

NLRB Revises Unfair Labor Practice Policy

Wed, Feb 15, 2012

On January 20, 2012, the Acting General Counsel, Lafe Solomon, of the National Labor Relations Board (Board) issued a memorandum recommending the Board revise its policy for deferring unfair labor practice charges to arbitration. Presently, the Board will defer a charge to the parties collectively bargained arbitration process for resolution.

Under the suggested policy, the Board will not permit deferral of Section 8(a)(1) and 8(a)(3) charges unless the arbitration process can be completed in a year. If it cannot be completed in a year, Acting General Counsel expects the Region to conduct a full investigation of the charge and if found to be meritorious, the case should be sent to the Division of Advice for further action. The change in the deferral policy will not effect of the Board's approach to Section 8(a)(5) allegations involving breach of contract.

The stated rationale for the Acting General Counsel's position is his concern that undue delay in the arbitration process caused by deferral renders any potential Board remedy meaningless given the passage of time.



Bottom Line for Employers

This memorandum by the Acting General Counsel continues his trend to revisit long-settled legal principles of the National Labor Relations Board and revise them where he deems it appropriate.

Tags: [NLRB](#), [National Labor Relations Board](#), [Employment Law](#)