

Publications

Ushering in a New Era: NLRB Acting General Counsel Revokes Memos from Predecessor

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On February 14, 2025, the National Labor Relations Board's (NLRB) Acting General Counsel (GC) William B. Cowen circulated a GC memorandum to all NLRB field offices, revoking certain GC memoranda issued by former General Counsel Jennifer Abruzzo. The new GC memoranda provide enforcement guidance to the NLRB's regional offices and signal to the public at large the NLRB's enforcement priorities. Cowen cited a growing backlog of cases as the motivation for his memorandum. Cowen's move to rescind many of his predecessor's memoranda signals a new policy direction for the NLRB and a new compliance era for employees and employers alike.

The rescinded guidance includes some of former GC Abruzzo's most controversial memos:

1. **GC 21-02: "Rescission of Certain General Counsel Memoranda"** – GC 21-02 rescinded previous memorandum issued during the Trump administration. The rescission of GC 21-02 signals the breadth of the GC's policy shift, as it opens the possibility of a return to the positions articulated in the previously rescinded memoranda.
2. **GC 21-06: "Seeking Full Remedies" and GC 21-07 "Full Remedies in Settlement Agreements"** – both aimed to broaden the traditional scope of remedies available for violations of the National Labor Relations Act (NLRA), by asserting that "make whole" relief requires non-traditional derivative economic remedies for employees, increasing the likelihood that employers could face significantly higher and unpredictable financial liabilities. With this guidance rescinded, regional offices will likely seek a more limited set of remedies.
3. **GC 21-08: "Statutory Rights of Players at Academic Institutions (Student-Athletes) Under the National Labor Relations Act"** – Abruzzo opined that student athletes should be considered employees and that labor law protections applied regardless of whether a traditional employer/employee relationship existed,

forcing employers to navigate the uncharted territory of applying labor laws to student-athletes. Rescission of this guidance leaves these matters in limbo.

4. **GC 23-02: “Electronic Monitoring and Algorithmic Management of Employees Interfering with the Exercise of Section 7 Rights”** – Indicated heightened scrutiny of employers’ use of commonly used mechanism for security purposes, such as security cameras in the workplace. This increased the likelihood of litigation, as well as greater regulatory oversight and potential liability, due to the broad range of practices previously encompassed by this interpretation.
5. **GC 23-05 “Guidance in Response to Inquiries about the McLaren Macomb Decision” and GC 23-08 “Non-Compete Agreements that Violate the National Labor Relations Act”** – GC 23-05 asserted a new perspective that language previously deemed lawful in severance agreements—specifically clauses that prohibited employees from disparaging their employers and disclosing the terms of the agreement to third parties—was no longer permissible. GC 23-08 challenged the legitimacy non-competition agreements to protect legitimate business interests, such as trade secrets and client relationships. With these memoranda rescinded, regional offices are unlikely to view these issues as a high priority.
6. **GC 25-01: “Remedying the Harmful Effects of Non-Compete and ‘Stay-or-Pay’ Provisions that Violate the National Labor Relations Act”** – Challenged the legitimacy of commonly used “stay-or-pay” provisions, thereby creating uncertainty regarding employers’ ability to safeguard their legitimate business interests in securing a return on their investment in employee training and other benefit costs. As with the above rescinded memoranda, this signals that regional offices are unlikely to aggressively pursue allegations relating to these types of provisions.

President Trump recently nominated [Crystal Carey](#) as permanent NLRB GC. If Carey is confirmed by the Senate, her first GC memorandum will be the best indicator of where the NLRB’s enforcement priorities will lie during her tenure.

Vorys is closely watching all developments at the NLRB and we will continue to provide updates on the Vorys on Labor blog as events unfold. Be sure to [subscribe](#) to follow along and contact your Vorys attorneys with any questions.