

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 14-44(NxGen)

March 27, 2014

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

From: Anne Purcell, Associate General Counsel

Subject: Review of Regional NxGen Performance

Because NxGen is the official Regional Office case file and because we use NxGen data to measure the Regions' performance, to prepare the Performance Accountability Reports and the Election Reports each year, and to provide other casehandling statistics to the public and to Congress, it is very important that our data be as complete and as accurate as possible. The FY13 Quality Review process offered the opportunity to review the Regions' evolving performance in NxGen case processing. Overall, we were very heartened by the Regions' significant progress. Most cases displayed sound NxGen protocol, which created a streamlined and self-contained case file that provided a complete record of the processing of the case. However, the Quality Review process and other reviews of NxGen data also showed that a number of Regions had difficulties in the following areas: relying on paper files and not maintaining complete NxGen case files, timely and accurate uploading of documents, naming documents so that they can be easily identified, recording remedies, correcting the NxGen case name, creating a log file as a record of party contacts, and some R case data entry issues.

### **Paperless Files**

Regions must remember that the NxGen investigative file is the official file. From time to time in the Quality Review process, documents that existed in paper form were missing from the NxGen file. While some documents may be maintained in paper as the investigation proceeds, there should not be duplicate paper files and all documents must also be uploaded into NxGen. With certain exceptions, such as documents retained per a litigation hold or documents related to other open cases, the paper documents should be destroyed once the investigation is complete. As the Agency moves to a centralized FOIA office, the completeness of the official file is all the more crucial. Employees responding to FOIA requests must be able to assume that all requested documents are in NxGen.

Attached to this memorandum are two examples of how Regional offices maintain paperless files. Some steps that are outlined in these documents are specific to the generating office. We attach these for your review, to adopt or modify as suits the needs of each office.

### **Document Uploading: Naming and Timeliness**

Several issues arose regarding uploading documents. Regions should be careful to tag the document with a useful name to allow a reader to scan a long case file list and quickly

determine a file's contents. Files with general titles ("email" or "evidence" for instance) or files with identical names make it difficult to differentiate among documents in order to assess their significance.

As noted in [OM 12-80, "Moving to NxGen as the Regional Office Case File,"](#) one best practice is to place the date of the document in the document name so as to allow for easy identification weeks or even months later. Another best practice is to include the title of the party in the naming convention. OM 12-80 also strongly suggested that, to the extent practicable, documents should be uploaded within a relatively short period of time after they are created or received so that the file is kept current. The quality reviews noted that in some cases, particularly those involving complex or lengthy investigations, documents were uploaded well after they were received, prepared or issued, sometimes right before the case was closed. Delays in uploading documents hinder supervisory and management review of the case, which is particularly important when a professional is out of the office. These delays also often lead to upload errors that could have been averted had the file been kept current and the documents been uploaded in the regular course of business, as they came in.

NxGen users should also be attentive about creating only one document task for any single document. Many case files contained multiple versions of the same document, often labeled "final" or "draft". Sometimes identical copies of the same document were uploaded in different NxGen actions. By using the versioning process -- either by checking only one document in and out or employing the new scanning process set forth in [OM 14-06, "New Scanning Feature in NxGen"](#) -- users will necessarily refrain from creating and storing multiple versions of the same document.

### **Keeping Circulation of Draft Documents within the Field Office**

As additional Agency offices have been brought into NxGen, Regions must consider how their casehandling affects other offices' case processing duties. In order to keep circulation of draft documents within the Field Office, Regions should adhere to the following practices:

- **Drafts** of documents that the Region intends to file with the Board or an ALJ should be uploaded with **Side** visibility and **Final Version** status. Only the **final, approved version** should be designated with **NLRB** visibility and **Filed** status. Marking drafts with Filed status allows the Board and ALJs to view draft documents circulating within a Field office, even if they are not in the Board or ALJ Action.
- **Draft Informal Settlement Agreements (SET)**, including those with only the signature of one party, should be uploaded with **Side** visibility and **Final Version** status. As above, this will keep the draft informal settlement agreement visible to the Region but makes it invisible to the ALJ and Board staff. **Conformed Informal Settlement Agreements** (with slashed signatures) should be uploaded with **NLRB** visibility and **Issued** status.<sup>1</sup>

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<sup>1</sup> At the present time, the Conformed Informal Settlement Agreement must be uploaded as a stand-alone document so that the Dispose of Informal Settlement Agreement Target Date is automatically triggered. The NxGen developers are working to resolve this problem.

## **Recording Remedies: Taking Credit Where Credit Is Due**

While remedies were recorded in a majority of the cases involving orders, settlements and adjustments, some cases with remedial relief had no recorded remedial data. In other cases, backpay remedies were recorded, but the Remedy Calculations Reviewed checkbox was left blank and/or the information entered was incorrect. It is imperative that Regions take credit for their achievements, making backpay, reinstatement and other figures available for internal and external Agency use. Regions can conduct remedial data integrity checks by running the Region's PF-Remedies Detail Report and the Monthly Closing Report. Instructions for recording remedies can be found in [Recording Remedies](#) in the NxGen Training Library.

Care should also be exercised in recording Enhanced Remedies Sought by a Region in its complaint. This remedial data (stored in the Complaint action) is useful to support the Agency's forceful exercise of its discretion in seeking enhanced remedies in appropriate cases.

## **Case Names: Conform, As Appropriate**

NxGen case names should conform to the correct name used in official documents issued by the Regional office, such as the Complaint and Notice of Hearing, Compliance Specification and Notice of Hearing, the Stipulated Election Agreement, and the Decision and Direction of Election. The Board and Judges Division use this field, located in the case header information, as the case name in correspondence with the parties. The case name, therefore, is an active field and Regional personnel should make a habit of ensuring it is correct and conforms to the Respondent's or Employer's name under which formal documents are issued.

## **The Case Log: Record Contacts**

By and large, most case files contained some record of contact with parties during the course of case processing. Case logs are acceptable in many forms: Word documents, spreadsheets, and scans of handwritten notes. However, a significant number of case files under review lacked detailed logs or memos reflecting the substance of contacts with parties and witnesses necessary for a complete understanding of the issues and the investigative efforts. Although we do not mandate its use, Regions should consider creating and utilizing the LOG template as a useful solution to the question of how to maintain a log.

## **R Case Data Entry**

In viewing R case data recently, we noticed the following errors in a few R cases:

1. **Incorrect date that the petition was filed.** When the Petition Action is created, it defaults to today's date and must be changed if the petition was filed on a different day.
2. **Missing scheduled hearing dates.** If a hearing is rescheduled, a new hearing session task should be created instead of changing the date of the scheduled hearing so we do not lose the data showing that the hearing was previously scheduled for an earlier date.

3. **Missing dates for opening and closing of pre-election hearings.** We want to be able to determine the number of days before the hearing opened and closed and need the hearing opened and closed dates to do that.

4. **Missing or incorrect date for the disposition in an RD Decision Action.** This date allows us to determine the number of days from the close of the hearing to issuance of a Regional Director's pre-election decision.

5. **Missing or incorrect determination in RD Decision Action.** This field needs to be correctly populated in order to pull only RD pre-election decisions.

Thanks again for your continued efforts to use and improve NxGen. [A survey](#) using Survey Monkey has been created to solicit your input about useful subjects for upcoming NxGen training. Please complete the survey by Friday, April 18, 2014. If you have any questions about this memorandum, you may contact your AGC, Deputy, NxPert or assigned Program Analyst.

/s/  
A.P.

Attachments