

OFFICE OF THE GENERAL COUNSEL
Division of Operations Management

MEMORANDUM OM 13-06

October 5, 2012

TO: All Regional Directors, Officers-in Charge,
and Resident Officers

FROM: Anne Purcell, Associate General Counsel

SUBJECT: COMPLAINT REVIEW PROGRAM

Since December 2004, complaints issued by the Regions have been reviewed by the Division of Operations-Management.¹ During the course of this program the extent of materials reviewed has varied. Initially, personnel in Operations reviewed both the complaint and decisional documents that set forth the theory of the alleged violations, a summary of the evidence and, where appropriate, the rationale for the 10(j) decision. In mid-2005, the program was modified to require, along with the complaint, a very brief description of the complaint's contents and the Region's 10(j) views in those cases identified as having 10(j) potential. More recently, with the advent of NxGen, Operations returned to the practice of reviewing decisional documents as well as the complaint.

While review of decisional documents during the complaint review process has provided minor benefits in contributing to quality casehandling, that aspect of the program has proven to be very time consuming and duplicative of objectives already achieved through the Regions' review and the quality review process. In addition, most drafting errors in complaints are identified and cured by Regions prior to the opening of hearings.

In order to avoid the duplication of effort that exists under the current complaint review program and to better utilize available resources, starting in Fiscal Year 2013 the complaint review process will be modified in several ways. While all complaints will be reviewed, decisional documents will no longer be routinely reviewed. The focus of the review will be on the Acting General Counsel's initiatives, which can be modified as new programs are implemented. Accordingly, starting October 1, 2012, the complaint review process will focus on the following issues:

- Did the Region appropriately consider whether 10(j) relief is warranted;
- Should the compliance specification have been consolidated with the complaint;
- Did the Region appropriately consider seeking enhanced remedies;

¹ This memorandum supersedes OM 05-18 and OM 05-79.

- Did the complaint appropriately plead special tax treatment for lump sum payments and a requirement that respondent submit to SSA a report on backpay so that it will be allocated to the appropriate quarters;
- Whether the calculations in compliance specifications are consistent with the new system to calculate backpay as described in GC 11-08; and
- Other casehandling initiatives.

While the revised complaint review process will not focus on complaint drafting errors, when an error is identified it will be brought to the Region's attention informally. In addition, if a District determines that there are chronic problems in the complaint process for a particular Region, or if there are concerns about a particular complaint, the District may review back up documentation as needed. Finally, we intend to schedule a series of Regional Attorney roundtables to discuss some of the common errors we've seen in complaint drafting.

Any questions concerning this memorandum should be directed to me or your Assistant General Counsel or Deputy.



A.P.

cc: NLRBU