



## **National Labor Relations Board**

### **Chief FOIA Officer Report**

#### **I. Steps Taken to Apply the Presumption of Openness**

##### **1. Description**

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.

The NLRB conducted two nationwide FOIA training sessions via teleconferencing last calendar year. One training session was for interested Agency personnel and was an overview of FOIA, including a discussion of Attorney General Holder's Memorandum. The second FOIA training was for Agency FOIA professionals and consisted of three sessions conducted during October 2010, including sessions on an overview of FOIA, procedural issues under FOIA, and making redactions to Agency documents. Additionally, training on FOIA and the Open Government Act is currently being developed for a nationwide face-to-face training program for FOIA processors.

The Agency increased its posting of internal memoranda to its website, including 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. All of these memoranda provide case handling and policy guidance and thus are covered by FOIA Exemption 5.

In addition, 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 8200 email subscribers, through summaries of case decisions with links to the decisions sent to about 5000 email subscribers, and through a Facebook page with 2800 fans and a Twitter account with 925 followers that seek to engage the public in conversation.

The Agency has also redesigned its website to make it 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. The redesigned site launched in February 2011.

## 2. Disclosure Comparisons

For Fiscal Year 2010, the Agency received 4778 FOIA requests in which the request was granted in full. In Fiscal Year 2009, the number of full grants was 4356. The number of FOIA requests for Fiscal Year 2010 in which the request was partially granted was 505, up from 498 for Fiscal Year 2009.

## II. Steps Taken to Ensure That Your Agency Has an Effective System for Responding to FOIA 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 2010, the NLRB responded to requests in an average of 5 days, an improvement from Fiscal Year 2009, in which the Agency responded to requests in an average of 6 days. 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 Activity Tracking System (CATS), 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 2010, 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.

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 new 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. For example, the Agency continued its efforts in 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.

As more fully described below, the Agency's new website includes documents that previously were available only by making a FOIA request for them, including unpublished Board orders and rulings on motions. A team of high level management officials, including the FOIA officers, meets regularly to discuss records that are appropriate for posting on the Agency's website.

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IV. Steps Taken to Greater Utilize Technology

1. 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, and 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.

2. Electronic tracking of FOIA requests

The FTS, as more fully described above, tracks all of the Agency's FOIA requests. This tracking system has been in place for all Agency components since Fiscal Year 2006.

3. Electronic processing of FOIA requests

The NLRB uses technology to process requests seeking information maintained in the Agency's Case Activity Tracking System. All offices of the Agency have this capability. In addition, the Agency is experimenting with programs to assist FOIA professionals in making redactions electronically.

4. Electronic preparation of the NLRB Annual FOIA Report

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 Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

NLRB has no backlog for Fiscal Years 2009 and 2010.

## 2. Backlog Reduction Steps

Not applicable.

## 3. Steps to Improve Timeliness

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.

### Spotlight on Success

In February, 2011, the NLRB launched a new Agency website that is more flexible, timely, easy to navigate, and useful to a variety of audiences, from practitioners to first-time visitors. The redesigned website builds on an overarching effort toward greater transparency and efficiency at the NLRB. Among highlights of the new site:

- More case information is available more quickly than ever before. All Board decisions are now posted to the site at the time they are issued, rather than after a one-day holding period. The Board now posts unpublished decisions, which do not appear in the official bound volumes of Board decisions. These include Board orders in representation cases, disposition of motions, and orders issued by the Office of the Executive Secretary. Additional documents from Washington and the regional offices not previously available will be posted to the site over time.
- The website showcases a new case-management system that has been coming online at the Agency for more than a year, and will be deployed to all regional offices by the end of this fiscal year. The new single system replaces 13 separate case tracking systems, and will allow for seamless searches that cover the entire life of a case at the Agency. Each case is assigned its own page, where certain information and documents are posted, such as participants' briefs and motions. More information and documents will be added as the rollout of the new system is completed.
- The Agency's 32 regional offices – where all cases and elections begin – are prominently highlighted. An interactive map shows regional boundaries and allows visitors to quickly locate their own regional office. One click away is a page for each region that lists top officials and features newsletters, news releases, and local cases and decisions.

- A data section tracks NLRB activities over the years, organized into five sections that reflect the NLRB's work: charges and complaints, petitions and elections, decisions, litigation, and remedies. The section launched with eight charts and tables covering a variety of indicators, from charges filed to back pay collected. More charts and tables, with greater interactivity, will be added through the year.
- Improved navigation makes it far easier for visitors to find their way, and new pages explain the NLRB processes and functions in accessible language. At the same time, all the case-handling manuals, memos, and forms found on the old website are available on the new one.

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