



# *FY2001 ANNUAL PERFORMANCE PLAN*

GOVERNMENT PERFORMANCE and RESULTS ACT of 1993

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| <p style="text-align: center;"><b>NATIONAL LABOR RELATIONS BOARD</b><br/><b>FY 2001 PERFORMANCE PLAN</b><br/>Government Performance and Results Act</p> |
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**INTRODUCTION**

This document represents the first performance plan in what is considered to be the second generation of GPRA documents from the National Labor Relations Board. Born of a new strategic planning process that included the Board, General Counsel and the Agency’s top management staff, this document represents the first year of a six-year plan that weaves two primary strategic initiatives, speed and quality, through all goals, objectives and strategies. A majority of the performance indicators reflect both annual and six-year marks. While this performance plan stands alone, a more comprehensive understanding of the Agency and its plans for the next six years may be obtained by reading the FY2000-FY2006 strategic plan. A conversion table illustrating changes between the FY2000 and FY2001 performance plans may be found in Appendix A.

**MISSION STATEMENT**

The National Labor Relations (NLRB) is an independent agency created by Congress in 1935 to administer and enforce the National Labor Relations Act (NLRA), which is the primary federal statute governing labor relations in the private sector. The Act embodies a bill of rights that establishes freedom of association for the purposes of participating in the practice and procedure of collective bargaining. It defines and protects the rights of employees, unions and employers, and seeks to eliminate certain unfair labor practices on the part of employers and unions so as to promote commerce and strengthen the Nation’s economy. Under the Act, the NLRB has two primary functions: (1) to prevent and remedy statutorily defined unfair labor practices by employers and unions; and (2) to conduct secret-ballot elections among employees to determine whether the employees wish to be represented by a union. The mission of the Agency is to carry out these statutory responsibilities as efficiently as possible, in a manner that gives full effect to the rights afforded to employees and employers under the Act.

**GOAL #1:** Resolve all questions concerning union representation impartially and promptly.

**OBJECTIVES:**

- A. Encourage voluntary election agreements by conducting an effective stipulation program.
- B. Conduct elections promptly.
- C. Issue all representation decisions in a timely manner.
- D. Afford due process under the law to all parties involved in questions concerning union representation.

**STRATEGIES:**

- 1. Give priority in timing and resource allocation to the processing of cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public.
- 2. Evaluate the quality of representation casework regularly to provide the best possible service to the public.
- 3. Give sound and well-supported guidance to the parties, and to the public at large, on all representation issues.
- 4. Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.

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5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases, such as:
  - Hold weekly meetings of panels of Board Members to decide representation case matters.
  - Maximize the use of expedited representation case processing strategies.
  - Hold weekly meetings of Deputy Chief Counsels and their staffs to discuss the status of pending cases and to identify the proper procedures for the prompt issuance of each representation case.
  - Establish specific representation case production goals as evaluation criteria for all Board staff managers and supervisors.
6. Assure that due process is accorded in representation cases by careful review of Requests for Review, Special Appeals and Hearing Officer Reports, and where appropriate, the records in the cases.
7. Analyze and prioritize the critical skill needs and address these skills needs using a cost effective instructional delivery system that ensures timely access to the needed training in a work environment that encourages employees to effectively utilize their diverse talents in achieving Agency goals.
8. Provide an information technology environment that is mainstream with other federal agencies and the public, and that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

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| <b>PERFORMANCE GOALS</b>  | <b>FY1998 Actual</b> | <b>INDICATOR S<br/>FY1999 Actual</b> | <b>FY 2000 Projected</b>           | <b>FY 2001 Estimated</b> |
|---|----------------------|--------------------------------------|------------------------------------|--------------------------|
| <b>1-1</b><br>Hold 92% of elections w/in 56 days of filing of petition.   | 89.5% w/in 56 days   | 90.3% w/in 56 days                   | 60% w/in 42 days; 90% w/in 56 days | 92% w/in 56 days         |
| <b>1-2</b><br>Issue 85% of all post-election reports w/in 100 days from the date of the election, or in the case of objections, from the date they are filed. | NEW FOR FY2001       | NEW FOR FY2001                       | NEW FOR FY2001                     | 85% w/in 100 days        |
| <b>1-3</b><br>Maintain voluntary election agreements not less than 85% of the time.   | 86.3%                | 87.7%                                | 85%                                | 86%                      |
| <b>1-4</b><br>Improve issuance of Ruling on Requests for review of R.D. <sup>1</sup> decisions to 14 day median in FY01 and maintain through FY06.            | 18 day median        | 13 day median                        | 18 day median                      | 14 day median            |

<sup>1</sup> Regional Director

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| <b>PERFORMANCE GOALS</b>   | <b>FY1998 Actual</b>           | <b>INDICATOR S<br/>FY1999 Actual</b>        | <b>FY 2000 Projected</b> | <b>FY 2001 Estimated</b> |
|--|--------------------------------|---|--------------------------|--------------------------|
| <p><b>1-5</b><br/>Issue 100% of all Representation cases that have been pending at the Board for more than 18 months in FY2001 and for more than 6 months by FY2006.</p> | <p>Cases over 2 yrs up 45%</p> | <p>92% of cases over 2 years dispatched</p> | <p>100% over 20 mos.</p> | <p>100% over 18 mos.</p> |
| <p><b>1-6</b><br/>Utilize the quality review process<sup>2</sup> for representation casehandling in all 33 regional offices.</p>   | <p>33 regions</p>              | <p>33 regions</p>                           | <p>33 regions</p>        | <p>33 regions</p>        |
| <p><b>1-7</b><br/>Issue all test of certification<sup>3</sup> decisions in a 80-day median from filing of charge.</p>  | <p>96 day median</p>           | <p>91 day median</p>                        | <p>90 day median</p>     | <p>80 day median</p>     |

<sup>2</sup> See definition section

<sup>3</sup> A case that presents the issue of whether an employer has unlawfully refused to bargain with a newly certified union.

**GOAL #2:** Investigate, prosecute and remedy cases of unfair labor practice by employers, unions, or both impartially and promptly.

**OBJECTIVES:**

- A. Conduct thorough unfair labor practice investigations and issue all unfair labor practice decisions in a timely manner.
- B. Give special priority to disputes with the greatest impact on the public and the core objectives of the Act.
- C. Conduct effective settlement programs.
- D. Provide prompt and appropriate remedial relief when violations are found.
- E. Afford due process under the law to all parties involved in unfair labor practice disputes.

**STRATEGIES:**

- 1. Take proactive steps to disseminate information and provide easily accessible facts and information to the public about the Board's jurisdiction in unfair labor practice matters and the rights and obligations of employers, employees, unions, and the Board under the Act.
- 2. Evaluate the quality of unfair labor practice casework regularly to provide the best possible service to the public.
- 3. Utilize impact analysis to provide an analytical framework for classifying unfair labor practice cases in terms of their impact on the public so as to differentiate among them in deciding both the resources and urgency to be assigned to each case.
- 4. Share best practices in the processing of unfair labor practice cases to assist regions in resolving unfair labor practice issues promptly and fairly.

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5. Emphasize the early identification of remedy and compliance issues and potential compliance problems in merit cases; conduct all phases of litigation, including settlement, so as to maximize the likelihood of obtaining a prompt and effective remedy.
6. Utilize injunctive proceedings to provide interim relief where there is a threat of remedial failure.
7. Emphasize and encourage settlements as a means of promptly resolving unfair labor practice disputes at all stages of the casehandling process.
8. Identify and utilize alternative decision-making procedures to expedite Board decisions in unfair labor practice cases, such as:
  - Hold weekly meetings of panels of Board Members to decide unfair labor practice case matters.
  - Maximize the use of expedited unfair labor practice case processing strategies.
  - Hold weekly meetings of Deputy Chief Counsels and their staffs to discuss the status of pending cases and to identify the proper procedures for the prompt issuance of each unfair labor practice case.
  - Establish specific unfair labor practice case production goals as evaluation criteria for all Board staff managers and supervisors.
9. Analyze and prioritize the critical skill needs and address these skills needs using a cost effective instructional delivery system that ensures timely access to the needed training in a work environment that encourages employees to effectively utilize their diverse talents in achieving Agency goals.
10. Provide an information technology environment that is mainstream with other federal agencies and the public, and that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.





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| <b>PERFORMANCE GOALS</b>   | <b>INDICATORS</b>   |   |  |  |
|--|---|---|--|--|
|  | <i>FY1998 Actual</i>  | <i>FY1999 Actual</i>                            | <i>FY 2000 Projected</i>                     | <i>FY 2001 Estimated</i>   |
| <p><b>2-1</b><br/>Utilize the quality review process for Unfair Labor Practice casehandling in all 33 regional offices.</p>  | 33 regions  | 33 regions                                      | 33 regions                                   | 33 regions   |
| <p><b>2-2</b><br/>Using Impact Analysis<sup>4</sup>, reduce % of unexcused overage<sup>5</sup> cases from these targets:<br/>                     Category III=49 days<br/>                     Category II= 77 days<br/>                     Category I= 105 days</p> | No more than 14.9% of all Category III cases will be older than 49 days.<br>Cat. II: 23.9%<br>Cat. I: 24.5% | Cat. III: 9.7%<br>Cat. II: 17%<br>Cat. I: 15.2% | Cat. III: 10%<br>Cat. II: 15%<br>Cat. I: 20% | Cat. III:<br>FY 01:10%<br>FY06: 5%<br>Cat. II:<br>FY01: 15%<br>FY06: 5%<br>Cat. I:<br>FY01: 15%<br>FY06: 10% |

<sup>4</sup> See definition section

<sup>5</sup> See definition section

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| <b>PERFORMANCE GOALS</b>   | <b>FY1998 Actual</b>                                     | <b>INDICATOR S<br/>FY1999 Actual</b>                     | <b>FY 2000 Projected</b>                                 | <b>FY 2001 Estimated</b>                                 |
|--|--|--|--|--|
| <p><b>2-3</b><br/>Maintain 95% settlement rate in all unfair labor practice cases in field offices prior to formal litigation.</p>                 | <p>95.3% w/o Caterpillar settlements</p>                 | <p>98.2%</p>   | <p>90%</p>   | <p>95%</p>   |
| <p><b>2-4</b><br/>Trial Calendar – reduce number of median days from complaint to close of hearing to 170 in FY2001 and to 120 days in FY2006.</p> | <p>179 day median from complaint to close of hearing</p> | <p>168 day median from complaint to close of hearing</p> | <p>180 day median from complaint to close of hearing</p> | <p>170 day median from complaint to close of hearing</p> |
| <p><b>2-5</b><br/>Improve issuance of appeal cases sustained from dismissal of charge from 60% w/in 120 days to 60% w/in 60 days by FY2006.</p>    | <p>56% w/in 120 days</p>                                 | <p>41% w/in 120 days</p>                                 | <p>60% w/in 60 days<sup>6</sup></p>                      | <p>60% w/in 120 days</p>                                 |

<sup>6</sup> The 60 day target is a strategic target and not the FY2000 performance indicator. The correct FY2000 performance indicator should have been “60% w/in 120 days.”

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| <b>PERFORMANCE GOALS</b>  | <b>FY1998 Actual</b> | <b>INDICATOR S<br/>FY1999 Actual</b> | <b>FY 2000 Projected</b> | <b>FY 2001 Estimated</b> |
|---|----------------------|--------------------------------------|--------------------------|--------------------------|
| <b>2-6</b><br>Close 95% of Advice cases seeking Section 10 (j) injunctive relief where there has been Board authorization within 25 days of receipt from Regional Offices, excluding deferral time by FY06. | 69.8%                | 67.2%                                | 75%                      | 80%                      |
| <b>2-7</b><br>Issue Division of Judges decisions within 62 median days.   | 56 day median        | 48 day median                        | 62 day median            | 62 day median            |
| <b>2-8</b><br>File applications for enforcement w/in 30 days of referral 50% of the time in FY2001.   | 50% w/in 40 days     | 50% w/in 35 days                     | 50% w/in 75 days         | 50% w/in 30 days         |

| <b>PERFORMANCE GOALS</b> | <b>FY1998 Actual</b> | <b>INDICATOR S<br/>FY1999 Actual</b> | <b>FY 2000 Projected</b> | <b>FY 2001 Estimated</b> |
|--------------------------|----------------------|--------------------------------------|--------------------------|--------------------------|
| <b>2-9</b>               |                      |                                      |                          |                          |

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|   |   |   |  |   |
|---|---|---|--|---|
| <p>Reduce the number of Unfair Labor Practice cases pending at the Board from 650 cases to 250 cases by FY2006.</p>   | <p>NEW FOR FY01</p>                                       | <p>NEW FOR FY01</p>                                       | <p>500</p>   | <p>450</p>  |
| <p><b>2-10</b><br/>Reduce maximum length of time Unfair Labor Practice cases are pending at the Board from 30 mos. in FY00 to 12 mos. by FY06.</p>  | <p>0 reduction to 36 mos.</p>                             | <p>85% reduction to 36 mos.</p>                           | <p>100% reduction to 30 mos.</p>                     | <p>100% reduction to 24 mos.</p>  |
| <p><b>2-11</b><br/>Allow no overage compliance cases to exceed processing time targets:<br/>Category III= FY01: 91 days: 9%<br/>                  FY06: 70 days: 5%<br/>Category II= FY01: 119 days: 12%<br/>                  FY06: 91 days: 10%<br/>Category I= FY01: 147 days: 10%<br/>                  FY06: 119 days: 10%</p> | <p>Cat. III: 10.5%<br/>Cat. II: 19%<br/>Cat. I: 12.6%</p> | <p>Cat. III: 9.8%<br/>Cat. II: 14.3%<br/>Cat. I: 9.1%</p> | <p>Cat. III: 5%<br/>Cat. II: 13%<br/>Cat. I: 15%</p> | <p>No more than 9% of all Category III cases will be older than 91 days.<br/>Cat. II: 12%<br/>Cat. I: 10%</p> |

## RESOURCES REQUIRED TO MEET PERFORMANCE GOALS

The President's budget request to Congress for the NLRB for FY2001 is \$216,438,000. This funding will allow the Agency to pursue the goals presented in this performance plan with 2002 FTE. This request of \$216,438,000 ensures the Agency continues to pursue its two primary programs and strategic goals of handling representation and unfair labor practice cases impartially and promptly. This section reflects the Agency's first step in linking the annual performance plan to the Program and Financing schedule (A-11-32A).

**Personnel:** It is projected that 2002 FTE's will be required to address the FY 2001 performance targets related to customer service issues such as timeliness of all case processing and reducing any backlog of cases. We are always concerned with attracting and maintaining a highly skilled and professional workforce so that minimum staffing levels may be maintained throughout the country. It is vital that minimum staffing levels be maintained if we are to avoid compromising our ability to maintain an acceptable level of pending cases. Of the \$216,438,000 required for the entire Agency, \$166,869,100 will be necessary for personnel related costs to achieve the various performance goals set forth in this plan.

**Training:** The FY2001 budget request provides funding for a variety of essential training programs to ensure no degradation of skills occur in the Agency's workforce. Long term and annual goals cannot be met without regular training of all employees. This Agency will continue to analyze and prioritize the critical skill needs and direct funding to the areas of highest priority. Of the \$216,438,000 required for the entire Agency, \$1,403,000 will be needed for costs related to training employees to ensure the performance goals in this plan are achieved.

**Technology:** Additionally, this FY2001 budget request provides the Agency with the ability to complete information technology capital projects and to maintain government-wide standards for information technology hardware and software. The Agency has worked very hard to complete its infrastructure modernization program that, when completed in FY2001, will eliminate duplicative maintenance problems, decrease operational costs and reduce technical incompatibility. Of the \$216,438,000 required for the entire Agency, \$11,375,000 will be used to address information technology issues and to assist us in meeting our performance goals.

**Internal Review:** The internal review function of this Agency, conducted by our Inspector General's Office, is a program activity identified in the A-11-32A. In FY2001, it is anticipated that this program will cost \$805,000.

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There are five program activities identified in A-11-32A. These program activities, except program review, all relate to the two strategic goals and how the Agency seeks to resolve questions of representation and unfair labor practice. The following table identifies the relationship between these program activities and the performance goals previously discussed.

| PROGRAM ACTIVITY                         | STRATEGIC-PERFORMANCE GOAL                     | FY2001 FUNDING REQUEST       |
|--|--|------------------------------|
| 1. Field Investigation                   | 1-1; 1-2; 1-3; 1-6;<br>2-1; 2-2; 2-3; 2-5; 2-6 | \$170,963,000                |
| 2. Administrative law judge hearing      | 2-4; 2-7                                       | \$ 14,601,000                |
| 3. Board adjudication                    | 1-4; 1-5; 1-7<br>2-9; 2-10; 2-11               | \$ 20,009,000                |
| 4. Securing compliance with Board orders | 2-6; 2-8                                       | \$ 10,060,000                |
| 5. Internal review                       | Office of Inspector General                    | \$ 805,000                   |
|  |  | <b>TOTAL: \$ 216,438,000</b> |

## VERIFICATION AND VALIDATION OF DATA

**Background:** Approximately forty years ago the National Labor Relations Board developed a type of performance measurement system to track cases and their processing time. This system of organization and measurement has been highly regarded for decades and modeled by other federal agencies. Most data collected indicate how much time is spent in each step of the case processing “pipeline.” The Agency does not rely on any outside sources for the data it uses in its performance measurement system.

CATS, the Agency’s initiative to modernize its casehandling information processing system and case tracking systems, has two primary goals. The first goal is to provide case activity and status information on approximately 33,000 new cases per year and provide a history of closed cases nationally and accessible by all NLRB offices. The second goal is to provide support for the functional and work requirements of the NLRB’s attorneys, investigators, managers, and support staff by providing a means of access to internal and external collections of documents. This system, installed in phases over the past four years, is anticipated to be completed and running at full capacity by the end of FY2001.

**Verification:** Each office is responsible for collecting performance measurement data and verifying it. The data come primarily from administrative records or sample surveys. Data about each case are collected and reported in all offices at least monthly and in most cases, weekly. Verification of the accuracy of the data collected occurs regularly in all regional offices as most resource allocation decisions are made on the basis of these data. Systemic verification occurs quarterly during various phases of the budget and GPRA reporting cycles. Baseline data is reviewed annually during the preparation of the annual performance plan. During this time, data received from the Case Activity Tracking System (CATS) are compared to data in hand kept logs.

Additionally, the Inspector General plans to selectively verify and validate performance measurement data each year. When pertinent to the conduct of ongoing audit activities, the Inspector General will also assess performance measures to determine their appropriateness for measuring progress toward the goal. The assessments may lead to changes in performance measures, improvements to, or additions of, data collection systems or both.

**Validation:** The most complete validation of performance measures and indicators occurs at the strategic planning retreat. It is at this time that all of the Agency’s presidential appointees and senior managers review the existing



performance measures and indicators and discuss whether or not the measures and indicators are appropriate to the objective. Agency staff will continue to study median and post median measures to ensure that they are valid casehandling measurements. In certain cases, most notably related to quality measurements, it is understood that measuring quality is difficult and the development of a valid quality performance measure is an evolutionary process.

**Opportunities for Improvement:** The quality of data generated by the collection and reporting systems varies. Projections on case intake are typically calculated using a simple trend line analysis. Although there is general consensus in the Agency that “stretch” performance goals will be set, exactly what “stretch” means is left to the interpretation of the various managers setting those performance goals and indicators. The accuracy of measurement depends on common definitions as to when a case is received and concluded. As the Agency changes over from one computerized case tracking system to another, we will begin using a unified measurement system thus obviating any confusion as to how time is measured throughout the Agency. This issue will be resolved in FY2001.

## DEFINITIONS

**Case:** A case is the general term used in referring to a charge or petition filed with the Board. Each case is numbered and carries a letter designation indicating the type of case.

**Charge:** A document filed by an employee, an employer, a union, or an individual alleging that an unfair labor practice has been committed.

**Complaint:** A document which initiates “formal” proceedings in an unfair labor practice case. It is issued by the Regional Director when he or she concludes on the basis of a completed investigation that any of the allegations contained in the charge have merit and adjustment or the parties have not achieved settlement. The complaint sets forth all allegations and information necessary to bring a case to hearing before an administrative law judge pursuant to due process of law. The complaint contains a notice of hearing, specifying the time and place of hearing.

**Compliance:** The carrying out of remedial action as agreed upon by the parties in writing; as recommended by the administrative law judge in the decision; as ordered by the Board in its decision and order, or decreed by the court.

**Dismissed Cases:** Dismissed at any stage, they are dismissed informally when, following an investigation, the Regional Director concludes that there has been no violation of the law, that there is insufficient evidence to support further action, or for a variety of other reasons. Before the charge is dismissed, the charging party is given the opportunity to withdraw the charge by the administrative law judge, by the Board, or by the courts through their refusal to enforce orders of the Board.

**Formal Action:** Formal actions may be documents issued or proceedings conducted when the voluntary agreement of all parties regarding the disposition of all issues in a case cannot be obtained, and where dismissal of the charge or petition is not warranted. They are those in which the decision-making authority of the Board must be exercised in order to achieve the disposition of a case or the resolution of any issue raised in a case. Formal action takes place when a Board decision and consent order is issued pursuant to a stipulation, even though the stipulation constitutes a voluntary agreement.

**Impact Analysis:** Provides an analytical framework for classifying cases so as to differentiate among them in deciding both the resources and urgency to be assigned each case. All cases are assessed in terms of their impact on the public and their significance to the achievement of the Agency's mission. The cases of highest priority, those that impact the greatest number of people, are placed in Category III. Depending on their relative priority, other cases are placed in Category II or I.

**Overage Case:** Pursuant to Impact Analysis, case processing time goals – from the date a charge is filed through the Regional determination – are set for three categories of cases, based on priority. A case is reported “overage” when it is still pending disposition on the last day of the month in which its time target was exceeded.

**Quality:** Complete assignments in accordance with substantive and procedural requirements.

**Quality Review Process:** Quality of ULP and representation case processing assessed through quality review of a randomly selected sample of Regional Office case files; review all administrative law judge and Board decisions; quality review also involved in Divisions of Advice, Office of Representation Appeals, and Enforcement Litigation's processing of cases arising in the Regional offices.

**Test of Certification:** A test of certification case is case that presents the issue of whether an employer has unlawfully refused to bargain with a newly-certified union. Because the Act does not permit direct judicial review of representation case decisions, the only way to challenge a certification is a refusal to bargain followed by a Board finding to that effect. However, because all relevant legal issues were or should have been litigated in the R case, the related unfair labor practice case is a no-issue proceeding that can be resolved without a hearing or extensive consideration by the Board.

## **APPENDIX A**

### Table of Changes

FY 2000 - FY 2001 Performance Measures

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| FY2000 PERFORMANCE MEASURE   | FOUND IN FY2001 PERFORMANCE PLAN   |
|--|--|
| <b>GOAL 1: Resolve questions concerning representation impartially, promptly and conclusively.</b>                                 | <b>GOAL 1: Resolve questions concerning representation impartially and promptly.</b> |
| 1-1 Hold elections within 42 days of filing of petition  | Combined with 1-2 and 1-3 to make FY2001 performance goal 1-1.                       |
| 1-2 Hold elections within 56 days of filing of petition  | Combined with 1-1 and 1-3 to make FY2001 performance goal 1-1.                       |
| 1-3 Hold no elections more than 85 days after filing, unless circumstances are beyond control of regions                           | Combined with 1-2 and 1-3 to make FY2001 performance goal 1-1.                       |
| 1-4 Issue report resolving post election issues, no hearing, in 35 median days   | Combined with 1-5, 1-6, 1-7 and 1-8 to make FY2001 performance goal 1-2.             |
| 1-5 Issue report resolving post election issues, hearing held, in 95 median days   | Combined with 1-4, 1-6, 1-7 and 1-8 to make FY2001 performance goal 1-2.             |
| 1-6 Issue no post-election report more than 120 days after the election except for reasons beyond the control of regions.          | Combined with 1-4, 1-5, 1-7 and 1-8 to make FY2001 performance goal 1-2.             |
| 1-7 Issue no report more than 50 days from objections or challenges, no hearing held, except for reasons beyond control of regions | Combined with 1-4, 1-5, 1-6 and 1-8 to make FY2001 performance goal 1-2.             |
| 1-8 Issue no report more than 100 days from objections or challenges, hearing held, except for reasons beyond control of regions.  | Combined with 1-4, 1-5, 1-6 and 1-7 to make FY2001 performance goal 1-2.             |
| 1-9 Achieve voluntary election agreements at least 80% of the time.  | Revised to be more aggressive; FY2001 performance goal 1-3.                          |

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| <b>FY2000 PERFORMANCE MEASURE</b>   | <b>FOUND IN FY2001 PERFORMANCE PLAN</b>  |
|---|--|
| 1-10 Issue Ruling on Requests for Review of Regional Directors Decisions within 21 days of receipt of request.  | Revised to be more aggressive; FY2001 performance goal 1-4.                              |
| 1-11 Establish/improve performance goals and measures related to Representation proceedings.  | Deleted because it was a one-time project and was completed.                             |
| 1-12 Revise Representation Casehandling Manual and make it accessible to the public.  | Deleted because it was a one-time project and was completed.                             |
| 1-13 Evaluate quality of Representation casework.   | Combined with 1-17 and 1-18 and revised to define universe; FY2001 performance goal 1-6. |
| 1-14 Reduce median age of pending Representation cases by 5%.   | Combined with 1-15 and revised to be more aggressive; FY2001 performance goal 1-5.       |
| 1-15 Issue all Representation cases pending more than 20 months.  | Combined with 1-14 and revised to be more aggressive; FY2001 performance goal 1-5.       |
| 1-16 Revise Hearing Officers' Guide and make it available to the public.  | Deleted because it was a one-time project and was completed.                             |
| 1-17 Operations Management to visit Regional Offices to assess effectiveness of casehandling systems; discuss performance measurement, best practices and implementation of General Counsel policies. | Combined with 1-13 and 1-18 and revised to define universe; FY2001 performance goal 1-6. |
| 1-18 Operations Management to perform on-site quality review of casehandling files in Regional Offices.   | Combined with 1-13 and 1-17; revised to define universe; FY2001 performance goal 1-6.    |

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| FY2000 PERFORMANCE MEASURE   | FOUND IN FY2001 PERFORMANCE PLAN   |
|--|--|
| <b>GOAL 2: Investigate, prosecute and remedy unfair labor practice cases, by either employers or unions or both.</b>   | <b>Investigate, prosecute and remedy unfair labor practice cases by either employers or unions or both impartially and promptly.</b> |
| 2-1 Evaluate quality of Unfair Labor Practice casehandling.  | Revised to define universe; FY2001 performance goal 2-1.   |
| 2-2 Evaluate Information Officer Program   | Deleted because it was a one-time project and was completed.   |
| 2-3 Impact Analysis: reduce tolerable percentage of unexcused overage cases<br>Category III: (7 weeks)      Category II: (11 weeks)      Category I (15 weeks) | Revised to be more aggressive, strategic and annual targets established; FY2001 performance goal 2-2.                                |
| 2-4 Maintain high percentage of settlements in field offices prior to formal litigation.   | Revised to include quantifiable goal and performance indicator; FY2001 performance goal 2-3.   |
| 2-5 Trial Calendar – reduce number of median days from issuance of complaint to close of hearing.  | Revised to be more aggressive, strategic and annual targets established; FY2001 performance goal 2-4.                                |
| 2-6 Issue appeal cases sustained from dismissal of charge within time targets.   | Revised to be more aggressive, strategic and annual targets established; FY2001 performance goal 2-5.                                |
| 2-7 Close Advice cases in a median of 25 days of receipt from Regional Offices (in cases not seeking injunctions).   | Combined with 2-8 and 2-9 and revised; FY2001 performance goal 2-6.  |
| 2-8 Close Advice cases seeking sec. 10(j) injunctions, within 25 days of receipt from Regional Offices.  | Combined with 2-7 and 2-9 and revised; FY2001 performance goal 2-6.  |
| 2-9 Provide appropriate memo to the Board, in Advice cases seeking sec. 10(j) injunctions, within 10 days of receipt from Regional Offices.                    | Combined with 2-7 and 2-8 and revised; FY2001 performance goal 2-6.  |
| 2-10 Issue Division of Judges decisions within time targets, regardless of length of transcript.   | Revised to include performance target; FY2001 performance goal 2-7.  |
| 2-11 Reduce the age of Unfair Labor Practice cases pending at the Board.   | Revised to be more aggressive and to include annual and strategic targets; FY2001 performance goal 2-10.                             |

NLRB FY 2001 Performance Plan

| FY2000 PERFORMANCE MEASURE   | FOUND IN FY2001 PERFORMANCE PLAN   |
|--|--|
| 2-12 Reduce the number of Unfair Labor Practice cases pending at the Board for the longest time.   | Revised to be more aggressive and to include annual and strategic targets; FY2001 performance goal 2-9.  |
| 2-13 File priority Enforcement petitions within 100 days.  | Combined with 2-14 and revised; FY2001 performance goal 2-8.   |
| 2-14 File all other Enforcement petitions within 150 days.   | Combined with 2-13 and revised; FY2001 performance goal 2-8.   |
| 2-15 Reduce percentage of Compliance cases exceeding target processing time to 10% overage.<br>Category III            Category II    Category I<br>(13 weeks)                (17 weeks)    (21 weeks) | Revised to be more aggressive and to include annual and strategic targets; FY2001 performance goal 2-11. |
| 2-16 Improve quality of Unfair Labor Practice Case processing.   | Revised to define universe; FY2001 performance goal 2-1.   |
| 2-17 Revise Compliance Manual.   | Deleted because it was a one-time project and was completed.   |
| 2-18 Issue and disseminate further "best practices" for Unfair Labor Practice casehandling.  | Deleted because it was a one-time project and was completed.   |

|  |  |
|--|--|
| <p align="center"><b>GOAL NO. 3:</b></p> <p><b>Develop and maintain a well trained, highly effective, productive, customer-service oriented workforce</b></p>  | <p><b>Incorporated into FY2001 as strategies for completing goals #1 and #2. See goal #1, strategy #7 and goal #2, strategy #9.</b></p>  |
| <p align="center"><b>GOAL NO. 4:</b></p> <p><b>Fully integrate information resource management into the working environment to increase the Agency's ability to provide information to the public and to meet Agency core mission functions and goals.</b></p> | <p><b>Incorporated into FY2001 as strategies for completing goals #1 and #2. See goal #1, strategy #8 and goal #2, strategy #10.</b></p> |



## **APPENDIX B**

This attachment provides, in concise form, outlines of the types of cases arising under the Labor Management Relations Act and the basic procedures in the processing of cases within the Agency.

A. Explanation of Types of Cases

B. Procedures in Cases Involving Charges of Unfair Labor Practice

C. Outline of Representation Procedures under Section 9c

**TYPES OF NLRB CASES**

**1. CHARGES OF UNFAIR LABOR PRACTICES (C CASES)**

**Charges Against Labor Organization**

**Charge Against Labor Organization and Employer**

| Section of the Act  | Section of the Act  | Section of the Act   | Section of the Act  | Section of the Act   | Section of the Act   | Section of the Act | Section of the Act |
|---|---|--|---|--|--|--------------------|--------------------|
| <p><b>CA</b></p> <p>8(a)(1) To interfere with, restrain, or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).</p> <p>8(a)(2) To dominate or interfere with the formation or administration of a labor organization or contribute financial or other support to it.</p> <p>8(a)(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.</p> <p>8(a)(4) To discharge or otherwise discriminate against employees because they have given testimony under the Act.</p> <p>8(a)(5) To refuse to bargain collectively with representatives of its employees.</p> | <p><b>CC</b></p> <p>8(b)(4)(i) To engage in, or induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or boycott, or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object is:</p> <p>(A) To force or require any employer or self-employed person to join any labor organization or to enter into any agreement prohibited by Section 8 (e).</p> <p>(B) To force or require any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or force or require any other employer to recognize or bargain with a labor organization as the representative of its employees unless such labor organization has been certified.</p> | <p><b>CG</b></p> <p>8(g) To strike, picket, or otherwise concertedly refuse to work at any health care institution without notifying the institution and the Federal Mediation and Conciliation Service in writing 10 days prior to such action.</p> | <p><b>CD</b></p> <p>(C) To force or require any employer to recognize or bargain with a particular labor organization as the representative of its employees if another labor organization has been certified as the representative.</p> <p>(D) To force or require any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another trade, craft, or class, unless such employer is failing to conform to an appropriate Board order or certification.</p> | <p><b>CE</b></p> <p>8(e) To enter into any contract or agreement (any labor organization and any employer) whereby such employer ceases or refrains or agrees to cease or refrain from handling or dealing in any product of any other employer, or to cease doing business with any other person.</p> | <p><b>CP</b></p> <p>8(b)(7) To picket, cause, or threaten the picketing of any employer where an object is to force or require an employer to recognize or bargain with a labor organization as the representative of its employees, or to force or require the employees of an employer to select such labor organization as their collective-bargaining representative, unless such labor organization is currently certified as the representative of such employees:</p> <p>(A) where the employer has lawfully recognized any other labor organization and a question concerning representation may not appropriately be raised under Section 9(c).</p> <p>(B) where within the preceding 12 months a valid election under Section 9(c) has been conducted, or</p> <p>(C) where picketing has been conducted without a petition under Section 9(c) being filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing, except where the picketing is for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, and it does not have an effect of interference with deliveries or services.</p> |                    |                    |

**3. OTHER PETITIONS**

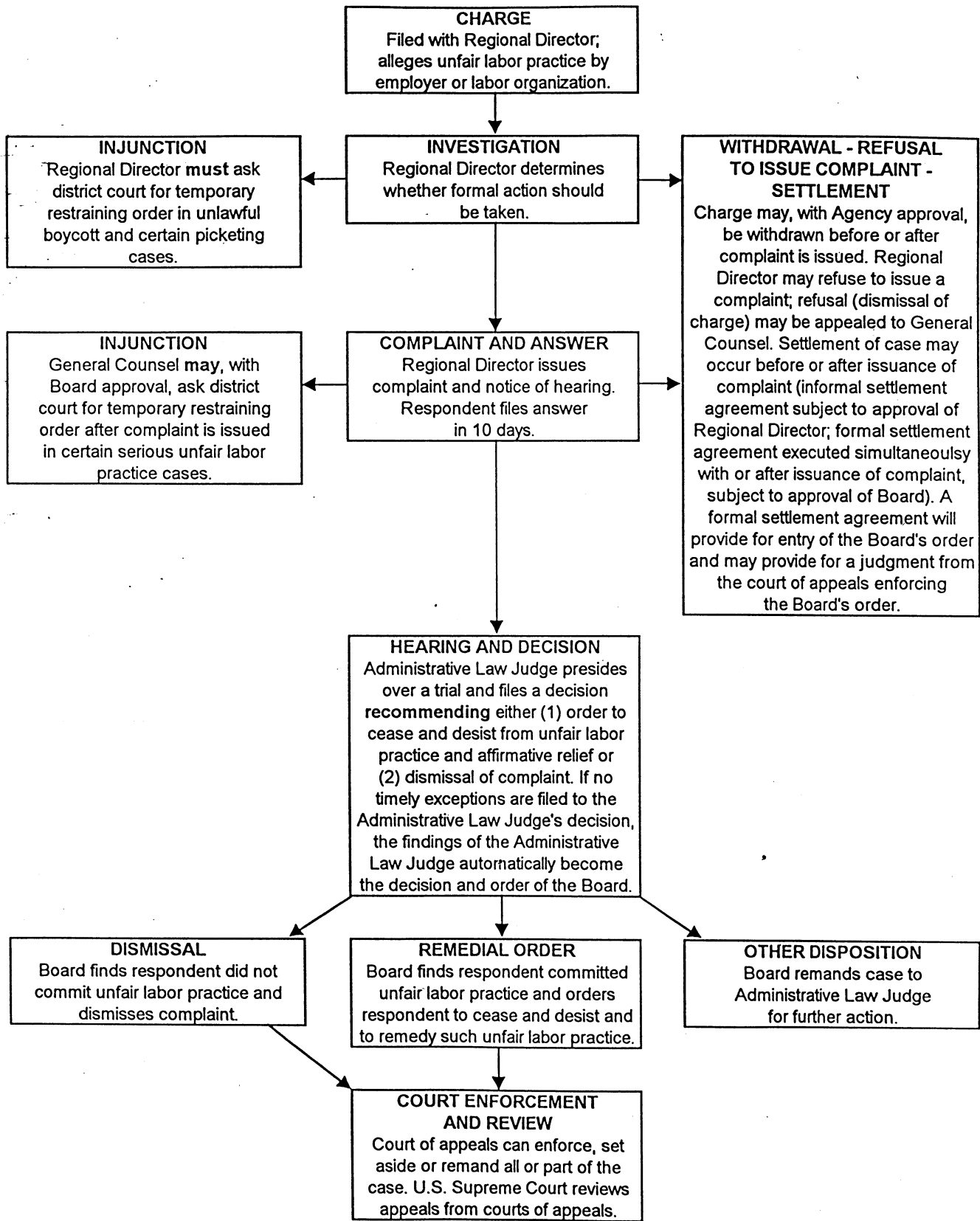
**2. PETITIONS FOR CERTIFICATION OR DECERTIFICATION OF REPRESENTATIVES (R CASES)**

| By or in Behalf of Employees   |  | By an Employer  |   | By or in Behalf of Employees  |   | By a Labor Organization or an Employer |             |
|--|--|---|---|---|---|--|-------------|
| Section of the Act   | Section of the Act   | Section of the Act  | Section of the Act  | Section of the Act  | Section of the Act  | Board Rules                            | Board Rules |
| <p><b>RC</b></p> <p>9(c)(1)(A)(i) Alleging that a substantial number of employees wish to be represented for collective bargaining and their employer declines to recognize their representative.*</p> | <p><b>RD</b></p> <p>9(c)(1)(A)(ii) Alleging that a substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.*</p> | <p><b>RM</b></p> <p>9(c)(1)(B) Alleging that one or more claims for recognition as exclusive bargaining representative have been received by the employer.*</p> | <p><b>UD</b></p> <p>9(e)(1) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.</p> | <p><b>UC</b></p> <p>Subpart C Seeking clarification of an existing bargaining unit.</p> | <p><b>AC</b></p> <p>Subpart C Seeking amendment of an outstanding certification of bargaining representative.</p> |  |             |

\* If an 8(b)(1) charge has been filed involving the same employer, these statements in RC, RD, and RM petitions are not required.

Charges filed with the National Labor Relations Board are letter-coded and numbered. Unfair labor practice charges are classified as "C" cases and petitions for certification or decertification of representatives as "R" cases. This chart indicates the letter codes used for "C" cases and "R" cases, and also presents a summary of each section involved.

**NATIONAL LABOR RELATIONS BOARD**  
**BASIC PROCEDURES IN CASES INVOLVING CHARGES OF UNFAIR LABOR PRACTICES**



# OUTLINE OF REPRESENTATION PROCEDURES UNDER SECTION 9(c)

