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New Bench Book Issued By The NLRB

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The National Labor Relations Board (NLRB), like many federal agencies, has its own division of “administrative law judges” that preside over cases brought to the agency. In fact, the NLRB takes most of its actions through individual case adjudication versus administrative rulemaking, although rulemaking is [becoming more prevalent](#) at the agency.

On Jan. 9., [the NLRB announced](#) that its Judges Division issued an updated “Bench Book,” which provides guidance to the board’s administrative law judges in terms of running unfair labor practice hearings.

Unfair labor practice hearings are trials in which employers and unions defend themselves against alleged violations of the National Labor Relations Act. The NLRB’s announcement describes the Bench Book as follows: “The Bench Book serves as an NLRB Trial Manual, and is designed to provide NLRB judges with a reference guide during hearings. It is also a useful tool for trial practitioners before the Board because it sets forth Board precedent and other rulings and authorities on certain recurring procedural and evidentiary issues that may arise during a hearing.”

The topics in the Bench Book are far reaching. They include guidance on everything from pleadings to subpoenas to evidentiary issues to settlement procedures. The agency’s press release summarized the updates: “The new January 2019 edition contains citations to numerous additional Board and court decisions and other authorities. It also contains several new sections, including sections addressing compliance/backpay proceedings and

consolidated unfair labor practice (ULP) and representation cases. In addition, certain sections have been substantially reorganized, including those addressing privileged or protected material.”

The Bench Book was updated in Feb. 2018, but this new version supplants that one.

Anyone who handles matters before the NLRB should consider reviewing the Bench Book prior to any proceedings before an administrative law judge to ensure they are up to date on this latest guidance. Reviewing the agency’s [manuals on case handling](#) as well as its [rules and regulations](#) also is a best practice.