
PROGRAM PERFORMANCE



PERFORMANCE INFORMATION

PERFORMANCE GOALS AND OBJECTIVES

The two goals of the NLRB's Strategic Plan represent the core functions of the Agency in enforcing the NLRA. They thus reflect both the short- and long-term goals of the Agency. These strategic goals, as fully described in this section of the Performance and Accountability Report (PAR), translate the Agency's mission into major policy directions and are focused on the unique characteristics of the organization.

GOAL NO. 1 **Resolve all questions concerning representation impartially and promptly.**

Objectives:

The Act recognizes and expressly protects the right of employees to freely and democratically determine, through a secret-ballot election, whether they want to be represented for purposes of collective bargaining by a labor organization. In enforcing the Act, the Agency does not have a stake in the results of that election. It merely seeks to ensure that the process used to resolve such questions allows employees to express their choice in an open, uncoerced atmosphere. The NLRB strives to give sound and well-supported guidance to all parties and to the public at large with respect to representation issues. Predictable, consistent procedures have been established to better serve our customers and avoid unnecessary delays. The Agency will process representation cases promptly in order to avoid unnecessary disruptions to commerce and minimize the potential for unlawful or objectionable conduct.

The objectives are to:

- 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 representation cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public. A core objective of the Act is to conduct secret ballot elections among employees to determine whether the employees wish to be represented by a union.

*Goals
(cont'd.)*

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.
5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases.
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 skills 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 will provide NLRB employees with technology tools and access to research and professional information comparable to that of their private sector counterparts.

GOAL NO. 2**Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions, or both, impartially and promptly.**

Certain conduct by employers and labor organizations leading to workplace conflict has been determined by Congress to burden interstate commerce and has been declared an unfair labor practice (ULP) under Section 8 of the NLRA. This goal communicates the Agency's resolve to investigate charges of ULP conduct fairly and expeditiously. Where violations are found, the Agency will provide such remedial relief as would effectuate the policies of the Act, including, but not limited to, ordering reinstatement of employees; ensuring that employees are made whole, with interest; directing bargaining in good faith; and ordering a respondent to cease and desist from unlawful conduct. The Agency will give special priority to resolving disputes with the greatest impact on the public and the core objectives of the Act. These objectives are to:

Objectives:

- A. Conduct thorough ULP investigations and issue all ULP 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. One of these core objectives is to prevent and remedy statutorily defined unfair labor practices by employers and unions.

*Goals
(cont'd.)*

- C. Conduct effective settlement programs.
- D. Provide prompt and appropriate remedial relief when violations are found. Afford due process under the law to all parties involved in ULP 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 ULP casework regularly to provide the best possible service to the public.
3. Utilize impact analysis to provide an analytical framework for classifying ULP 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 ULP cases to assist regions in resolving ULP issues promptly and fairly.
5. Emphasize the early identification of remedial 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 ULP disputes at all stages of the casehandling process.
8. Identify and utilize alternative decision-making procedures to expedite Board decisions in ULP cases.
9. Analyze and prioritize the critical skills 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 which 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 will provide management with the information it needs to manage the Agency and provide NLRB employees with technology tools and access to research and professional information comparable to that of their private sector counterparts.

PERFORMANCE MEASURES

FY 2007 RESULTS

GOAL NO. 1, TABLE 1

Percentage of Representation Cases Resolved Within 100 Days

YEAR	TARGET
FY 2007	79% (ACTUAL) 79%
FY 2008	80%
FY 2009	81%
FY 2010	82%
FY 2011	83.5%
FY 2012	85%

Counting of Days:

The Agency starts counting the 100 days on the date that the petition is formally docketed.

In FY 2007, the NLRB updated its Strategic Plan. This updated plan covers the five-year period 2007- 2012. In updating its plan, the Agency developed three new overarching performance measures to replace the previous measures that had been in place. The new measures emphasize the time taken to resolve cases, from beginning to end, including both the Board and General Counsel sides of the Agency. This moves the NLRB's performance measurement approach from emphasis on individual segments of case processing, as in previous years, to one that focuses on time taken to process an entire case. While the previous measures were effective in facilitating timely, efficient, and well-managed casehandling, and will continue to be used as internal guides to assessing performance, the new measures emphasize outcomes, and serve to answer the question most important to the public: What is the Agency's overall success in bringing effective resolution to labor disputes in a timely manner?

FY 2007 is the first year of the NLRB reporting the results associated with the three overarching performance measures put in place this fiscal year. Because there is no previous years' data available to compare with the FY 2007 results, the tables in this section of the PAR will show the proposed annual targets for the three measures for the five-year period covered by the current Strategic Plan (2007-2012), with the actual targets achieved in FY 2007. Listed below are the NLRB's two strategic goals along with the new performance measures associated with each goal.

GOAL NO. 1: Resolve all questions concerning representation impartially and promptly.

MEASURE NO 1: The percentage of representation cases resolved within 100 days of filing of the election petition. (Table 1)

An employer, labor organization, or group of employees may file a petition in an NLRB Regional Office requesting an election to determine whether a majority of employees in an appropriate bargaining unit wish to be represented by a labor organization. When a petition is filed, the Agency works with parties toward a goal of reaching a voluntary agreement regarding the conduct of an election. However, if a voluntary agreement is not reached the parties do have other rights of appeal and administrative action within the Agency. This measure reflects the percentage of representation cases where there are no further rights of appeal or administrative action required. The question of whether the labor organization will represent the employees has finally been resolved.

Performance Measures (cont'd.)

GOAL NO. 2, TABLE 2

Percentage of ULP Charges Resolved Within 120 Days

YEAR	TARGET
FY 2007	67.5%
	(ACTUAL) 66%
FY 2008	68%
FY 2009	68.5%
FY 2010	69.5%
FY 2011	70%
FY 2012	71%

Counting of Days:

The 120 days is calculated from the date the charge is docketed.

Representation cases are resolved in a number of ways:

- Cases may be dismissed before an election is scheduled or conducted. Dismissals at an early stage in processing may be based on a variety of reasons; for example, the employer not meeting the Agency’s jurisdictional standards, the petitioner’s failure to provide an adequate showing of interest to support the petition, and/or the petition being filed in an untimely manner.
- Cases may also be withdrawn by the petitioner for a variety of reasons including the lack of support among the bargaining unit and/or failure to provide an adequate showing of interest.
- The majority of cases are resolved upon either a certification of representative (the union prevails in the election) or a certification of results (the union loses the election).
- In a small percentage of cases, there are post-election challenges or objections to the election. These cases are not considered resolved until the challenges and/or objections have been investigated either administratively or by a hearing and a report that has been adopted by the Board.

The overarching measures were introduced in June 2007. Thus, they have been in effect for only the fourth quarter. In FY 2007, overall the Agency was able to close 79 percent of its representation cases within 100 days of the filing of the representation case. Reviewing just the last quarter’s performance was even more impressive: 82.3 percent of all representation cases were closed within 100 days. Both numbers meet the FY 2007 interim goal of 79 percent and the fourth quarter number begins to approach our five-year goal of 85 percent. However, the first realistic test of the Agency’s performance under these newly established measures will be FY 2008, when the Agency will have been under the overarching measure for the entire year.

GOAL NO. 2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions or both, impartially and promptly.

MEASURE NO. 2: The percentage of unfair labor practices (ULP) charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge. (Table 2)

*Performance
Measures
(cont'd.)*

GOAL NO. 2, TABLE 3

Percentage of ULP Cases Closed on Compliance Within 365 Days

YEAR	TARGET
FY 2007	74%
	(ACTUAL) 73.5%
FY 2008	75%
FY 2009	75.5%
FY 2010	76%
FY 2011	76.5%
FY 2012	77%

Counting of Days:

The 365 days is calculated from the date the charge is docketed.

A ULP case is resolved when it has been finally processed. The issues raised by the charging party's charge have been answered and where appropriate, remedied. There is no further action to be taken by the Agency.

In FY 2007, the NLRB closed 66 percent of all unfair labor practice cases within 120 days of the docketing of the charge. In the last quarter (the first quarter the Agency was working to achieve these overarching measures), the Agency closed 67.4 percent of its unfair labor practice cases within 120 days, coming within one-tenth of one percent of the interim goal. Performance for the fourth quarter effectively achieves the FY 2007 interim goal of 67.5 percent. As evidenced by its fourth quarter performance, we are confident that the Agency will meet this goal in FY 2008, the first full year that the Agency will have been working under this measure.

MEASURE NO. 3: The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge. (Table 3)

ULP cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation of the NLRA are complete. This measure includes all litigated cases including those which are appealed to the circuit courts of appeals.

In FY 2007, the Agency closed 73.5 percent of all prosecutable unfair labor practice cases in 365 days from the docketing of the charge. In the last quarter (again, the first quarter that Agency was working to achieve these overarching measures), performance was at 72.5 percent. As this was a year in which the Board was successful in moving a number of its oldest cases, it is not surprising that the percentage was affected. Nevertheless, we came very close to meeting the FY 2007 interim goal of 74 percent. As noted with regard to the other overarching measures, the fact that they were not announced until June 2007 makes this year a unique one in terms of assessing the Agency's performance. Nevertheless, we are working toward meeting the interim goal in FY 2008.