

IV. MAJOR GOALS

The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed voluntarily under the NLRA by individuals, employers or unions. The two major goals of the NLRB focus on its timeliness and effectiveness in addressing its caseload. The major goals are to:

- Resolve all questions concerning representation promptly
- Investigate, prosecute, and remedy unfair labor practices by employers or unions promptly

V. BACKGROUND INFORMATION

The NLRB is an independent federal Agency created by Congress in 1935 to administer and enforce the National Labor Relations Act, which is the primary federal statute governing labor relations in the private sector.¹ The purpose of the law is to serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees. It seeks to do this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The Act embodies a statement of employees' bill of rights, which establishes freedom of association for the purposes of participating in the practice and procedure of collective bargaining. Under the Act, the NLRB has two primary functions: (1) to conduct secret-ballot elections among employees to determine whether the employees wish to be represented by a union², and (2) to prevent and remedy statutorily defined unfair labor practices by employers and unions. 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, unions, and employers under the Act.

The NLRB acts only on those cases brought before it, and does not initiate cases. All proceedings originate from the filing of charges or petitions by employees, labor unions, and private employers who are engaged in interstate commerce. About 26,500 cases are received by the Board through its Regional, Subregional, and Resident Offices each year. Of those, approximately 23,000 are unfair labor practice (ULP) cases and the remaining 3,500 are representation cases, which involve petitions to conduct secret ballot elections. Under the Act's procedures, the General Counsel's staff investigates the 23,000 ULP cases, which results in a finding of no merit—no probable cause to support the charge—about two-thirds of the time. These decisions are made by the Regional Directors, who have been delegated substantive decision-making authority over these cases.

The Agency's determinations to dismiss unfair labor practice charges are of great significance to the public and are an essential part of effectuating the Agency's mission. During the processing

¹Major amendments to the Act were enacted in 1947 (the Taft-Hartley Amendments) and in 1959 (the Landrum-Griffin Amendments).

²Exhibit A provides detailed descriptions of the types of cases handled by the Agency.

of a charge in the Regional Office a full and fair investigation is conducted with all parties having the opportunity to present evidence and statements of position in support of the charge, or in defense of it. If further proceedings are not found to be warranted by the Regional Director, the charging party can request and be provided with a full statement of the reasons. The charging party can then file an appeal of the Director's action with the Office of Appeals of the General Counsel's staff in Washington. If an appeal is filed, the Regional Office investigative file is independently reviewed to determine whether the investigation was complete and the legal conclusion sound.

Because the General Counsel's authority to issue a complaint in unfair labor practice cases is not subject to review, if the Regional Director's decision to dismiss the unfair labor practice charge is upheld, the parties know conclusively what their legal rights and obligations are with respect to the dispute underlying the charge. Although the charging party will likely be disappointed by the result, both parties will appreciate that a dismissal puts the matter to rest. This resolution allows the parties to move forward with a better understanding of their respective rights and responsibilities.

Of those cases in which merit is found, approximately 95 percent (97 percent in FY 2007) are settled without formal litigation. Cases are settled through the Agency's settlement program by which the parties agree to a remedy and thereby avoid litigation. It has long been the NLRB's belief that all parties are better served if disputes are settled without the need for time-consuming and costly formal litigation.

In addition to its ULP caseload, the NLRB received 3,324 petitions in representation cases, and conducted 2,005 elections in FY 2007. The difference between the number of petitions and the number of elections is explained by a number of factors. In some instances, a case may not proceed to an election when the Board has decided to dismiss the petition because it has determined it does not have jurisdiction over the matter, or because the petitioned for bargaining unit is inappropriate. In other cases, a union may independently decide to withdraw its petition if it feels that it is losing support among the employees. In 91 percent of elections conducted in FY 2007, up slightly from 88 percent in FY 2006, the NLRB was able to negotiate agreements between the parties as to when, where, and who should be involved in the election, thus conserving resources that would otherwise be spent on a hearing. Hearings were required in the remaining 9 percent of these cases.

Public Information Program

The Agency's Public Information Program continues to provide guidance to the public regarding the NLRA, offering assistance in the filing of charges and petitions, and referring inquiries not covered by the Act to the appropriate agency or organization.

The Agency's 51 Field Offices received 189,172 public inquiries in FY 2007, a 3.8% increase from the 182,161 received during FY 2006. The public can contact the Agency through a toll-free telephone service designed to provide easy and cost-free access to information to the public. Callers to the toll-free number may listen to messages recorded in English and Spanish that provide a general description of the NLRB's mission and connections to other government agencies or to Information Officers located in the Agency's Regional Offices. In FY 2007, the

toll-free telephone service received 68,556 calls, of which 24,547 were connected to Regional Offices for further assistance. In FY 2006, the toll-free telephone service received 68,018 calls, of which 25,849 were for further assistance by the Regions.

The rate of charge acceptance (percent of inquiries from the public in which the contact results in an unfair labor practice charge being filed) was approximately 4.6% in FY 2007, which is slightly higher than the 3.8% rate experienced in FY 2006. Since the inception of the Public Information Program in 1978, the Agency has reduced its charge acceptance rate from 9.2% to a low of 3.8%. Thus, through this program, the Regions have been very successful in disseminating accurate, comprehensive information to the public, which has increased the likelihood that any subsequent charges filed have merit.

Electronic Filing

The Agency's web site, www.nlrb.gov, was recognized this year by the National Security Archive as one of the five best in the federal government. To extend its public services efforts across the Internet, in November 2006, the Agency launched a new interactive web site with expanded document collections, improved navigational structure, a searchable database of case information, and new features allowing users to transact business with the Agency online. The new web site received 5,313,173 visitors and 10,327,584 page views in FY 2007. Of the site's visitors, 96 percent were able to find an answer to their question without requiring additional assistance. One of the Agency's most popular sites, the "Frequently Asked Questions" page, provided 95,830 answers in response to 68,209 searches. In addition, Agency personnel provided 2,604 direct email responses to specific inquiries from the public.

The Agency steadily has been expanding its electronic filing program for the public since July 2002, when the General Counsel began to permit charging parties to E-file extension-of-time requests in cases before the Office of Appeals. In FY 2007, the General Counsel expanded access to the offices under his supervision through the Agency's website, determining that parties may use the web site to E-file most casehandling documents with Regional, Subregional, and Resident Offices. Among the expanded list of documents that can now be sent to our offices electronically are Briefs (ULP and R cases), Answers to Complaints or Compliance Specifications, Motions for Summary Judgment, Petitions to Revoke Subpoenas, Motions for Bills of Particulars, and Election Objections. During FY 2007, field offices received over 4,000 electronic submissions through the Agency's E-Filing process and the Office of Appeals received over 1,000 such submissions.

A significant new feature of the Agency's website, "My NLRB," provides users with a web interface to various databases with case information and links to documents associated with selected cases. Users may register to be recognized by the system when they enter their user ID and password, which will make the E-filing process easier by automatically filling in certain information required on the online filing forms. The system also can save searches and other user preferences for registered users, who might want to follow the progress of certain cases.

Outreach

The role of the Act, and of the NLRB in enforcing the Act, insofar as it relates to the right of employees to select or reject a collective-bargaining representative are relatively well known. For over 70 years the NLRB has been actively and publicly involved in the protection of employee rights to self-organization, the conduct of secret ballot representation elections, and the enforcement of employer and union obligations to engage in good-faith bargaining. This is the role of the NLRB that is most often the subject of accounts in the press. It is also the role that is featured in communications to employees by unions and employers during organizing campaigns.

Less well known, but of equal stature in the Act, is the protection afforded to employees to engage in “concerted protected activity.” This activity, which can be initiated with or without the presence or involvement of a union, is peaceful conduct by or on behalf of two or more employees for “mutual aid or protection,” as described in Section 7 of the Act. For example, employees have the right to join together and approach their employer to request higher wages, to question work loads, or otherwise to deal with their employer about terms and conditions of employment. Under the Act, an employer cannot lawfully discipline employees for raising such demands or complaints. As with union activity, employees not only have the right to engage in such activity, but they also have the right to decline to engage in this activity without fear of retribution.

In an effort to inform working Americans fully about all their rights under the National Labor Relations Act, including their rights with regard to concerted protected activity, the General Counsel has expanded the Agency’s outreach program. Traditionally under this program, NLRB field and headquarters personnel meet with members of the labor-relations communities in their geographic areas to discuss NLRB procedures and developments in the law. These contacts are usually with labor lawyers representing unions and management, labor organizations and business groups. Among these contacts are those with the American Bar Association and State and local bars and local chapters of the Labor and Employment Relations Association. Under the expanded program, NLRB agents will widen the scope of their outreach activities.

Independently or in partnership with other organizations such as the Equal Employment Opportunity Commission, NLRB agents are initiating contact with schools, community groups, churches, business organizations, and others to make information about the NLRB available to individual workers. Brochures, model speeches and other materials to facilitate outreach are available to NLRB agents on the Agency’s intranet. Our Regional Directors will be operating under revised performance plans that will include specific goals with respect to the outreach activities they conduct. In addition, in FY 2007, we added a speaker’s bureau feature to our website, www.nlr.gov, which enables individuals and groups to request that a NLRB representative address gatherings to present information about the Agency. Our agents respond to these requests and assign speakers, as appropriate.

We estimate that when the General Counsel’s initiative is fully instituted, 70 agents in the agency’s 51 field offices will dedicate 1 month per year to outreach activities, for a total of about 6 Agency FTE devoted to outreach.