

# NLRB's Acting General Counsel Rescinds Biden-Era Guidance Memorandums

## Labor & Employment Law Update

By Kevin Kleine and Jeffrey Risch on February 17, 2025

On February 14, 2025, William Cowen, the acting general counsel ("GC") for the National Labor Relations Board ("Board") rescinded several Guidance Memorandums that were previously issued by the Board's former GC, Jennifer Abruzzo, during the Biden administration. The rescissions made through Memorandum GC 25-05 impact very significant and slightly controversial policy priorities under Abruzzo.

The action appears to be part of the Trump Administration's efforts to reorganize and overhaul government and government agencies. Indeed, Acting GC Cowen explained:

*Over the past few years, our dedicated and talented staff have worked diligently to process an ever-increasing workload. Notwithstanding these efforts, we have seen our backlog of cases grow to the point where it is no longer sustainable. The unfortunate truth is that if we attempt to accomplish everything, we risk accomplishing nothing.*

This is a significant move because it indicates that the Trump's Board is likely preparing to take a much different path forward in administering and enforcing the National Labor Relations Act compared to Biden's Board. How and to what extent is not yet known. Further, it will take several months for the Board (once it has a proper quorum) to receive and rule on cases with any impact on Biden-era decisions.

For now, it appears the Board's top policymaker is not going to continue to blow the proverbial "dog-whistle" that inevitably invites labor organizations to file unfair labor practice charges over just about everything and anything coming from management.

Of particular significance, GC Cowen rescinded prior NLRB memorandums issued during the Biden administration that covered the Board's attack on noncompete agreements, "stay or pay" agreements, severance agreements (including confidentiality and non-disparagement provisions), and captive audience meetings, along with other guidance that appeared to challenge just about anything and everything coming from management.

Employers must keep in mind that, while the GC's memorandums that helped to usher in the Board's decisions in *McLaren Macomb* and *Cemex Construction Materials Pacific, LLC* are rescinded, the underlying *McLaren Macomb* and *Cemex Construction Materials Pacific, LLC* decisions are not, as they remain in effect.

In light of this, employers need to remain vigilant and consult with experienced labor law counsel through these changing times. Be assured we will continue to provide updates as they develop.

NLRB's  
Acting  
General  
Counsel  
Rescinds  
Biden-Era  
Guidance  
Memorand-  
ums