

INTRODUCTION

The General Counsel's Office is pleased to introduce this new edition of the National Labor Relations Board Casehandling Manual for Compliance Proceedings. Last revised in 1993, this comprehensive revision is more accessible and useful, increasing its value as a resource for the Agency and the public. This edition incorporates straightforward language to clarify instruction concerning ULP case processing; expands the scope of guidance in many areas and reorganizes the material to facilitate its use. In addition, several new sections address existing casehandling procedures that previously had not been incorporated into the manual. Finally, existing sections of the manual have been updated to reflect current case law and General Counsel policies.

We anticipate that the guidelines set forth in this revision will enhance the quality of compliance casehandling and assist the Agency in its mission to fairly and efficiently provide remedies for unfair labor practice violations. Also, practitioners now have the very best guidance available to help their clients comply with their obligations under the Act and resolve disputes with finality.

Publishing the revised Compliance Manual symbolizes our commitment to enhancing the resources available to employees of the Office of the General Counsel and the Bar and to conducting our proceedings in an open, transparent manner. We believe that you will find it to be of great assistance in compliance matters. Future revisions will be made electronically and posted on the Agency's website so that the Manual will always be up to date.

This Manual reflects the work of many Agency professionals, both in the Field and Headquarters. While it is not possible to recognize each contributor here, special mention should be made of the members of the committee which had overall responsibility for the project: Al Blyer, Regional Director, Region 29, Dick Simon, Regional Attorney, Region 25, Tim Peck, Assistant to the Regional Director, Region 20, Carol Baumerich, Deputy Regional Attorney, Region 5, Mike Cass, Supervisory Field Examiner, Region 34, Bill Yarbrough, Supervisory Field Examiner, Region 26, Sandy Larkin, Compliance Officer, Region 3, Dan Collopy, Deputy Assistant General Counsel, Contempt Litigation & Compliance Branch, and Beth Tursell, Deputy to the Assistant General Counsel, Division of Operations-Management. On behalf of the Agency, I want to thank each of them and all of those who played a role in developing and revising this manual.

Ronald Meisburg
General Counsel
January, 2007

PURPOSE OF THE MANUAL

The Casehandling Manual is intended to provide procedural and operational guidance for the Agency's Regional Directors and their staffs when making decisions as to unfair labor practice and representation matters under the National Labor Relations Act. The Manual consists of three volumes: Part One—Unfair Labor Practice Proceedings; Part Two—Representation Proceedings; and Part Three—Compliance Proceedings.

This Manual has been prepared by the General Counsel for use by Agency personnel, pursuant to authority under Section 3(d) of the Act and as delegated by the Board. The Manual has been neither reviewed nor approved by the Board.

The work of securing compliance with Board orders, court judgments, and informal settlement agreements has generally been handled by a select few in NLRB Regional Offices. It has become apparent, however, that in order to effectuate compliance, all Board agents, regardless of their tenure, should be familiar with compliance concepts and procedures. With this in mind, a new introductory section (10504) has been added to the beginning of the Compliance Casehandling Manual. The purpose of the new section is to emphasize that all Board agents are also responsible for collecting compliance information while conducting the initial unfair labor practice investigation.

Section 10504 highlights the necessary data the Region should collect to enable it to quickly determine backpay liability during any stage of case processing. It also provides a handy check list (Appendix 1) that Board agents may copy and make reference to while taking affidavits during the investigation of a case. All Board agents should be aware of this section and of the importance of obtaining such information as part of the initial investigation of unfair labor practice charges.

Potential discriminatees should be advised during the initial investigation that the Board agent is not making a predetermination of the outcome of the case, but that compliance-related information is routinely sought and will be readily available in the event the Region determines the charge has merit.

As to matters on which the Board has issued rulings, the Manual seeks to accurately describe and interpret Board law; while the Manual can thus be regarded as reflecting Board policies as of the date of its preparation, in the event of conflict, it is the Board's decisional law, not the Manual, that is controlling. Similarly, while the Manual reflects casehandling policies of the General Counsel as of the date of its preparation, such policies may be revised or amended from time-to-time.

The Manual is not a form of binding authority, and the procedures and policies set forth in the Manual do not constitute rulings or directives of the General Counsel or the Board. **Accordingly, the provisions of the Manual should not be used against the National Labor Relations Board in any proceeding before the Board or in Federal court.** The Manual is also not intended to be a compendium of either substantive or procedural law, nor can it be a substitute for a knowledge of the law.

Although it is expected that the Agency's Regional Directors and their staffs will follow the Manual's guidelines in the handling of cases, it is also expected that in their

exercise of professional judgment and discretion, there will be situations in which they will adapt these guidelines to circumstances. Thus, the guidelines are not intended to be and should not be viewed as binding procedural rules. Rather, they provide a framework for the application of the Board's decisional law and rules to the facts of the particular situations presented to the Regional Directors and their staffs, consistent with the purposes and policies of the Act.

MANUAL FORM

This Manual is available in printed form from the U.S. Government Printing Office and in electronic form at the Agency's website (<http://www.nlr.gov/>). (Agency employees also have access to the Manual on an Agency electronic Bulletin Board.)

MODIFICATIONS TO THE MANUAL

Modifications to the Manual will be announced by General Counsel memoranda. These memoranda are available to the public through the Agency's publication "Weekly Summary of NLRB Cases." At the time of announcement, the electronic versions of the Manual maintained on the Agency's website (<http://www.nlr.gov/>) and internal Bulletin Board will be revised in accord with the modifications. All memoranda announcing modifications will be retained indefinitely at the website and Bulletin Board UPDATE PAGE.

Printed versions of the Manual available in Agency libraries will be kept current. Printed compilations of modifications will be prepared annually. Printed copies of the Manual distributed following its original publication date will contain the original Manual as well as all annual compilations.

INSTRUCTIONS

The Casehandling Manual consists of three volumes: Part One—Unfair Labor Practice Proceedings; Part Two—Representation Proceedings; and Part Three—Compliance Proceedings. The Compliance Manual was revised in 2007. The Representation Casehandling Manual was revised in 1999.