

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 12-03

March 8, 2012

TO: All Employees, Office of the General Counsel
FROM: Lafe E. Solomon, Acting General Counsel
SUBJECT: Summary of Operations (Fiscal Year 2011)

The Office of the General Counsel in the Field and Headquarters has concluded another successful fiscal year enforcing the National Labor Relations Act. The preliminary figures for FY 2011, set forth in the attached Summary of Operations, reflect another year of excellent casehandling performance.

Please accept my sincere respect and appreciation for the exemplary manner in which you carry out the mission of the Agency.

/s/
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Attachment

cc: NLRBU
NLRBPA

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SUMMARY OF OPERATIONS FISCAL YEAR 2011

INTRODUCTION

This summary continues my practice of providing an annual overview of the operations of the Office of the General Counsel.

As the summary reflects, the record of performance achieved by the staffs of the Headquarters and Regional Offices of the General Counsel in Fiscal Year 2011 based on preliminary statistical reports was once again outstanding.

Of special note in FY 2011:

- 91.7% of all initial elections were conducted within 56 days of the filing of the petition.
- Initial elections in union representation elections were conducted in a median of 38 days from the filing of the petition.
- A 93% settlement rate was achieved in the Regional Offices in meritorious unfair labor practice cases.
- The Regional Offices won 87% of Board and Administrative Law Judge unfair labor practice and compliance decisions in whole or in part in FY 2011.
- A total of \$60,514,922 was recovered on behalf of employees as backpay or reimbursement of fees, dues, and fines with 1,644 employees offered reinstatement. The Agency exceeded two of its three ambitious overarching goals and came close to achieving the third, closing 84.7% of all representation cases within 100 days (target 85%), 72.5% of all unfair labor practice cases within 120 days (target 71.2%), and 83.2% of all meritorious unfair labor practice cases within 365 days (target 80.2%). The target for each 2011 overarching goal was higher than in FY 2010 and has been increased for FY 2012.
- Agency representatives participated in over 600 outreach events during FY 2011.

I extend my sincere appreciation to all staff members for their continued hard work and dedication to public service and for the cooperative manner in which they have responded to the priorities in casehandling. My thanks also to those who practice before us for the cooperation and assistance extended to us in our efforts to administer the Act effectively and efficiently.

/s/

Lafe Solomon
Acting General Counsel

ORGANIZATION OF THE OFFICE OF THE GENERAL COUNSEL

The Office of the General Counsel is composed of six major components. These components are responsible for the various casehandling, administrative and personnel functions of the office. The six components are: the Division of Operations-Management and Regional Offices, the Division of Advice, the Division of Enforcement Litigation, the Division of Administration, the Office of Equal Employment Opportunity and the Office of Employee Development.

The Division of Operations-Management includes Headquarters and Regional Office staffs. The Headquarters staff has the responsibility on behalf of the General Counsel for the operations of the Regional, Subregional and Resident Offices, and the coordination of the casehandling of those offices with the Washington Divisions of the Office of the General Counsel and the Board.

There are 32 Regional Offices, three Subregional Offices and 16 Resident Offices. Each Regional Office is headed by a Regional Director who is responsible for the management of the office and any attached Subregional or Resident Offices and for the investigation and initial determination of the merits of unfair labor practice cases and representation cases. The Regional Director is also responsible for resolving through settlement or litigation the unfair labor practice charges found to warrant further proceedings, and for the conduct of representation elections.

The Division of Advice has the function of rendering substantive legal advice to the General Counsel and to Regional Offices in cases presenting novel or complex issues, cases of national interest or cases which involve developing and changing areas of the law. The Division also processes requests for injunctive relief under Section 10(j) of the Act, litigates injunction cases in Federal appellate courts under Section 10(l) and 10(j), manages the General Counsel's Freedom of Information Act program and indexes and classifies Board and Court decisions under the Act.

The Division of Enforcement Litigation is responsible for the Agency's litigation in the United States Court of Appeals and the Supreme Court of the United States as well as for contempt and miscellaneous litigation in Federal and State Courts.

The Office of Appeals is a major component of the Division of Enforcement Litigation. This office reviews appeals from Regional Directors' refusals to issue complaint in unfair labor practice cases and recommends proposed action to be taken thereon by the General Counsel. It also processes appeals from the Regional Directors' denial of requests for documents under the Freedom of Information Act.

The Division of Administration is under the general supervision of the General Counsel and has been delegated responsibility for the development, direction and coordination of administrative staff support functions for both the Board and the General Counsel.

The Office of Equal Employment Opportunity is dedicated to providing timely professional assistance and advice to managers, supervisors, and employees with respect to understanding and promoting diversity in the workplace. Its mission includes providing assistance to all Agency employees to avoid or resolve discrimination and harassment complaints. The OEEO also trains and manages the Agency's collateral duty EEO Counselors assigned in each Regional and Headquarters office and manages specific case assignments handled at the informal stage of the federal sector EEO process.

The Office of Employee Development reports directly to the General Counsel and is responsible for the training needs of Agency employees. It is the mission of the OED to develop an agency-wide approach to training, to assist managers in providing employees with needed development opportunities and to help managers and supervisors manage their own careers and obtain developmental opportunities.

I. General Information

The information set forth below reflects the work of the various casehandling Divisions during Fiscal Year 2011 based on preliminary statistical reports of case actions during the year.¹

In addition to its excellent performance with respect to the interim goals under which the Office of the General Counsel has operated for over 45 years, I am pleased to report that the Agency exceeded two and nearly met one of its three overarching casehandling goals by closing:

- 84.7% of all representation cases within 100 days (target 85%),
- 72.5% of all unfair labor practice cases within 120 days (target 71.2%), and
- 83.2% of all meritorious unfair labor practice cases within 365 days (target 80.2%).

II. Regional Offices

Case Intake

The NLRB's processes can be invoked only by the filing of an unfair labor practice charge or a representation petition by a member of the public. The Agency has no authority to initiate proceedings on its own.

Total case intake during FY 2011 was 24,990, compared to 26,585 cases in FY 2010, representing a 5.9% decrease in overall intake. Unfair labor practice case intake was 22,177, a 5.1% decrease from the FY 2010 intake of 23,381. Total representation case intake was 2,813, a 12.2% decrease from the FY 2010 intake of 3,204. Petitions filed in certification and decertification (RC, RD, and RM) cases decreased 11.2% from 2,969 in FY 2010 to 2,634 in FY 2011.

Petitions filed in unit deauthorization, unit amendment and unit clarification (UD, AC and UC) cases decreased by 23.8% from the previous year's intake with the filing of 179 petitions in FY 2011 compared to 235 filed in FY 2010.

There were 4,063 situations pending at the end of FY 2010. At the end of FY 2011, that number increased to 4,421.

Outreach Activities

The Agency's field representatives participated in over 600 outreach events during FY 2011, coming close to their total of 630 events in FY 2010. The events reported in FY 2011

¹ Due to the timing of the transition from CATS to NxGen late in this fiscal year, the Agency's rigorous verification and validation of the data has not been fully completed at the time of this report.

included outreach activities that were directed at local communities, bar associations, labor organizations, employer/management organizations, government organizations, and educational institutions. A number of these events such as the Annual Economic Opportunity Empowerment (EOE) Fair of Delta Sigma Theta Sorority in Atlanta; the Launch Event for Chicago's Latino Worker Safety Resource Center, Equal Pay Day at San Jose State University; participation on radio talk shows and press conferences; videotaped presentations; and public service announcements in publications have reached several thousands of people.

During FY 2011, 19 Regional Offices published and disseminated newsletters within their individual communities, targeted to the specific interests of constituents in their geographic areas. These newsletters are posted on the Agency's Web site under "About Us" at http://www.nlr.gov/about_us/regional_news/regional_newsletters.aspx. Each regional office also has a webpage where the public can receive contact information as well as information about outreach events in the region.

Information Officer Inquiries

The Agency's Public Information Program continues to provide assistance and information to members of the public by answering questions posed, aiding in filing charges and petitions with the Agency and by referring inquiries not covered by the NLRA to appropriate agencies or organizations. It also prevents a large number of non-meritorious charges from being filed with the Agency.

The Agency's 51 field offices received 115,959 public inquiries in FY 2011, a 0.2% decrease from the 116,223 received during FY 2010. The public can contact the Agency through a toll-free telephone service designed to provide easy and cost-free access to information (1-866-667-NLRB). Callers to the toll-free number may listen to messages recorded in English and Spanish that provide a general description of the Agency's mission and connections to other government agencies or to Information Officers located in the Agency's Regional Offices. If, after listening to the message, callers desire to speak to a person, the calls are connected to the Regional Offices for further assistance. In FY 2011, the toll-free telephone service received 32,133 calls, 12,802 of which were connected to Regional Offices for further assistance. In FY 2010, the toll-free telephone service received 27,129 calls, 18,749 of which were forwarded for further assistance by the Regions.

In addition to traditional Public Information Program activities, the Agency has endeavored to increase our accessibility to the public through our website www.nlr.gov, which fully describes the Agency's mission, provides contact information, and sets forth frequently asked questions.

Unfair Labor Practice Cases

Settlements

The Agency's effectiveness and efficiency in administering the Act is greatly enhanced by its ability to obtain voluntary resolution of unfair labor practice cases, which, after investigation, are deemed worthy of prosecution. (See merit factor, below.) Over the years, the Agency has achieved an excellent settlement record due to the efforts of Agency staff and the cooperation of the Bar. In FY 2011, the Regions obtained 6,246 settlements of unfair labor practice cases, representing a rate of 93.0% of total merit cases, compared to 7,246 settlements

in FY 2010 and a rate of 95.8%. Over the last 10 years, the settlement rate has ranged from between 91.5% and 99.5%.

Complaints

In FY 2011, the Regional Offices issued 1,342 complaints as compared to 1,243 in FY 2010. The median number of days from issuance of complaint to opening of the unfair labor practice hearing was 83 days in FY 2011, compared to a median of 87 days in FY 2010.

Merit Factor

The percentage of unfair labor practice cases in which a Regional Director determines that formal proceedings are warranted is called the merit factor. In FY 2011, the merit factor was 37%, slightly higher than the merit factor of 35.6% in FY 2010. Since 1980, the merit factor has fluctuated between 32% and 40%.

Litigation Results

The Regional Offices won 87% of cases litigated before the Board and Administrative Law Judges in whole or in part in FY 2011, which is below the 91% rate experienced in FY 2010. Over the last 10 years, the percentage of wins, in whole or in part, has ranged between 78% and 91%.

Remedies

The Regional Offices recovered \$60,514,922 on behalf of employees as backpay or reimbursement of fees, dues, and fines in FY 2011, compared to \$86,557,684 in FY 2010. In FY 2011, a total of 1,644 employees were offered reinstatement, compared to 2,250 in FY 2010.

Section 10(l) Activity

The Regional Offices filed one petition for 10(l) injunction with the appropriate district court in FY 2011. One petition for 10(l) injunctive relief was filed in FY 2010.

Representation cases

Elections

The Regions conducted 1,423 initial representation elections in FY 2011, of which 89.0% were held pursuant to agreement of the parties, compared to 1,790 initial elections and a 92.1% election agreement rate for FY 2010. Actual performance continues to exceed our goal, which is to conduct 85% of elections pursuant to voluntary election agreements.

In FY 2011, the median time to proceed to an election from the filing of a petition was 38 days, the same rate achieved in FY 2010, and well below our target median of 42 days.

91.7% of all initial representation elections were conducted within 56 days of the filing of the petition in FY 2011, compared to 95.1% in FY 2010, above our target of 90%.

In 45 cases, post-election objections and/or challenges were filed requiring the conduct of an investigative hearing. Decisions or Supplemental Reports issued in those cases in 62 median days. Post-election objections and/or challenges that could be resolved without a hearing were filed in 70 cases. Decisions or Supplemental Reports in those cases issued in 21 median days. The goal in hearing cases is 80 median days and in non-hearing cases 32 median days.

Regional Director Decisions

In FY 2011, Regional Directors issued 203 pre-election decisions in contested representation cases after hearing in a median of 33 days, well below our target median of 45 days. In FY 2010, Regional Directors issued 185 pre-election decisions in a median time of 37 days.

Deployment of NxGen Case Management System

The Agency's Next Generation Case Management System (NxGen) is an enterprise case management system that allows the Agency to manage cases across all of its offices as well as interface with the public. This is the most comprehensive technology project ever undertaken by the NLRB, and its success is essential to the Agency's mission. The system is allowing the NLRB to replace many manual paper-based processes and legacy systems with a standards-based solution. In FY 2011, the system entered a critical phase focused on addressing the outstanding business processes of the Board and field offices. The Agency undertook an aggressive schedule of deployment and training for all field offices that began in April 2011 and was completed in late September 2011. With this successful deployment, the NLRB's Case Activity Tracking System (CATS), its largest legacy case-tracking system, has now been retired in all of the Regional Offices.

Although this system will eventually create much efficiency, as well as ensuring more accurate information about the Agency's work, the transition to this new case management system was a massive undertaking. Training on NxGen was conducted for two continuous weeks for all managers, supervisors and employees in each of our 32 Regional Offices, including their satellite offices, during the period April through September 2011. In addition, there was a substantial learning curve for employees as they transitioned from the old system to NxGen.

III. Division of Enforcement Litigation

Appellate and Supreme Court Litigation Branch

In FY 2011, the Appellate and Supreme Court Litigation Branch received 130 enforcement and review cases and disposed of 153, including 21 enforcement and review cases that were dismissed or remanded by courts of appeals in light of the Supreme Court's *New Process* decision. Regional Offices referred 45 cases for court enforcement, and private parties filed petitions to review the Board's order in the remaining 85 cases. In FY 2010, the total intake of enforcement and review cases was 109 cases and dispositions totaled 161, including 72 enforcement and review cases that were dismissed or remanded by courts of appeals in light of the Supreme Court's *New Process* decision. Oral arguments were presented in 25 cases in FY 2011, compared with 22 cases in FY 2010. The Board filed no petitions for rehearing in FY 2011, the same as in FY 2010. The Branch filed no responses to rehearing petitions filed against the Agency in FY 2011, as opposed to one in FY 2010. The Branch also handled 39 summary enforcement cases and 16 consent cases in FY 2011; in FY 2010, the Branch handled 38 summary enforcement cases and 17 consent cases.

The median time for filing applications for enforcement was 6 days in FY 2011, compared with 5 days in FY 2010, and well within our goal of 30 days. The briefing schedule in appellate cases is set by the Courts and, in FY 2011, the median time for both enforcement and review cases from receipt of cases to filing of briefs was 176 days, compared to 137 days in FY 2010.

In FY 2011, the United States Courts of Appeals ruled on Board decisions in 32 enforcement and review cases. Of those cases, 87.5% were enforced or affirmed in whole or in part, (84.4% were won in full, 3.1% were won in part/remanded in part), 6.25% were remanded entirely, and 6.25% were lost in full. In FY 2010, courts of appeals decided 16 enforcement and review cases involving the Board. In 100% of those cases the Board's order was enforced or affirmed in full.

In FY 2011, the Supreme Court granted two private party petitions for certiorari. In each of those cases, the Court concurrently granted the petition for certiorari, vacated the judgment of the court of appeals, and remanded to the lower court. In FY 2010, the Supreme Court granted three private party petitions for certiorari. In one of those cases, the Court ruled against the Board in a decision issued later that year. In each of the other two cases, the Court concurrently granted the petition for certiorari, vacated the judgment of the court of appeals, and remanded to the lower court. In addition, the Court denied one petition for certiorari filed by the Board during FY 2010.

No responses to petitions for certiorari filed by private parties were filed in FY 2011. Waivers of responses to private parties' petitions for certiorari were filed in three cases in FY 2011. Responses to private parties' petitions for certiorari were filed in six cases in FY 2010. The Board filed no petitions for certiorari in the Supreme Court in FY 2011 or FY 2010.

Special Ethics Counsel

The Office of Special Ethics Counsel provides ethics guidance to Agency staff. In FY 2011, Special Ethics Counsel received 251 new cases concerning contacts with represented persons or other ethics issues during Board proceedings, compared to 242 cases in FY 2010. Special Ethics Counsel closed 248 ethics cases in FY 2011, compared to 239 in FY 2010. These cases were handled in a median response time of one day. In addition, in FY 2011 Special Ethics Counsel once again conducted 16 training programs for regional and headquarters employees.

Contempt Litigation and Compliance Branch

In FY 2011, 266 cases were referred to the Contempt Litigation and Compliance Branch for consideration for contempt or other appropriate action to achieve compliance with the Act, compared to 281 cases in FY 2010. Of the 110 contempt or other formal submissions, voluntary compliance was achieved in 28 cases during the fiscal year, without the necessity of filing a contempt petition or other initiating papers, and 27 other cases settled after the filing of a formal pleading in court, but before trial. In 32 other cases, it was determined that contempt or other proceedings were not warranted. The remaining 23 cases were still active at the end of FY 2011. In FY 2010, voluntary compliance was achieved in 32 of the 140 formal submissions without the necessity of filing a contempt petition or other initiating papers, and 28 cases were settled after the filing of formal pleadings in court, but before trial. In 60 other cases, it was determined that contempt or other proceedings were not warranted. The remaining 20 cases were still active at the end of FY 2010.

Nine civil contempt or equivalent adjudications were awarded in favor of the Board in FY 2011 (including two assessing fines and ordering writs of body attachment), compared to seven in FY 2010. During FY 2011, the Contempt Litigation and Compliance Branch also obtained 20 other court orders in aid of compliance, compared to 29 in FY 2010. During FY 2011, the Branch collected \$2,902,713 in backpay or other compensatory damages, while recouping \$10,052 in court costs and attorneys' fees incurred in contempt litigation. In FY 2010, the

Branch collected \$2,015,805 in backpay or other compensatory damages, while recouping \$34,144 in court costs and attorneys' fees incurred in contempt litigation. In FY 2011, the Branch also conducted 161 asset/entity database investigations, pursuant to requests from the Regions or other Agency offices, as compared to 171 in FY 2010.

Office of Appeals

In FY 2011, the Office of Appeals received 1,970 appeals from Regional Directors' refusals to issue complaint, an 8.5% decrease from the 2,152 appeals received in FY 2010. In FY 2011, the Office processed 2,198 appeals, a 7.7% increase over the 2,040 appeals decided in FY 2010. The rate of reversal of Regional Directors' dismissals was 1%, lower than the 1.5% reversal rate in FY 2010.

Median time to process all appeals in FY 2011 was 29 days, five days less than the 34 days it took in FY 2010. Median time to process 23 sustained appeals was 88 days, 20 days more than the 68 days in FY 2010 necessary to process 31 sustained appeals. The goal for processing all appeals is 45 median days and for processing sustained appeals is 90 median days.

In FY 2011, the Office of Appeals received 63 appeals under the Freedom of Information Act, more than double the 23 appeals received in FY 2010. The Office closed 44 appeals in FY 2011, in contrast to the 25 FOIA appeals closed in FY 2010, an increase of 76%.

Special Litigation Branch

In FY 2011, the Special Litigation Branch (SLB) experienced an intake of 95 cases and closed 97 cases. This compares with an intake of 77 cases and closing of 76 in FY 2010. In both years, the Branch settled or resolved most issues upon advice being given to a Regional or Headquarters Board Office.

In FY 2011, SLB also filed 47 briefs: 16 appellate court briefs, 17 district court briefs, and 14 bankruptcy court briefs. This compares to FY 2010 when SLB filed 24 briefs, 8 to appellate courts, 10 to district courts, and 6 to bankruptcy courts. SLB sent 17 memos to the Board and Regional Offices in FY 2011, compared to 13 in FY 2010.

In FY 2011, SLB participated in six oral arguments and received 24 decisions (all wins): nine in appellate courts, 13 in district courts, and two in bankruptcy courts. This compares with FY 2010, when SLB participated in six oral arguments and received 16 decisions (all wins), seven in appellate courts, five in district courts, three in bankruptcy courts, and one in state court.

IV. Division of Advice

Regional Advice Branch

During FY 2011, the Division of Advice processed its cases in a median of 16 days, as compared to 18 days in FY 2010. Also, during FY 2011, the Division received 686 cases and closed 654 cases, compared to 592 cases received and 604 cases closed in FY 2010. The median age of cases pending at the end of FY 2011 was 37.5 days, as compared to 23 days in FY 2010.

Injunction Litigation Branch

In FY 2011, the Injunction Litigation Branch received 154 cases from Regional Offices to consider for discretionary injunctive relief under Section 10(j) of the Act, as compared to 66 cases received in FY 2010. The increase in submissions is, in large part, due to an expanded submission requirement in the field. During this fiscal year, the Board authorized 59 cases as compared to 28 cases that were authorized in FY 2010. Regional Offices filed Section 10(j) petitions in federal district court in 45 cases, the others were settled pre-petition, compared to 23 petitions filed in FY 2010. The “success rate”, i.e., the percentage of authorized Section 10(j) cases in which the Agency achieved either a satisfactory settlement or substantial victory in litigation was 93% at the end of FY 2011, compared to 92% for cases authorized in FY 2010.

In addition to requests for Section 10(j) authorization, the Injunction Litigation Branch handled 150 other cases during FY 2011, compared to 134 such cases in FY 2010. These cases involved litigation advice to Regions for their litigation of Section 10(j) and 10(l) cases, first contract bargaining cases submitted under Memoranda GC 06-05, 07-08, and 08-09, appeal considerations and appeals from district court decisions in Section 10(j) or 10(l) cases, and contempt of district court decrees. The Branch handled seven appeals that were pending at the beginning of the fiscal year and seven appeals that were filed during FY 2011, compared to six appeals that were pending at the beginning of FY 2010 and six appeals that were filed during FY 2010. Of the 14 appellate cases in FY 2011, the Branch satisfactorily resolved one appeal before decision, won five appeals in whole or part, lost one appeal, and had seven appeals pending at the end of FY 2011. This compares to 12 appeals in FY 2010, in which the Branch satisfactorily resolved three appeals before decision, won one appeal, lost one appeal, and had seven appeals pending at the end of FY 2010. The Branch handled three requests for contempt proceedings in FY 2011, compared to two requests in FY 2010.

V. Office of Equal Employment Opportunity (OEEO)

The Office of Equal Employment Opportunity (OEEO) handled nine formal complaints of alleged discrimination filed during FY 2011. At the beginning of the fiscal year, there were six cases pending investigation. At the end of FY 2011, there was one case pending investigation. The median number of days that cases were pending under investigation was 124 days in FY 2011, as compared to 116 days in FY 2010. In FY 2011, the OEEO issued final Agency decisions in 5 complaints and achieved settlements in eight formal complaints. At the close of FY 2011, there were four cases pending hearing at the EEOC, one case on appeal to the EEOC’s Office of Federal Operations, and no cases pending in the United States District Court.

The OEEO provided annual refresher training for 37 Regional Office counselors, and eight counselors assigned to Headquarters (three of whom are on the General Counsel side). In FY 2011, OEEO also launched the biannual Agency-wide No FEAR Act training required for all Agency employees, and provided EEO training for new managers and supervisors. Additionally, the OEEO sponsored special emphasis observances in Headquarters and field offices in furtherance of its mission of creating and maintaining an environment free of hostility that values diversity. The OEEO continues to serve on the Labor-Management Joint EEO Committee as a resource to the parties under their collective-bargaining agreements and participates in numerous Agency committees. The OEEO reports annually, on behalf of the Agency, to the EEOC and OPM.

VI. Office of Employee Development (OED)

The Agency's Office of Employee Development (OED) has initiated and developed a number of programs to ensure ongoing development for the managers, supervisors, professionals, and support staff in our 51 field offices, as well as in Headquarters.

In partnership with the Division of Operations Management, OED continued to issue Instructor Guides on the proper execution of the National Labor Relations Act's provisions. The 38 professional development modules developed to date include instructor notes for the core presentation on the training topic, an activity for participants, plus checklists and resource materials for participants' use. All modules are made available on the Agency's intranet. The substantive material is first developed by field and Headquarters managers, reviewed by technical experts at Headquarters, and then prepared for publication by OED staff. The Agency also continued its mentoring program for all new employees and for employees new to their positions. Field and Headquarters presentations to summer interns and law clerks were recorded and placed on the Agency's intranet to provide all employees access to these presentations at their desktops.

The Agency's comprehensive Legal Writing program has previously provided instructor-led writing and editing training in Headquarters by members of the Georgetown Legal Writing Academy and individual coaching for writers and editors. Previously, OED provided facilitator-led training for field employees using a videotaped Legal Writing Program by an Emory University professor that was developed to meet the Agency's particular needs. This program continues to be utilized for new employees. This year, Bryan Garner presented a private session of his "Advanced Legal Writing and Editing Seminar" to 23 new and experienced Headquarters attorneys.

The Agency provides a variety of training opportunities to all staff. In addition to live training sessions, videoconferencing and on-line technology was used to deliver training nationwide to all employees. For example, in FY 2011, OED and Division of Operations-Management provided weekly "Training Tuesdays" video and internet conference training conducted by subject matter experts on information technology topics, substantive issues, and administrative topics. At least forty-eight of these sessions were conducted in FY 2011. For example, interested managers and employees attended separate sessions on dealing with change presented by Anne Salerno, the author of the "Change Cycle." The Agency also published videos of Headquarters presentations for use by all Agency employees at their desktops on a variety of topics ranging from Legal Issues to Special Emphasis Programs. In FY 2011, the Agency was also able to provide: an orientation training conference for new Field Agents and Headquarters attorneys on the substance of the National Labor Relations Act and the Agency's procedures under the Act; a conference for 130 Headquarters attorneys on labor law, interpersonal skills and professional development; a conference for Regional Directors to brainstorm ways of streamlining the Agency's operations; and a conference for 46 new supervisors on transitioning to their new role and human relations, communication, and leadership skills.

The Agency continues to deliver the NLRB Management Development Program (MDP), a flexible program designed to ensure that the Agency has well-qualified candidates for future managerial vacancies. OED offered a variety of management training including: the conference

for new supervisors; attendance at external private vendor seminars, OPM's Management Development Centers and Federal Executive Institute seminars; on-line training from Harvard Business Publishing and Ninth House; a 360 degree assessment/executive coaching program and workshops for Headquarters supervisors, managers and attorneys on how to give and receive constructive feedback; and attendance at residential and other executive development leadership seminars for selected agency managers and executives. OED also drafted a curriculum for new and experienced supervisors that provides options for providing needed foundational skills for new supervisors either through a live conference or shorter videoconference sessions during tight budget years and gives experienced supervisors more flexibility in prioritizing their managerial development.

Business skills training was provided to support staff through Element K on-line training and additional training was presented to address common employee needs, such as email etiquette, EEO/Diversity, and retirement. OED also piloted and signed a year-long contract for the presentation of Inclusion training to all Field Offices. The Agency subscribed to an on-line streaming video service which will enable OED to download standalone videos or training programs with leaders' guides and send them out for individual or group training.