OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 90-51 July 2, 1990

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

FROM: Joseph E. DeSio, Associate General Counsel

SUBJECT: Revised Form NLRB-5168

Pursuant to GC Memoranda 88-1 and 88-13, guidelines were issued which modified certain General Counsel policies regarding the Freedom of Information Act (FOIA) including the policy on the disclosure of affidavits. Under the current policy, affidavits are withheld from disclosure without regard to the open or closed status of the case because they are attorney work product and are thus privileged from disclosure by Exemption 5 of FOIA. Affidavits are also privileged from disclosure by Exemptions 7(A), (C) and (D) in open cases and by Exemptions 7(C) and (D) in closed cases. Following the close of a hearing in a case, however, affidavits or portions of affidavits will be disclosed if they were produced during the hearing pursuant to Section 102.118 of the Board's Rules and Regulations. Form NLRB-5168, the affidavit form, has been revised so that the confidentiality paragraph accurately reflects the Agency's FOIA policy regarding affidavits. In addition, the form has been modified to provide a page designation.

A copy of the revised form is attached. Supplies of this form will be sent to you shortly. In the interim, please make copies of the attached form and begin to use it immediately.

Any questions concerning the revised form should be directed to your Assistant General Counsel.

J. E. D.

Attachment

cc: NLRBU

FORM NLRB-5168
(3-90)

Case _____

County of _____)
) SS
State of _____)

AFFIDAVIT

I _____, **being first duly sworn upon my oath, hereby state as follows:**

I have been given assurances by an agent of the National Labor Relations Board that this affidavit will be considered confidential by the United States Government and will not be disclosed unless it becomes necessary for the government to produce the affidavit in connection with a formal proceeding.

I reside at _____

Zip Code _____ My telephone number is *(Include Area Code)* _____

I *(am) (was)* employed by _____

_____

located at _____

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FORM NLRB-5168 (3-90) CONTINUED

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I have read this statement consisting of _____ pages, including this page, I fully understand its contents, and I certify that it is true and correct to the best of my knowledge and belief.

_____

Subscribed and Sworn To Before me at

_____

This_____day of_____, 199____.

_____

Board Agent,
National Labor Relations Board