

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 93-79

December 23, 1993

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

FROM: William G. Stack, Associate General Counsel

SUBJECT: Ex Parte Communications

In a recent case, an ex parte oral communication may have occurred between a Regional Attorney and the Division of Judges. Sections 102.126 through 102.133 set forth the standards regarding such communications. Thus, Section 102.126(b) provides:

No Board agent of the categories defined in section 102.128, participating in a particular proceeding as defined in that section, shall (i) request any prohibited ex parte communications; or (ii) make or knowingly cause to be made any prohibited ex parte communications about the proceeding to any interested person outside this Agency relevant to the merits of the proceeding.

The term "person outside this Agency" includes the General Counsel or his representative in an unfair labor practice proceeding. See Section 102.127. Thus, communications to the administrative law judge assigned to hear the case or to make rulings on any motions or issues are prohibited except as delineated in Section 102.130.

These sections also discuss other ex parte communications which are permitted and prohibited, the soliciting and reporting of prohibited communications and the penalties for such prohibited conduct. Please conduct a training session with your staff to better familiarize them with these rules.


W. G. S.

MEMORANDUM OM 93-79