

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 16-21

June 21, 2016

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

From: Anne Purcell, Associate General Counsel

Subject: Notice Reading In Cases Where Unit Employees Have Literacy Issues

As you know, the General Counsel has challenged all of us to use every remedial tool available under the Act to ensure that discriminatees and other unit employees are truly made whole where the Board finds a statutory violation. Recently, the General Counsel considered the Charging Party's appeal of a Regional Director's unilateral acceptance of a settlement which did not provide for the reading of a Notice despite the Charging Party's assertion that a significant percentage of unit employees were functionally illiterate in any language and thus unable to read the notice to be posted. The Charging Party's appeal was denied in part because the need for the reading remedy was not substantiated. We readily acknowledge that there are circumstances where a traditional notice posting remedy may be ineffective because some unit employees are unable to read the notice, either in English or the language of their country of origin. Thus, Regions should be cognizant of potential literacy issues when considering remedies. Often, if literacy is an issue, the Charging Party will bring it to the Region's attention. However, if during the investigative stage of the case, the Region becomes aware of literacy issues among affected workers, it should seriously consider whether traditional notice posting will sufficiently remedy the statutory violations if the charge allegations are found to have merit. In those circumstances where the Region determines that literacy issues prevent the efficacy of a notice posting, it should seek a notice reading remedy in settlement discussions and should plead that remedy in a complaint.

In order to track progress on this remedy and to address other potential remedial issues, including those arising in the context of statutory violations involving immigrant workers, please contact AGC Aaron Karsh. If you have any questions about this memorandum, please contact your AGC or Deputy.

/s/

A. P.

cc: NLRBU

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