

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 95-19

December 1, 1995

TO: All Employees, Office of the General Counsel

FROM: Fred Feinstein, General Counsel

I want to extend my personal appreciation to each of you for your excellent work and dedication in bringing the Agency back up to speed after our recent shutdown. The staff of the NLRB again demonstrated its commitment to public service as it quickly and effectively resumed its ongoing activities and minimized disruptions. You can all be proud of that success.

Of course, the shutdown of the Agency and the government had significant costs and adverse consequences. I firmly believe what we do is important to the well-being of this country and to the millions of people covered by the Act. Each employee of this Agency has responsibilities that are essential. Attached is a summary of the impact of the shutdown on the Agency's operations. We have taken steps to inform the public about the effects of the Agency's closure on employers, employees and the public we serve.

I again commend you for your success in dealing with the difficulties of the moment, and your continuing commitment to the Act and to our mission.

F. F.

Attachment

cc: NLRBU
NLRBPA

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IMPACT OF NOVEMBER 14-19 GOVERNMENT SHUTDOWN ON NATIONAL LABOR RELATIONS BOARD OPERATIONS

The National Labor Relations Board, Office of the General Counsel, has surveyed the impact of the November 14-19 shutdown on its operations. During the shutdown the NLRB limited its on-duty staff to a skeleton crew of less than 1 percent of the Agency's total staff sufficient to monitor the existence of any emergencies involving an imminent threat to life or property. All of the Agency's 52 field offices were closed. Eight Regional offices were staffed by a single person to monitor potential threats to life or property arising from violations of the National Labor Relations Act in that part of the country.

The shutdown had these effects, among others, on Agency's operations:

Field Offices:

- 109 representation elections were postponed or cancelled. Over 11,000 employees were eligible to vote in these elections. Postponements ranged from at least 4 to 35 days, with several still to be rescheduled. One election involved more than 2,500 employees; several others involved approximately 1,100, 800, and 650 employees. An additional 95 pre-election hearings in representation cases were postponed between 5 and 21 days, or cancelled, affecting approximately 5,000 employees. Employers and Unions alike protested the cancellations or postponements of elections and hearings.
- Trials of alleged unfair labor practices (ULPs) were postponed in 37 cases, affecting approximately 1,700 employees. Postponements ranged from 6 to 220 days, depending on availability of attorneys and judges. Such postponements may delay the return to work of unlawfully discharged employees and increase the amount of backpay for which employers are liable, or may otherwise jeopardize the prompt resolution of bargaining disputes.
- Investigations were delayed in 4,500 pending ULP cases and 350 pending representation cases.

Enforcement Division:

- Appellate court litigation was impeded in several dozen enforcement/review cases. Extensions of time had to be sought, inconveniencing the courts and opposing attorneys. In one case, settlement efforts had to be aborted; in another, they were delayed by the unavailability of information from a Regional Office. Court appearances must be rescheduled, in some cases for months, further delaying ultimate resolution of disputes.
- In some court cases, opposing counsel seized on the shutdown to obtain tactical advantages in discovery and similar matters.

- Court filings were delayed in cases involving bankruptcy, subpoena enforcement, and EAJA.

Division of Advice:

- Review of allegations and advice to regions in numerous cases was delayed, including review of the settlement of ULP allegations as part of the resolution of a major strike.
- Several dozen FOIA requests were pending during the shutdown, and could not be processed.
- Advice to Regional Offices on legal issues has been delayed in many cases, including ones that are set for imminent trial dates.
- Consideration of cases requiring immediate relief, including injunction cases, has been delayed.

Administration:

- Further strains were placed upon the Agency's already-tight budget. Some payments to suppliers were delayed; interest or penalties are now due. Discounts for early payment were forfeited. An important planning session for the development of an Agency-wide case tracking computer system, by a contractor, was postponed. A training session in a field office was cancelled, at a cost of \$2,800.
- The Agency's fixed costs during the period included \$1,747,000 in pay for the 4 furlough days—almost 1 percent of the Agency's total budget for preceding fiscal year; and over \$250,000 in rental of space and equipment.
- Numerous activities were interrupted, including travel reimbursements to employees, delivery of mail, issuance of Board decisions, computer installation and maintenance, generation of statistical reports to monitor field office performance, development of an Agency-wide case-tracking computer system, training, production of the Agency's annual report, relocation of field offices to more economical facilities, and the relinquishing of excess parking spaces.