



**NATIONAL LABOR RELATIONS BOARD
CHIEF FREEDOM OF INFORMATION ACT OFFICER
REPORT FOR 2012**

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Chief FOIA Officer

I. Steps Taken to Apply the Presumption of Openness

Attorney General Eric Holder's Memorandum of March 19, 2009 on the Open Government Act is posted on the Agency's website and has been distributed to all FOIA professionals. This memorandum is also incorporated in Agency presentations and training on FOIA.

The Legal Research and Policy Planning Branch of the Division of Advice made a presentation on FOIA during an orientation program for new Board members. This presentation provided an opportunity to discuss FOIA procedures and processing of Agency FOIA requests, including a discussion of Attorney General Holder's Memorandum. With regard to FOIA training of Agency FOIA professionals, staff members from Headquarters and various regional offices attended training provided by the Department of Justice. In addition, a supervisor/manager attended training provided by the Office of Government Information Services concerning mediation of FOIA matters.

The Agency continued its efforts of posting internal memoranda that provide case handling and policy guidance and thus are covered by FOIA Exemption 5 to its website. These memoranda include the following: General Counsel Memoranda, which are issued to field offices by the General Counsel to provide policy guidance; Division of Operations-Management Memoranda, which are issued to the field offices by the Division of Operations Management to provide case handling guidance; and Division of Advice Memoranda, more fully discussed below. In addition, the Agency posted two Reports of the Acting General Counsel presenting case developments arising in the context of social media. These case summaries of 28 cases presented summaries of Division of Advice Memoranda containing deliberative process information, including in open cases, normally withheld from disclosure.

In addition, the NLRB's Office of Public Affairs has posted all of its press releases dating back to 1947. And, it has continued its efforts in utilizing email and social media, which enables the Agency to disseminate information to the public through a variety of forums, reaching audiences who might not otherwise visit the Agency's main website. The Office of Public Affairs has been increasingly proactive in releasing information to the public, through press releases about activities in the field and at headquarters. Information is now sent to 12,893 email subscribers, summaries of case decisions with links to the decisions are sent to about 6,880 email subscribers, and through a Facebook page with 4,786 fans and a Twitter account with 6,334 followers (including both direct Twitter followers and email recipients) that seek to engage the public in conversation. Further, each regional office has its own page on NLRB.gov, and regions are encouraged to continue adding new information relevant to their region.

The Agency continues its efforts in making its redesigned website more user-friendly by improving the organization of the site, simplifying content, making case searches easier and more intuitive, and providing an increasing number of case documents. For example, the Agency is currently redesigning the website search function to include a real-time filtering of results. This new search function will also consolidate indexes so that data from various parts of the site, e.g. the case management system that all Regional, Resident, and Sub-Regional offices have been migrated into as of September 23, 2011, web pages, a document management software, all appear in the same results lists. Also, certain terms associated with important Agency decisions will be more prominent in the list which will aid the public in getting relevant information more quickly. In addition, each NLRB case initiated or acted on since 2007 has its own page containing links to all publicly-available information and documents. Since the site launch on February 2, 2011, there have been 360,087 page views of this detailed case information.

For Fiscal Year 2011, the Agency received 5860 FOIA requests, in which 4535 of the requests were granted in full, which amounts to 77.39% of all requests. In Fiscal Year 2010, the Agency received 5889 FOIA requests; the number of full grants was 4778, which was 81.34% of all requests. The number of FOIA requests for Fiscal Year 2011 in which the request was partially granted was 482, amounting to 8.23% of the requests, a slight decrease from 505, 8.58% of requests, for Fiscal Year 2010.

II. Steps Taken to Ensure That Your Agency Has an Effective System in Place for Responding to Requests

The NLRB utilizes an internally created FOIA tracking program, the FOIA Tracking System (FTS), which allows for the electronic tracking, processing, and reporting of both initial requests and administrative appeals. The FTS report capabilities allow for monitoring of FOIA processing, ensuring proper and timely responses to FOIA requests. The Agency continues its longstanding practice of timely responding to FOIA requests, and in Fiscal Year 2011, the NLRB responded to requests in an average of 5

days, the same average of days to respond to requests as in Fiscal Year 2010. Based on these results, it has been determined that adequate staffing is being devoted to responding to FOIA requests.

For those FOIA requests that involve complicated searches for electronic data from the Agency's case management system, the FOIA processors have a team of program analysts who work with the FOIA processors to ensure timely and complete responses to FOIA requests. In Fiscal Year 2011, additional program analysts were hired to assist with FOIA processing. At this time, it has been determined that FOIA professionals have sufficient IT support to respond timely to FOIA requests and that adequate staffing is being devoted to FOIA administration.

There is regular interaction between agency FOIA professionals and the Chief FOIA Officer.

In addition, the Agency's Open Government Team and FOIA Officers worked together to increase the number and type of documents for release on the Agency's newly redesigned website. As an example, the Agency received a large complex FOIA request that involved over 450,000 potentially responsive documents. These documents were reviewed by a team of Agency personnel and the releases of documents were made on a rolling basis. To date, the NLRB has made six electronic productions to the requester, totaling 5,293 pages of documents. Some of those documents were also posted on the Agency's website.

III. Steps Taken to Increase Proactive Disclosures

The NLRB has heightened its efforts in proactive disclosure by increasing the posting of information on its website and by making the information more useful to the public. For example, the Agency posted two Reports of the Acting General Counsel presenting case developments arising in the context of social media. These cases raise issues of interest for practitioners, human resource professionals, the media, and the public.

In addition, the Agency continued its practice of posting Advice Memoranda on the website. These Memoranda render substantive legal advice to the regional offices in cases presenting novel or complex issues, cases of national interest, or cases that involve developing and changing areas of the law.

The Agency's website includes documents that previously were available only by making a FOIA request for them, including dismissal letters, denial letters, unpublished Board orders, rulings on motions, and election data. Improved search capabilities allow greater access to these materials. A team of high level management officials, including the FOIA officer, meets regularly to discuss records that are appropriate for posting on the Agency's website.

As indicated above, the NLRB's Office of Public Affairs has been increasingly proactive in releasing information to the public, through press releases about activities in the field and at headquarters that are now sent to 12,893 email subscribers, up from 8,200 last year, through summaries of case decisions with links to the decisions sent to about 6,880 email subscribers, and through a Facebook page with 4,786 fans and a Twitter account with 6,334 followers, up from 925 followers reported last year.

IV. Steps Taken to Greater Utilize Technology

Electronic receipt of FOIA requests:

NLRB receives requests at headquarters, both for the General Counsel and Board, electronically through the Agency's website. Currently, the Agency has 32 regional offices that accept FOIA requests by mail or facsimile. These offices do not receive requests electronically through the Agency's website, but plans are underway to allow for such filing of FOIA requests in the regional offices. The above described practice for receiving FOIA requests is the same as reported in the last Chief FOIA Officer Report.

Online tracking of FOIA requests:

Currently, the Agency does not provide for the ability of a FOIA requester to track the status of his/her request electronically. At this time, discussions are underway to establish this capability.

Use of technology to facilitate processing of requests:

The FTS, as more fully described above, allows for the monitoring of the flow and progress of all of the Agency's FOIA cases. This tracking system has been in place for all Agency components since Fiscal Year 2006.

The NLRB uses technology to process requests seeking information maintained in the Agency's case management system. All offices of the Agency have this capability. The Agency continues to experiment with programs to assist FOIA professionals in making redactions electronically.

In addition, a team of Agency personnel, including FOIA professionals, was trained in an electronic software program to handle large complex FOIA requests. This program has been used for the collection, processing, and review of documents.

The preparation of the Agency's Annual FOIA Report is a significant and time-consuming undertaking each year. The Agency's internal FOIA tracking program, through its report capabilities, is utilized to prepare the Agency's Annual FOIA Report. In addition, IT support has been invaluable in producing a report containing accurate and complete information.

V. Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The agency does not use a separate track for simple requests. For Fiscal Year 2011, the average number of days to process all requests was 5 days.

NLRB has no backlog for Fiscal Years 2010 and 2011. Because the NLRB has no problem with timeliness in responding to requests and administrative appeals, we are focusing our efforts on continued tracking and monitoring of FOIA processing.

The NLRB did not receive any consultations from other federal agencies in Fiscal Year 2011.

Use of FOIA's Law Enforcement "Exclusions"

The NLRB did not invoke a statutory exclusion during Fiscal Year 2011.

Spotlight on Success

In January 2012, the NLRB posted information concerning election data on its website. In addition to the monthly election reports, the website contains election data from the Agency's case management system, which are available at <http://www.nlr.gov/election-reports>. Election data that is now available on the Agency's website includes information from 16 fields, including case number, case name, name of labor organization, number of eligible voters, votes against, votes for, certification of representative, date case closed, and reason for closing of case. This information is available online in a searchable database and allows the public access to information without the need to file a FOIA request.