberative, i.e., “it must form a part of the agency’s deliberative process in that it makes recommendations or expresses opinions on legal or policy matters.” Judicial Watch, Inc. v. FDA, 449 F.3d at 151 (quoting Coastal States Gas
v. U.S. Dep’t of Energy, 617 F.2d 854, 866 (D.C. Cir. 1980)). To satisfy these requirements, the agency need not “identify a specific decision in connection with which a memorandum is prepared. Agencies are . . . engaged in a continuing process of examining their policies; this process will generate memoranda containing recommendations which do not ripen into agency decisions; and the lower courts should be wary of interfering with this process.” NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151 n.18 (1975). The protected status of a predecisional document is not altered by the subsequent issuance of a decision, see, e.g., Federal Open Market Comm. v. Merrill, 443 U.S. 340, 360 (1979); Elec. Privacy Info. Ctr. v. DHS, 384 F. Supp. 2d 100, 112-13 (D.D.C. 2005), by the agency opting not to make a decision, see Judicial Watch, Inc. v. Clinton, 880 F. Supp. 1, 13 (D.D.C. 1995), aff’d, 76 F.3d 1232 (D.C. Cir. 1996) (citing Russell v. U.S. Dep’t of the Air Force, 682 F.2d 1045 (D.C. Cir. 1982)), or by the passage of time, see Judicial Watch of Fla., Inc. v. U.S. Dep’t of Justice, 102 F. Supp. 2d 6, 16 (D.D.C. 2000) (finding that the deliberative process privilege is not temporary).

The attorney work-product privilege protects documents and other memoranda that reveal an attorney’s mental impressions and legal theories that were prepared by an attorney, or a non-attorney supervised by an attorney, in contemplation of litigation. See United States v. Nobles, 422 U.S. 225, 239 n.13 (1975); Hickman v. Taylor, 329 U.S. 495, 509-10 (1947). The attorney-work product privilege covers material that “can fairly be said to have been prepared or obtained because of the prospect of litigation.” In Re Sealed Case, 146 F.3d 881, 884 (D.C. Cir. 1998) (internal citation and quotation marks omitted). The privilege's purpose is to protect the adversarial trial process by insulating attorneys' preparations from scrutiny. See Judicial Watch, Inc. v. Dep’t of Homeland Sec., 926 F. Supp. 2d 121, 142 (D.D.C. 2013). In the context of a government agency, a document will be protected if its authors acted “as legal advisors protecting their agency clients from the possibility of future litigation.” Id.; see also Delaney, Migdail & Young, Chartered v. IRS, 826 F.2d 124, 127 (D.C.Cir.1987) (memoranda protected which “advise[d] the agency of the types of legal challenges likely to be mounted against a proposed program, potential defenses available to the agency, and the likely outcome”); Nat’l Ass’n of Criminal Def. Lawyers v. Exec. Office for United States Attorneys, 75 F. Supp. 3d 552 (D.D.C. 2014).

Specifically, the responsive document here, the “Field Manual of Casehandling Memoranda” provides, alphabetically and by subject matter, a list of (i) OM and GC Memoranda posted on the NLRB website, and (ii) internal ICG memoranda not posted on the NLRB website and (iii) internal Agency communications sent from Headquarters to Regional Management. The Manual is intended as a quick reference for Regional Offices and is not an exhaustive listing of casehandling guidance. Redactions have been made to protect the listed internal Agency communications pursuant to Exemption 5. The listed internal communications (such as the ICG memoranda) are accessible only on the Agency’s intranet by Agency personnel and are sent as casehandling guidance. Reference to the titles of these
communications and the communications themselves meet the requirements for Exemption 5 protection under both the deliberative process and the attorney work-product. They are internal and predecisional. They reflect the views of the Office of the General Counsel concerning prosecutorial policies and opinions regarding issues that may arise in the litigation of unfair labor practice cases. Because they analyze issues and practices relating to the handling of potential and actual case-handling situations, these internal communications reflect the deliberative and consultative process of the Agency that Exemption 5 protects from forced disclosure. NLRB v. Sears, Roebuck and Co., 421 U.S. at 150-52. Additionally, the redacted communications are attorney work-product, as they reflect internal guidance sent to the Regions from the General Counsel and his staff to assist superiors in their decision-making process and the coordination of pending and anticipated unfair labor practice litigation.

For the purpose of assessing fees, we have placed you in Category D, the "all other requesters" category, because you do not fall within any other of the fee categories. Consistent with this fee category, you will be assessed charges to recover the full reasonable direct costs for searching for the requested documents and the duplication of those documents. As a requester in this category, you will not be charged for the first two hours of search time or the first 100 pages of duplication. NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(2)(ii)(D). Charges for all categories of requesters are $3.10 per quarter-hour or portion thereof of clerical time and $9.25 per quarter-hour or portion thereof of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Less than two hours of professional time was expended in searching for the requested material. Accordingly, there is no charge for this request.

You may contact Teresita Sanabria, the FOIA Specialist who processed your request, at (202) 568-3531 or by email at teresita.sanabria@nlrb.gov, as well as our FOIA Public Liaison at (202) 273-0902 or by email at FOIAPublicLiaison@nlrb.gov, for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001, email at ogis@nara.gov, telephone at (202) 741-5770, toll free at (877) 684-6448, or facsimile at (202) 741-5769.

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an appeal by mail to the Division of Legal Counsel, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C., 20570, or by email to DLCFOIAAppeal@nlrb.gov, within 90 days of the date of this letter, such period beginning to run on the calendar day after the
date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based. Should you have questions concerning this letter, you may contact Denise Meiners, FOIA Supervisor, at (202) 273-2935 or by email at denise.meiners@nltb.gov.

Sincerely

        Synta E. Keeling [sl]

Synta E. Keeling
Freedom of Information Act Officer

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FIELD MANUAL OF CASEHANDLING MEMORANDA

(To access a link provided in this document, select the link, press the CTRL key, and then click your mouse)

This Manual is intended to be a quick reference to information and guidance to matters related to casehandling in the Regional Offices. The information consists for the most part of relevant General Counsel (GC) and Operations-Management (OM) memoranda. It is not an exhaustive listing of important and particularly useful reference material. Therefore, it should not be relied upon solely in the decision-making process.

-A-

Advice
- GC Memo 14-01 – Mandatory Submissions to Advice
- OM Memo 10-13 (CH) – Casehandling Regarding Application of Spielberg/Olin standards
- OM Memo 08-74 (CH) – Collyer and Dubo Deferral of Blocking Charges
- GC Memo 08-09 – Submission of First Contract Bargaining Cases to the Division of Advice
- OM Memo 08-13 – Cases Involving Severance Agreements Containing Waivers Executed Prior to the Filing or Investigating of an Unfair Labor Practice Charge
- OM Memo 06-65 - Cases Arising Out of Immigration Rallies
- OM Memo 05-86 - Casehandling Instructions for "C" Cases Involving Airport Screeners
- OM Memo 06-42 - Regional Office Procedures for Handling Pending Section 8(b)(4)(ii)(B) Charges Involving Union "Bannerings" of Neutral Persons and the Display of Inflatable Rats
- OM Memo 04-76 - Casehandling Instructions Regarding Cases Involving Card Check and Neutrality Agreements
- OM Memo 04-72 - Casehandling Instructions for Charges that Concern Information Requests about Strike Replacements

ADR and Mediation
- OM Memo 08-21 – Court Mediation
- OM Memo 06-17 – Alternative Dispute Resolution Program

Answers
- OM Memo 05-55 - Filing a Motion to Strike Respondent's Answer When It Contains Denials not in Conformance with Section 102.21 of the Board's Rules and Regulations
Attorney-Conversion

   OM Memo 11-55 – Conversion of Field Examiners to the Field Attorney Position

Attorney-Client Privilege

   “Attorney-Client Privilege Training Materials” dated December 7, 2006

-Backpay-

See also “Closed Case Report”

ICG Memo 15-04 (Revised) - Enhanced Remedies
ICG Memo 14-09 - Remedial Initiatives
ICG Memo 13-12 - Announcement of Compliance Unit Website, Training Videos, and Techniques to Facilitate Compliance with Agency Orders

Attachment A  Attachment B

OM Memo 13-41 (Revised) – Latino Express Remedies

GC Memo 13-02 – Inclusion of Front Pay in Board Settlements

OM Memo 11-61 - Financial Remedies and Other Settlement Terms Audit OIG-AMR-63

GC Memo 11-08 – Guideline Memorandum Regarding Backpay Mitigation

OM Memo 09-27 – Instructions for Protecting Information Pursuant to Oil Capitol Sheet Metal Compliance Investigations

OM Memo 09-16 – Mitigation by paid union organizers under Contractor Services

GC Memo 09-01 – Guideline Memorandum Concerning St. George Warehouse

OM Memo 08-54 – Grosvenor Orlando Associates, LTD., 350 NLRB No. 86

OM Memo 08-29 (CH) – Case Handling Instructions for Cases Involving Oil Capitol Sheet Metals, 349 NLRB No. 118 (May 31, 2007)

Attachment 1 and Attachment 2

OM Memo 07-59(CH) – Consolidating Compliance Issues with ULP Complaints – Expediting Casehandling in “Default” Cases

GC Memo 07-07 - Seeking Compound Interest on Board Monetary Remedies

OM Memo 06-52 – Reporting the Backpay and Interest Collected and Fees, Dues and Fines Refunded on the Closed Case Report (include interest calculations in settlements with backpay)

OM Memo 00-45 - Compliance Best Practices – Early Computation of Backpay
Bankruptcy

OM Memo 08-59 – Eliminating Notices of Pendency of Unfair Labor Practice Proceeding in Bankruptcy Cases
OM Memo 07-26 - Bankruptcy Proceedings Best Practices
OM Memo 03-66 - Bankruptcy Notices From Claims and Noticing Agents
GC Memo 97-03 - Bankruptcy Referrals to Headquarters’ Offices (discusses division of responsibilities of bankruptcy matters between Contempt and Special Litigation Branches)
OM Memo 97-60 - Guidelines for Applying Impact Analysis Where a Respondent Has Filed for Bankruptcy

Best Practices

OM Memo 12-57 (Revised) - Electronic Distribution Posting of Notices and Reading of Notices
ICG Memo 12-07 - Guide to Creating a Facebook Account
ICG Memo 12-03 – Revised Social Media Guidelines
OM Memo 08-63 – Strategies for Meeting Overarching Goals
OM Memo 07-26 – Bankruptcy Proceedings Best Practices
GC Memo 06-03 – (Revised) - Mentoring Program and Best Practices Guide
OM Memo 06-47 - Best Practices for Increasing the Productivity and Job Satisfaction of Support Staff in Regional Offices
OM Memo 04-40 - Best Practices for Filing Briefs in Support of ALJ Decisions with the Board and Responding to Pleadings
OM Memo 04-27 - Best Practices Guide for NLRB Videoconferencing Attachment
GC Memo 02-04 - Best Practice Compliance Case Report
OM Memo 00-45 - Compliance Best Practices - Early Computation of Backpay
GC Memo 99-06 - Best Practice C Case Report
OM Memo 99-69 - Best Practices for Expediting the Processing of Major Unfair Labor Practice Cases
GC Memo 98-01 - Representation Cases Best Practice Report
OM Memo 98-61 - Addendum to GC 98-1, Representation Cases Best Practice Report, Protocol to Expedite Processing of Election Petitions
OM Memo 98-12 - Placing Greater Emphasis on Compliance Issues During Initial Stages of Case Processing

Bilingual Witnesses

OM Memo 09-44 (CH) – Public Inquiries and Investigations Involving Non-English Witnesses

Briefs

OM Memo 98-58 - Extensions of Time to File Answer Briefs and Cross Exceptions
Case Files (Disposition of)

ICG Memo 13-09 - Transcripts and Exhibits to Case Records Unit
GC Memo 07-09 – Information and Guidance for Managing the Discovery of Stored Information – Attachment
OM Memo 07-64 – Impact of E-Discovery on Regional Offices

Closed Case Report

OM Memo 06-52 - Reporting the Backpay and Interest Collected and Fees, Dues and Fines Refunded on the Closed Case Report

Complaints

OM Memo 11-31 – Consolidating Compliance Issues with ULP Complaints
OM Memo 05-79 - Electronic Submission of Complaints Pilot Program
OM Memo 98-12 - Placing Greater Emphasis on Compliance Issues During Initial Stages of Case Processing (includes discussion, inter alia, when it is appropriate to consolidate the compliance issues in the unfair labor practice proceeding)

Compliance

ICG Memo 15-04 (Revised) - Enhanced Remedies
ICG Memo 14-09 - Remedial Initiatives
OM Memo 08-21 - Court Mediation
ICG Memo 13-12 - Announcement of Compliance Unit Website, Training Videos, and Techniques to Facilitate Compliance with Agency Orders
Attachment A, Attachment B
OM Memo 13-41 (Revised) – Latino Express Remedies
GC Memo 13-02 – Inclusion of Front Pay in Board Settlements
ICG Memo 13-02 - Compliance Unit in the Division of Operations-Management
ICG Memo 12-13 - Revised Comprehensive Report on Quality Casehandling
OM Memo 12-57 (Revised) - Electronic Distribution Posting of Notices and Reading of Notices
OM Memo 11-61 - Financial Remedies and Other Settlement Terms Audit OIG-AMR-63
GC Memo 11-08 – Changes to the Methods Used to Calculate Backpay in Light of Kentucky River Medical Center and to Better Effectuate the Remedial Purposes of the Act Attachment: Daily Compound Interest
GC Memo 11-07 - Guideline Memorandum Regarding Backpay Mitigation
OM Memo 11-31 – Consolidating Compliance Issues with ULP Complaints
OM Memo 09-58 (CH) – Confessions of Judgment
OM Memo 09-27 – Instructions for Protecting Information Pursuant to Oil Capital Sheet Metal Compliance Investigations
Coordination of Cases

Coordination of Cases

The Operations page of the Insider lists all cases being coordinated by Operations or a Regional Office. Included are cases against a charging party that have been filed in several Regional Offices as well as cases involving issues that are being held in abeyance pending a Board decision.)
Cost Savings
As necessitated by the Agency’s budget, Operations-Management will issue
memoranda setting forth specific cost savings measures to be undertaken by the
Regional Offices. See e.g.
OM Memo 13-37 (Revised) - Casehandling Cost Saving Instructions for FY 13
OM Memo 06-99 – Casehandling Cost Saving Instructions for Fiscal Year 2007

Deferral

(b) (5)

(b) (5)

OM Memo 12-43 - Additional Guidance Concerning Collyer Deferral in Cases
GC Memo 12-01 - Guideline Memorandum Concerning Collyer Deferral Where
Grievance-Resolution Process is Subject to Serious Delay
GC Memo 11-05 - Guideline Memorandum Concerning Deferral to Arbitral Awards
and Grievance Settlements in Section 8(a)(1) and (3) cases
OM Memo 10-13 (CH) – Casehandling Regarding Application of Spielberg/Olin
standards
OM Memo 08-74 (CH) – Collyer and Dubo Deferral of Blocking Charges
GC Memo 95-08 - Collection Cases
OM Memo 90-83 - Preparation of Jurisdictional Referrals to the National Mediation
Board
GC Memo 84-14 - Deferral Policy in Cases Where Only Some Allegations are
Deferrable
GC Memo 84-10 - Guideline Memorandum Concerning Olin Corporation, 268
NLRB No. 86
GC Memo 84-5 - Guideline Memorandum Concerning United Technologies
Corporation, 268 NLRB No. 83
GC Memo 81-39 - Deferral of Charges under Dubo Manufacturing Company, 142
NLRB 431
GC Memo 80-10 - Memorandum of Understanding with the Mine Safety and Health
Administration (MSHA), U.S. Department of Labor, Concerning Cases Arising
Under Section 105(c) of the Mine Act
GC Memo 79-36 - Procedures for Application of the Dubo Policy to Pending Charges
GC Memo 79-04 - Memorandum of Understanding with the Department of Labor
Concerning Cases Arising Under Section 11(c) of the OSH Act
GC Memo 78-69 - Coordination with the Wage and Hour Division of the U.S.
Department of Labor on Deferred Cases
GC Memo 75-29 - Memorandum of Understanding with the Department of Labor Concerning Cases Arising Under Section 11(c) of the OSH Act


Discovery
OM Memo 10-48 – Revised Direction Regarding Litigation Holds
GC Memo 07-09 – Information and Guidance for Managing The Discovery of Electronically Stored Information – Attachment
OM Memo 07-64 – Impact of E-Discovery on Regional Offices

E-Filing
OM Memo 09-48 – Revised Appeal Language – Attachment
OM Memo 09-34 – Changes to Electronic Filing of Documents Requirements – Attachment
OM Memo 07-07 - Expansion of the General Counsel's Policy for Electronically Filing Casehandling Documents with Regional, Subregional or Resident Office

EAJA
ICG Memo 12-13 - Revised Comprehensive Report on Quality Casehandling
OM Memo 06-54 - Report of Quality Committee on FY 2005 Quality Reviews (includes sample EAJA letters) Attachment
OM Memo 97-78 - Information on EAJA Cases (reports to be submitted in EAJA cases)

Election and Election Agreements
OM Memo 12-50 - Guideline Memorandum for Evaluating Location of Rerun Elections
GC Memo 12-04 - Guidance Memorandum on Representation Case Procedure Changes
OM Memo 08-28 – Display of the American Flag at NLRB Representation Elections Attachment A, Attachment B, Attachment C
OM Memo 05-40 (Revised) - New "Full" Consent Election Agreement Procedure Attachment Consent Pamphlet
OM Memo 01-24 - Construction Industry Election Agreement (eligibility formula)

Field Examiner-Conversion
OM Memo 11-55 – Conversion of Field Examiners to the Field Attorney Position
FOIA

OM Memo 09-27 – Instructions for Protecting Information Pursuant to Oil Capitol Sheet Metal Compliance Investigations

OM Memo 09-10 – Procedures for Obtaining and Conducting FOIA Review of Confidential Witness Affidavits, Confidential and Non-Confidential Questionnaires, and Non-Board Witness Statements

Attachment 1 – Attachment 2

OM Memo 08-51 – Continuing Requests for Documents under the FOIA

OM Memo 05-78 – Extensions of Time for FOIA Responses and Requests for Commerce Questionnaires

Note: When it appears that a FOIA request has nationwide implications, the Region should contact the Legal Research and Policy Planning Branch of the Division of Advice

Front Pay

ICG Memo 15-04 (Revised) - Enhanced Remedies

-G-

Guideline Memos

Common to All Cases – Procedure

(b) (5)  

ICG Memo 13-19 - HIPAA

ICG Memo 12-09 - Recent Legislation Affecting HIPAA's Scope and Criminal Liability Provisions

ICG Memo 12-07 - Guide to Creating a Facebook Account

ICG Memo 12-03 - Revised Social Media Guidelines

GC Memo 09-02 – New Federal Rules Protecting Personal Identification Information in Court Filings

OM Memo 08-34 – HIPAA Subpoena Procedures and Revised HIPAA Authorization Forms

GC Memo 07-09 – Information and Guidance for Managing The Discovery of Electronically Stored Information – Attachment

OM Memo 07-64 – Impact of E-Discovery on Regional Offices

OM Memo 07-60(CH) – HIPAA Disclosure Procedures and Interviews of Health Care Providers

GC Memo 94-14 - Section 102.118 Delegation
**OM Memo 90-83** - Preparation of Jurisdictional Referrals to the National Mediation Board

**Common to All Cases - Substantive Law**


**GC Memo 07-05** – Guideline Memorandum Concerning *Oakwood Healthcare, Inc.*

**OM Memo 04-83** - Casehandling Instructions for Cases in which the Status of a Collective-Bargaining Relationship in the Construction Industry is in Issue

**OM Memo 04-09** - Evidentiary Guidelines for Determining Supervisory Status
   (Attachment: Brief of the General Counsel)

**OM Memo 99-44** - Guideline Memorandum on Charge Nurse Supervisory Issues

**Remedies/Compliance**

**ICG Memo 15-04 (Revised)** - Enhanced Remedies

**ICG Memo 14-09** - Remedial Initiatives

**ICG Memo 13-12** - Announcement of Compliance Unit Website, Training Videos, and Techniques to Facilitate Compliance with Agency Orders

**Attachment A, Attachment B**

**OM Memo 13-41 (Revised)** – Latino Express Remedies

**GC Memo 13-02** – Inclusion of Front Pay in Board Settlements

**OM Memo 12-57** (Revised) - Electronic Distribution Posting of Notices and Reading of Notices

**OM Memo 11-61** - Financial Remedies and Other Settlement Terms Audit OIG-AMR-63

**GC Memo 11-08** – Changes to the Methods Used to Calculate Backpay in Light of Kentucky River Medical Center and to Better Effectuate the Remedial Purposes of the Act
   (Attachment: Daily Compound Interest)

**GC Memo 11-07** - Guideline Memorandum Regarding Backpay Mitigation

**GC Memo 11-06** – First Contract Bargaining Cases: Regional Authorization to Seek Additional Remedies and Submissions to Division of Advice

**OM Memo 11-31** – Consolidating Compliance Issues with ULP Complaints

**OM Memo 09-58 (CH)** – Confessions of Judgment

**OM Memo 09-27** – Instructions for Protecting Information Pursuant to *Oil Capitol Sheet Metal* Compliance Investigations

**OM Memo 09-16** – Mitigation by paid union organizers under *Contractor Services*

**GC Memo 09-01** – Guideline Memorandum Concerning *St. George Warehouse*

**OM Memo 08-47** – Issuance of Compliance Specifications and Conduct of Supplemental Hearings

**OM Memo 08-29 (CH)** – Case Handling Instructions for Cases Involving *Oil Capitol Sheet Metals*, 349 NLRB 1348 (May 31, 2007)
   (Attachment 1 and Attachment 2)
GC Memo 07-08 - Additional Remedies in First Contract Bargaining Cases
GC Memo 07-07 - Seeking Compound Interest on Board Monetary Remedies
OM Memo 07-57 - (CH) Addressing Requests to Introduce Newly Discovered Evidence or Evidence of Charged Circumstances Affecting Affirmative Remedial Orders of Reinstatement
OM Memo 07-27 – Non-Board Settlements
OM Memo 06-82 - Electronic Notice-Posting
OM Memo 03-66 - Bankruptcy Notices From Claims and Noticing Agents
OM Memo 02-43 – Plain Language in Board Remedial Notices
GC Memo 02-06 - Procedures and Remedies for Discriminatees Who May Be Undocumented Aliens after Hoffman Plastics Compounds, Inc.

**Representation Cases – Procedure**

ICG Memo 15-03 - Quality Committee's Report on Recommended Practices and Post-Election Hearings and Reports
ICG Memo 12-13 - Revised Comprehensive Report on Quality Casehandling
OM Memo 12-50 - Guideline Memorandum for Evaluating Location of Rerun Elections
GC Memo 12-04 - Guidance Memorandum on Representation Case Procedure Changes
OM Memo 11-42 (CH) - Video Testimony in Representation and Unfair Labor Practice Casehandling
OM Memo 08-74 (CH) – Collyer and Dubo Deferral of Blocking Charges
OM Memo 08-07 – Dana Corp., 351 NLRB 434 (September 29, 2007) Attachment
OM Memo 07-69(CH) – Casehandling Guidance under Truserv Corp., 349 NLRB 227
OM Memo 05-20 - Casehandling Guidance under Saint Gobain Abrasives, Inc., 342 NLRB 434 (July 8, 2004)
OM Memo 04-26 - Administrative Investigations vis-a-vis Hearings in Post-Election Proceedings
OM Memo 01-24 - Construction Industry Election Agreement (eligibility formula)
OM Memo 02-87 - Croft Metals, Inc. (formal notice of hearing giving the parties at least 5 working days notice of the hearing)

**Representation Cases – Substantive Law**

**Unfair Labor Practice Cases – Procedure**

ICG Memo 15-05 - Request for Information Cases Regarding the Release of Federal Employee Compensation Act Records by the USPS Attachment
OM Memo 14-78 – USPS ADR Memo
GC Memo 02-06 - Procedures and Remedies for Discriminatees Who May Be Undocumented Aliens after Hoffman Plastics Compounds, Inc.

OM Memo 01-33 - Timely Processing of Section 10(j) Case When Multiple Related Charges are Filed

OM Memo 99-69 - Best Practices for Expediting the Processing of Major Unfair Labor Practice Cases

OM Memo 97-50 - Makro, Inc. and Renaissance Properties d/b/a Loehmann’s Plaza, 305 NLRB 663 (1991) (preemption notice)

OM Memo 97-11 - Relations with Immigration and Naturalization Service (INS) of the U.S. Department of Justice

OM Memo 96-48 - Recent Developments Related to Jefferson Chemical Co. and Peyton Packing Co. Issues

GC Memo 95-08 - Collection Cases

OM Memo 95-34 - Litigation of Multiple Charges against the Same Respondent

GC Memo 91-09 - Guideline Memorandum Concerning Dubuque Packing Co., Inc., 303 NLRB 386

OM Memo 90-83 - Preparation of Jurisdictional Referrals to the National Mediation Board Concerning Cases Arising Under Section 11(c) of the OSH Act

GC Memo 80-10 - Memorandum of Understanding with the Mine Safety and Health Administration (MSHA), U.S. Department of Labor, Concerning Cases Arising Under Section 105(c) of the Mine Act

GC Memo 79-04 - Memorandum of Understanding with the Department of Labor Concerning Cases Arising Under Section 11(c) of the OSH Act

GC Memo 78-69 - Coordination with the Wage and Hour Division of the U.S. Department of Labor on Deferred Cases

GC Memo 75-29 - Memorandum of Understanding with the Department of Labor

**Unfair Labor Practice Cases - Substantive Law**

GC Memo 11-13 - Guideline Memorandum Concerning Parties' obligation to provide information related to Assertions made in Collective Bargaining

GC Memo 09-04 – Guideline Memorandum Concerning Withdrawal of Recognition Based on Loss of Majority Support

GC Memo 08-10 – Guideline Memorandum Concerning Unfair Labor Practice Charges Involving Political Advocacy

GC Memo 08-07 – Report on Case Developments (The Register Guard, 351 NLRB 1110 (2007))

GC Memo 08-04(Revised) – Guideline Memorandum concerning Toering Electric Company

GC Memo 08-02 – Guideline Memorandum concerning BE&K Construction Co., 351 NLRB 451 (September 29, 2007)

GC Memo 07-05 (Revised) - Update GC Memorandum 06-09: The General Counsel's Burden under Wright Line
GC Memo 06-09 (Revised) - The General Counsel's Burden under Wright Line
OM Memo 04-65 - Levitz-type Withdrawal of Recognition Cases
OM Memo 03-96 - Charges under Beck Alleging as Unlawful a Union’s Requirement that Objecting Employees Annually Renew their Objections
GC Memo 02-09 - Case Handling Instructions for Cases Concerning Bill Johnson’s Restaurants and BE&K Construction Co.
GC Memo 02-01 - Guideline Memorandum Concerning Levitz
GC Memo 01-04 - Guidelines for Response to Beck-Related Public Inquiries
OM Memo 01-61 - Revised Reference Guide Attached to GC Memo 01-04 "Guidelines for Response to Beck-Related Public Inquiries" dated 4/06/01 Attachment Revised Beck Notices
GC Memo 99-08 - Guideline Memorandum Concerning Gissel
GC Memo 98-11 - Guidelines Concerning Processing of Beck Cases
GC Memo 93-4 - Guideline Memorandum Concerning Electromation, Inc., 309 NLRB 990
GC Memo 91-9 - Guideline Memorandum Concerning Dubuque Packing Co., Inc., 303 NLRB 386

-H-

Hearings
ICG Memo 15-03 - Quality Committee's Report on Recommended Practices and Post-Election Hearings and Reports
OM Memo 03-84 - Administrative Law Judges Serving as Hearing Officers in Post-Election Hearings
OM Memo 98-75 - Administrative Issues Related to Trials

HIPAA
ICG Memo 13-19 - HIPAA
OM Memo 08-34 – HIPAA Subpoena Procedures and Revised HIPAA Authorization Forms
OM Memo 07-60(CH) - HIPAA Disclosure Procedures and Interviews of Health Care Providers

-I-

Immigration
ICG Memo 11-01 - ICE Memorandum on the Use of Prosecutorial Discretion
Attachment 1 Attachment 2
OM Memo 11-62 - Updated Procedures in Addressing Immigration Status Issues that Arise During NLRB Proceedings
GC Memo 02-06 - Procedures and Remedies for Discriminatess Who May Be Undocumented Aliens after Hoffman Plastics Compounds, Inc.
OM Memo 97-11 - Relations with Immigration and Naturalization Service (INS) of the U.S. Department of Justice

Impact Analysis
ICG Memo Unnumbered – Labor Management Forum Recommendations
GC Memo 02-02 - Impact Analysis Program Modifications
OM Memo 99-75 - Lightening the Load – Alternative Investigative Techniques
GC Memo 98-04 - Impact Analysis for Compliance Cases
OM Memo 97-60 - Guidelines for Applying Impact Analysis Where a Respondent Has Filed for Bankruptcy
OM Memo 96-21 - Impact Analysis and Sections 10(l) and (m)
GC Memo 95-15 - Lightening the Regional Office Workload
GC Memo 94-08 - Telephone Affidavits
Impact Analysis: Categorizing Cases in the Regional Offices – November 1995

Information Officer Program
OM Memo 14-60 - OSHA Referred Charges
Attachment 1 Attachment 2 Attachment 3
OM Memo 03-17 - Public Information Program

Inter-Agency Cooperation
OM Memo 14-77 – OSHA Wage and Hour Referral Procedures
ICG Memo 14-10 - Investigation Jurisdiction of the National Labor Relations Board and the National Mediation Board
OM Memo 14-60 - OSHA Referred Charges Attachment 1 Attachment 2 Attachment 3

OM Memo 79-72 - Jurisdiction of the National Mediation Board Pursuant to Section 201 of the Railway Labor Act
OM Memo 13-59 - Memorandum of Agreement with Office of Special Counsel for Immigration Related Unfair Employment Practices Attachments 1-3, Attachment 4
OM Memo 97-11 - Relations with Immigration and Naturalization Service (INS) of the U.S. Department of Justice
OM Memo 90-83 - Preparation of Jurisdictional Referrals to the National Mediation Board
**GC Memo 80-10** - Memorandum of Understanding with the Mine Safety and Health Administration (MSHA), U.S. Department of Labor, Concerning Cases Arising Under Section 105(c) of the Mine Act

**GC Memo 79-04** - Memorandum of Understanding with the Department of Labor Concerning Cases Arising Under Section 11(c) of the OSH Act

**GC Memo 78-69** - Coordination with the Wage and Hour Division of the U.S. Department of Labor on Deferred Cases

**GC Memo 75-29** - Memorandum of Understanding with the Department of Labor Concerning Cases Arising Under Section 11(c) of the OSH Act

**Interregional Assistance Program**

**OM Memo 03-77** - Interregional Assistance in R Case Matters

**OM Memo 98-05** - Interregional Assistance (discusses procedures for both traditional transfer of cases and temporary adjustment of boundaries)

**OM Memo 96-26** - Agreement Concerning Interregional Casehandling Assistance

**Interpreters**

**OM Memo 06-49** - Interpreters at Hearings

**OM Memo 90-81** - Interpreters at Representation and Unfair Labor Practice Hearings (extent to which Agency obtains and pays for interpreters)

- **J** -
  (none)

- **K** -
  (none)

- **L** -

**Legal Writing**

**OM Memo 03-65** - The Mentoring Component of the Field Legal Writing Program

**Lightening the Load**

**OM Memo 99-75** - Lightening the Load – Alternative Investigative Techniques

**GC Memo 95-15** - Lightening the Regional Office Workload

**GC Memo 94-08** - Telephone Affidavits

**Litigation**


**ICG Memo 12-04** – Suggested Procedures When Filing Materials with the Solicitor’s Office
ICG Memo 12-02 - FY 2010 Quality Committee Litigation Memo
OM Memo 11-42 (CH) - Video Testimony in Representation and Unfair Labor Practice Casehandling
OM Memo 11-31 – Consolidating Compliance Issues with ULP Complaints
OM Memo 11-05 - Quality Committee's Report on Selected FY 2009 Litigation Wins and Losses
GC Memo 09-02 – New Federal Rules Protecting Personal Identification Information in Court Filings
OM Memo 08-24 – Settlement of Unfair Labor Practice Cases Pending before the Board
OM Memo 07-84 – Quality Committee’s Report on FY 2006 Litigation Losses
OM Memo 07-59(CH) – Consolidating Compliance Issues with ULP Complaints – Expediting Casehandling in “Default” Cases
OM Memo 07-57(CH) – Addressing Requests to Introduce Newly Discovered Evidence or Evidence of Charged Circumstances Affecting Affirmative Remedial Orders of Reinstatement
GC Memo 06-07 - Procedural Initiatives in Election Cases (discusses expediting technical 8(a)(5) cases after Board decision)
OM Memo 06-91 - Quality Committee's Report on FY 2005 Litigation Losses
OM Memo 06-16 - Quality Committee Report on FY 2004's Litigation Losses-Credibility
OM Memo 05-79 - Electronic Submission of Complaints Pilot Program
OM Memo 05-46 - Litigation Success Rate and Significant Litigation Losses
OM Memo 05-38 - Report of the Quality Committee on FY 2003's Litigation Losses and Recommendations to Maintain High Quality Litigation
OM Memo 04-40 - Best Practices for Filing Briefs in Support of ALJ Decisions with the Board and Responding to Pleadings
OM Memo 99-69 - Best Practices for Expediting the Processing of Major Unfair Labor Practice Cases

-M-

Media
GC Memo 94-12 - Press Relations
GC Memo 94-04 - Authority for Press Releases
GC Memo 82-32 - Subpoenas Issued to Members of the Press

Medical Records
ICG Memo 13-19 - HIPAA
ICG Memo 12-09 - Recent Legislation Affecting HIPAA's Scope and Criminal Liability Provisions
Mentoring Program

- **GC Memo 07-10 (Revised)** – Revisions to the General Counsel Mentoring Program’s Policy Guidelines and Best Practices Guide
- **Memorandum dated December 4, 2006 from Richard A. Siegel entitled “Mentoring Program”** (discusses integrating the Field mentoring program with the new Agency-wide program)
- **GC Memo 06-03 (Revised)** - Mentoring Program and Best Practices Guide
- **OM Memo 03-65** - The Mentoring Component of the Field Legal Writing Program

Merit Dismissals

- **GC Memo 02-08** - Revised Procedure for Merit Dismissals
- **OM Memo 02-15** - Merit Dismissal Letters

National Mediation Board

- **ICG Memo 14-10** - Investigation Jurisdiction of the National Labor Relations Board and the National Mediation Board
- **OM Memo 90-83** - Preparation of Jurisdictional Referrals to the National Mediation Board
- **OM Memo 79-72** - Jurisdiction of the National Mediation Board Pursuant to Section 201 of the Railway Labor Act

OSHA

- **OM Memo 14-77** – OSHA Wage and Hour Referral Procedures
- **OM Memo 14-60** - OSHA Referred Charges
- **GC Memo 79-04** - Memorandum of Understanding with the Department of Labor Concerning Cases Arising Under Section 11(c) of the OSH Act
- **GC Memo 75-29** - Memorandum of Understanding with the Department of Labor Concerning Cases Arising Under Section 11(c) of the OSH Act

Outreach

- **OM Memo 13-47** - Travel Expenses Paid by a Non-Federal Source
- **OM Memo 08-22** – Outreach Program
OM Memo 06-66 - Outreach to Promote a Broader Awareness of the Act
OM Memo 06-10 - Outreach Activities in Coordination with the Equal Employment Opportunity Commission
OM Memo 04-07 - Liaison with Hispanic National Bar Association (HNBA)
GC Memo 94-12 - Press Relations
GC Memo 94-4 - Authority for Press Releases

Overarching Goals
OM Memo 08-63 – Strategies for Meeting Overarching Goals

Performance Factors
OM Memo 06-27 - Technical 8(a)(5) Cases
OM Memo 02-102 - Guide to Statistical Reports Generated in the Agency’s Case Activity Tracking System (CATS) (includes discussion of case groupings, how performance statistics are measured and definition of overage case excuses)

Post-election Hearings
ICG Memo 15-03 - Quality Committee's Report on Recommended Practices and Post-Election Hearings and Reports

Post-election Reports
ICG Memo 15-03 - Quality Committee's Report on Recommended Practices and Post-Election Hearings and Reports

Press
See “Media”

Pro Bono

Quality
ICG Memo 13-18 - Affidavit Requirements Checklist - Attachment
ICG Memo 12-13 - Revised Comprehensive Report on Quality Casehandling Deficiencies Uncovered in FY 2011 Quality Review Process
ICG Memo 12-12 (CH) – Quality Committee's Report on Common Casehandling Deficiencies Uncovered in FY 2011 Quality Review Process
ICG Memo 12-02 - FY 2010 Quality Committee Litigation Memo
OM Memo 11-05 - Quality Committee's Report on Selected FY 2009 Litigation Wins and Losses

GC Memo 10-04 (CH) – Quality Committee's Report on Common Casehandling Deficiencies Uncovered in FY 2009 Quality Review Process

OM Memo 10-26 – Comprehensive Report of the Quality Committee – Attachment

OM Memo 08-76 – Quality Committee’s Report on FY 2007 Litigation Losses – Attachment

OM Memo 07-84 – Quality Committee’s Report on FY 2006 Litigation Losses

OM Memo 06-91 – Quality Committee's Report on FY 2005 Litigation Losses

OM Memo 06-16 – Quality Committee Report on FY 2004's Litigation Losses-Credibility

OM Memo 05-46 – Litigation Success Rate and Significant Litigation Losses

OM Memo 05-38 – Report of the Quality Committee on FY 2003’s Litigation Losses and Recommendations to Maintain High Quality Litigation

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References for Employment

OM Memo 06-41 - Pre-Employment Reference Checks for Attorney and Field Examiner Positions

Remedies

ICG Memo 15-04 (Revised) - Enhanced Remedies

ICG Memo 14-09 - Remedial Initiatives

GC Memo 14-03 – Affirmation of 10(j) Program

ICG Memo 13-12 - Announcement of Compliance Unit Website, Training Videos, and Techniques to Facilitate Compliance with Agency Orders

Attachment A, Attachment B

OM Memo 13-41 (Revised) – Latino Express Remedies

GC Memo 13-02 – Inclusion of Front Pay in Board Settlements

OM Memo 12-57 (Revised) - Electronic Distribution Posting of Notices and Reading of Notices

GC Memo 11-06 – First Contract Bargaining Cases: Regional Authorization to Seek Additional Remedies and Submissions to Division of Advice

GC Memo 11-01 - Effective Remedies in Organization Campaigns

OM Memo 09-44 (CH) – Public Inquiries and Investigations Involving Non-English Speaking Witnesses - (appropriateness of foreign language notice)

GC Memo 08-09 – Submission of First Contract Bargaining Cases to the Division of Advice

GC Memo 07-08 - Additional Remedies in First Contract Bargaining Cases

GC Memo 07-07 - Seeking Compound Interest on Board Monetary Remedies

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GC Memo 06-05 - First Contract Bargaining Cases
OM Memo 02-43 – Plain Language in Board Remedial Notices
OM Memo 99-79 - Remedial Initiatives

Reports
ICG Memo 13-12 - Announcement of Compliance Unit Website, Training Videos, and Techniques to Facilitate Compliance with Agency Orders
Attachment A  Attachment B
OM Memo 09-49 – Contempt Litigation and Compliance Branch Submissions – Attachment
OM Memo 07-26 - Bankruptcy Proceedings Best Practices (cases listed on the Overage Compliance Report with the excuse “Bankruptcy” will be excused as long as the footnote in the report reflects the date that the Region checked the bankruptcy status during the reporting month and the status of the case)
OM Memo 06-52 - Reporting the Backpay and Interest Collected and Fees, Dues and Fines Refunded on the Closed Case Report
OM Memo 05-79 - Electronic Submission of Complaints Pilot Program
OM Memo 05-46 - Litigation Success Rate and Significant Litigation Losses
OM Memo 03-70 - Monthly Compliance Situation Report and Compliance Overage Excuses
OM Memo 02-102 - Guide to Statistical Reports Generated in the Agency’s Case Activity Tracking System (CATS) (includes discussion of case groupings, how performance statistics are measured and definition of overage case excuses)
GC Memo 00-03 - Realignment of Responsibilities (details the documents that are to be submitted to Advice or Operations. Note that, contrary to the memorandum, inquiries by Congress or the public directed to the General Counsel are handled by Operations-Management and the field jointly.)
OM Memo 98-13 - Monthly Compliance Reports (instructions on preparation of the overage compliance reports)
OM Memo 97-78 - Information on EAJA Cases (reports to be submitted in EAJA cases)
GC Memo 97-03 - Bankruptcy Referrals to Headquarters’ Offices (discusses division of responsibilities of bankruptcy matters between Contempt and Special Litigation Branches)

-S-

Safety and Health
OM Memo 06-64- Safety Guidelines for Field Agents (regarding personal safety, vehicle security and safe cell phone use)
OM Memo 96-53 - Policy on Responding to Violence and Threatening Behavior in the Workplace (Crisis Response Plan)
Section 10(j)

- GC Memo 14-03 – Affirmation of 10(j) Program
- ICG Memo 12-13 - Revised Comprehensive Report on Quality Casehandling
- ICG Memo 12-01 - Revision to Section 10(j) Policy With Respect to Section 8(f) Cases
- GC Memo 11-01 - Effective Remedies in Organization Campaigns
- GC Memo 10-07 - Effective Section 10(j) Remedies for Unlawful Discharges in Organizing Campaigns
- GC Memo 08-09 – Submission of First Contract Bargaining Cases to the Division of Advice
- OM Memo 08-12 – Section 10(j) Cases and Moot Court Oral Argument Preparation
- GC Memo 07-08 - Additional Remedies in First Contract Bargaining Cases
- GC Memo 07-01 - Submission of Section 10(j) Cases to the Division of Advice
- GC Memo 06-05 - First Contract Bargaining Cases
- OM Memo 06-60 - Section 10(j) Cases and Expedited Hearings
- OM Memo 01-33 - Timely Processing of Section 10(j) Case When Multiple Related Charges are Filed
- GC Memo 99-04 - Participation by Charging Parties in Section 10(j) Injunction and Section 10(j) Contempt Proceedings
- GC Memo 94-17 - Expedited Hearings

Section 102.118

- GC Memo 98-09 - Delegation of Section 102.118 Authorization (delegation of certain 102.118 authority to Associate General Counsel for Operations-Management)
- GC Memo 98-07 - Delegation of Section 102.118 Authorization (delegation of certain 102.118 authority to Associate General Counsel for Enforcement Litigation)
- GC Memo 94-14 - Section 102.118 Delegation (delegation of certain 102.118 authority to Regional Directors)

Settlement Agreements (Including Non-Board)

- ICG Memo 14-09 - Remedial Initiatives
- ICG Memo 13-12 - Announcement of Compliance Unit Website, Training Videos, and Techniques to Facilitate Compliance with Agency Orders
  Attachment A  Attachment B
- OM Memo 13-41 (Revised) – Latino Express Remedies
- GC Memo 13-02 – Inclusion of Front Pay in Board Settlements
- ICG Memo 12-13 - Revised Comprehensive Report on Quality Casehandling
- OM Memo 12-57 (Revised) - Electronic Distribution Posting of Notices and Reading of Notices

(b)(5)
GC Memo 11-04 - Revised Casehandling Instructions Regarding the Use of Default Language in Informal Settlement Agreements and Compliance Settlement Agreements

OM Memo 08-24 – Settlement of Unfair Labor Practice Cases Pending before the Board

OM Memo 07-27 – Non-Board Settlements

OM Memo 07-24 – (CH) (Revised) Settlements Involving Section 8(a)(5) Allegations

Attachment

OM Memo 06-45 - Compliance Conference Follow-Up (includes settlement recommendation form)

OM Memo 05-96 - Casehandling Instructions Regarding Use of Default Language in Settlement Agreements

OM Memo 02-43 - Plain Language in Board Remedial Notices

Skip Counsel

OM Memo 10-05 – Skip Counsel Issue Regarding Service of Documents and Correspondence

Social Media

ICG Memo 12-07 - Guide to Creating a Facebook Account

ICG Memo 12-03 – Revised Social Media Guidelines

Solicitor-Filings

ICG Memo 12-04 – Suggested Procedures When Filing Materials with the Solicitor’s Office

Subpoenas

ICG Memo 13-19 - HIPAA

ICG Memo 13-13 - Payment for Information Obtained from Parties and Non-Parties

Attachment

ICG Memo 12-09 - Recent Legislation Affecting HIPAA's Scope and Criminal Liability Provisions

OM Memo 08-35 – The Application of the Skip Counsel Rule to Subpoenas and Subpoena Cover Letters

OM Memo 08-34 – HIPAA Subpoena Procedures and Revised HIPAA Authorization Forms

GC Memo 00-02 – Investigative Subpoenas

GC Memo 94-09 – Investigative Subpoenas

GC Memo 82-32 – Subpoenas Issued to Members of the Press

Memorandum dated August 2001 from Assistant General Counsel Margery Lieber et al. entitled Subpoena Enforcement
-T-

Telecommunications
OM Memo 06-62 - Agency Owned Cell Phone Protocol Attachment
OM Memo 04-27 - Best Practices Guide for NLRB Videoconferencing Attachment
OM Memo 95-04 - Memorandum of Understanding Regarding Implementation of Voice Mail in Field Offices

Test of Certification Cases
GC Memo 06-07 - Procedural Initiatives in Election Cases (discusses expediting technical 8(a)(5) cases after Board decision)
OM Memo 06-27 - Technical 8(a)(5) Cases

Training
Training Modules
For a complete list of available training modules, as well as other training materials, see: http://insider.nlrb.gov/professional-development-program (Training Programs - Professional Development Program)
OM Memo 08-14 – Legal Writing Program
OM Memo 07-73 – Supplementing Regional Office Training Programs For New Professional Employees
OM Memo 10-81 - Revised Orientation Checklists
OM Memo 03-108 - Courses and Videotapes Available Through Department of Justice’s National Advocacy Center
OM Memo 03-65 - The Mentoring Component of the Field Legal Writing Program
OM Memo 03-34 - Litigation and Trial Training Resources

Travel
OM Memo 13-47 - Travel Expenses Paid by a Non-Federal Source Attachment
OM Memo 07-92 – Commuting Costs and the Use of Personally Owned Vehicles

-U-
(none)

-V-

Volunteer Community Service

(b)(5)

Memorandum dated February 5, 2007 from Chairman Robert J. Battista and General Counsel Ronald Meisburg entitled “Scheduling Work and Granting Time Off to Participate in Volunteer Community Service”