

NLRB GC Issues Mandatory Advice Memo

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NLRB General Counsel Richard Griffin issued a memorandum to all regional offices on Feb. 25, 2014 listing issues that must be submitted to his office for review. The first part of the list “includes matters that involve General Counsel initiatives or areas of the law and labor policy that are of particular concern” to the General Counsel. As such, it is instructive of those policy issues where the Board will focus attention and perhaps change from past precedent.

That first portion of the GC’s memo includes the following issues:

1. Whether a perfectly clear successor should have an obligation to bargain with the union before setting initial terms of employment; 2. Employee use an employer’s e-mail system; 3. The duty to furnish financial information in bargaining; 4. Weingarten rights in non-unionized settings; 5. Collyer deferral where an arbitration has not/will not be conducted within a year; and, 6. Effective remedies in organizing campaigns including access to employer electronic communications systems, access to nonwork areas, and equal time to respond to captive audience speeches.

The second group includes “difficult legal issues that are relatively rare in any individual Region and issues where there is no governing precedent or the law is in flux.” Two items of note listed in that second section are:

1. “At-will” provisions in employer handbooks; and 2. Mandatory arbitration agreements with a class action prohibition that are not resolved by D.R. Horton or subsequent Advice memoranda.

The third group includes “updates regarding case-handling matters that have traditionally been submitted to Advice” including injunction and subpoena issues. A copy of the memo can be [found here](#).

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