

Insights: Alerts

Reshaping Federal Labor Policy: Acting NLRB General Counsel Rescinds Numerous Biden-Era Guidance Memos

February 18, 2025

Written by John W. Alden, Christopher M. Caiaccio and Drew Williamson

On February 14, 2025, National Labor Relations Board (“NLRB” or “Board”) Acting General Counsel William Cowen issued the first General Counsel memorandum (“GC Memo”) of the second Trump administration, [GC 25-05](#).

Acting General Counsel Cowen's GC Memo rolls back policy positions articulated in dozens of GC Memos issued by his predecessor, former General Counsel Jennifer Abruzzo, including those on issues such as the legality of restrictive covenant provisions, remedies available for unfair labor practices, and overly broad severance agreements. Specifically, GC 25-05 rescinded 18 of former General Counsel Abruzzo's GC Memos and identified more than a dozen additional GC Memos that were being rescinded “pending further guidance.”

GC Memos that were rescinded include the following:

- [GC 21-06](#), [GC 22-06](#), and [GC 24-04](#): Expanding the scope of remedies available in unfair labor practice (“ULP”) cases to include “all direct or foreseeable pecuniary harms” suffered as a result of any ULP;
- [GC 21-08](#): Opining that student-athletes at private universities are “employees” under the National Labor Relations Act (“NLRA” or “Act”);
- [GC 22-04](#): Taking the position that captive audience meetings violate the NLRA, which the Board subsequently agreed with;
- [GC 23-02](#): Instructing Regions to challenge employers' use of “omnipresent surveillance and other algorithmic-management tools,” such as security cameras, GPS tracking devices and cameras in vehicles, employer-issued phones, keylogging software on company-provided computers, and artificial intelligence and algorithm-based employee productivity software, that allegedly tend to impair employees' ability to engage in protected activity;
- [GC 23-05](#): Clarifying that the Board's decision in [McLaren Macomb](#) (2023) – in which the Board declared the use of broad confidentiality and non-disparagement provisions in severance agreements unlawful – applied retroactively;
- [GC 23-08](#) and [GC 25-01](#): Taking the position that the “proffer, maintenance, and enforcement” of non-compete provisions and certain other provisions limiting worker mobility, such as “stay-or-pay” or training repayment provisions in employment contracts or severance agreements, violate the Act; and

- [GC 24-01](#): Providing guidance regarding the new standard established by the Board in [Cemex Construction Materials Pacific, LLC](#) (2023), which made it easier for unions to demonstrate that an employer's unfair labor practices during a union election warranted the issuance of bargaining orders.

Key Takeaways

Acting General Counsel Cowen's rescission of the aforementioned Biden-era GC Memos was expected. Although GC 25-05 does not itself effect a change in the law, it suggests that the Board will no longer seek to prosecute employers based on the theories expressed in the rescinded GC Memos. Once the Board has a quorum of Republican-appointed Members, it is all but certain that the Board will revisit many of the more controversial decisions issued by the Biden-era Board, including *McLaren Macomb*, *Cemex*, and others.

We will continue to monitor these developments and their impact on employers of union and non-union workplaces. In the meantime, should you have any questions about this Alert or the effect of GC Memo 25-05 on your workplace(s), please contact one of the authors or attorneys in our firm with whom you are regularly in contact.

Related People



John W. Alden

t 404.815.6058

jalden@ktslaw.com



Christopher M. Caiaccio

t 404.815.6203

ccaiaccio@ktslaw.com



Drew Williamson

t 404.815.6522

drew.williamson@ktslaw.com