



United States Government
NATIONAL LABOR RELATIONS BOARD
Office of the General Counsel
1015 Half Street, SE Washington, DC 20570

July 23, 2026

The Honorable Rep. Rick W. Allen
Chairman, Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Allen,

Thank you for providing me with the opportunity to testify before the Subcommittee on Health, Employment, Labor and Pensions regarding my policy and enforcement priorities as General Counsel of the National Labor Relations Board (NLRB).

I value the responsibility of being responsive to Congress as it fulfills its oversight duties. Accordingly, I appreciated the opportunity to inform Congress about the significant progress the NLRB has achieved in reducing the historical backlog we were left with at the end of my predecessor's tenure. Additionally, I found it essential to outline to you and your colleagues my commitment to impartial and effective enforcement of the National Labor Relations Act, and to clarify the challenges we are addressing in relation to funding and staffing.

Enclosed, you will find answers to the questions members of your committee asked me to answer for the record. If you or your staff have further questions, I encourage you to reach out to Sylvester Giustino, Director of the Office of Congressional and Public Affairs, who can be reached at (202) 679-9392, or Sylvester.Giustino@nlrb.gov.

Sincerely,

Crystal S. Carey
General Counsel
National Labor Relations Board

(cc: Katerina Kerska)

Questions for General Counsel Crystal S. Carey Chairman Tim Walberg (R-MI)

1. *In an April 16, 2026, letter to National Labor Relations Board (Board) Chairman Murphy, I raised concerns about the effects of the Board's decision in Cemex Construction Materials Pacific, LLC after reports surfaced of alleged fraud in a card-check election for one of Amazon's contractors Battle Tested Strategies. While the Board has not overruled Cemex, can you explain what your office is doing to prevent union election fraud, especially in card-check elections?*

Answer: Employers have the right to recognize a union voluntarily based on a card check process performed without the NLRB's participation. However, if a petition is filed with the NLRB in relation to a question concerning representation, a board agent assigned to the case will follow the case handling processes to confirm the number of cards submitted in support of a petition (See CHM Part II; 11020–11042). The Amazon / Battle Tested Strategies case you reference is an open and pending case. As a result, I cannot discuss the details of that specific case.

2. *When you took office in January 2026, the non-postal employer docket carried roughly 16,000 open Unfair Labor Practice (ULP) charges—more than half of them over a year old. Before the Abruzzo era, the agency maintained a stable inventory of roughly 5,800 to 6,000 open charges. Can you walk through what you found when you arrived, and what your honest assessment is of how long it will take to return the agency to pre-2021 inventory levels at the current rate of closure? Can you also provide context as to what kind of cases are contributing to the backlog?*

Answer: To say the least, even though I knew this was an issue I was floored when I arrived at the scope of and burden created by the backlog. I found an Agency where capable professional investigators and attorneys were struggling to keep up with a staggering workload.

We have made a lot of progress so far. Since I took office in January, we have managed to reduce 45.6% of the backlog cases. But frankly, it will take a long time at current staffing and funding levels. I am hopeful that a year from now, most of the cases which were pending before January 7, 2026, will have been processed, and that most remaining investigations will be pending for less than a year. While this is not the end goal for case-handling, it is a significant improvement over where things stood when I arrived.

In terms of the “backlog cases” we have seen they run the gamut. There were more than 50 categories of cases where my predecessor sought vehicles to revisit long-standing Board law, and each of these categories were, by her order, halted or substantially delayed being reviewed by staff in headquarters, including the Division of Advice. This constrained regions from processing cases as effectively, and efficiently, as possible. There are increases in cases across the board, but notably we have seen numerous cases where charging parties attempted to leverage what would have been favorable decisions under the prior administration and a biased approach under my predecessor to achieve “optimal” outcomes.

To return the pending case list to where it stood before my predecessor took office, will take years at the current staffing/funding levels. Even a modest increase to funding levels will allow the agency to more quickly address the backlog, reduce front-end resolution times, implement more sustainable case-handling practices across the short and long term, and effectuate compliance in a timelier manner.

3. *An independent analysis of National Labor Relations Board (NLRB or Board) charge data found that the share of new charges resolved within 90 days fell from roughly 55 percent to about 25 percent beginning in the exact quarter that GC 21-04 was issued in August 2021, and that the collapse affected fast dismissals and fast withdrawals, not just settlements. The data strongly suggests the primary driver was the procedural bottleneck of mandatory submissions to Washington, not the settlement-remedy policy alone. In your assessment, how central was GC 21-04 to the backlog's growth, and is the front-end resolution rate recovering now that you have rescinded it?*

Answer: The case backlog was beginning to grow comparatively slowly before GC Memo 21-04 was issued. In 2020, Congress asked the Agency to hire more staff, which did not occur, and prior to my predecessor's tenure the Agency was very slowly seeing dismissal, settlement, and determination times increased organically as staffing shrunk/remained static and filings grew.

There's no doubt in my mind, however, that GC 21-04 accelerated a problem that would have otherwise grown slowly over several years without adjustments to Agency capacity. While it is not the only cause of the current backlog, I do believe it is the primary reason the backlog accumulated at the scale and speed it did.

We have seen front-end resolution case time improve slightly as we work to restore common sense to case handling and modestly hire staff to replace losses. We have also, for the first time in a long time, seen a net-positive reduction in cases (closing more cases than are coming in). At the same time, we need to prioritize backlog cases because the longer those cases await processing the longer it takes to bring resolution to workers.

4. *GC Memo 21-07 directed regional offices to demand the maximum possible remedy as a condition of settlement—no settlement discount, open-ended consequential damages reflecting the Thryv decision, default-judgment clauses for any breach, and restrictions on standard non-admission language. It also disempowered regional directors from exercising the kind of local flexibility they had historically used to resolve cases efficiently, including with trusted advocates and employers without serious recidivism records. The effect was to make settlements slower to negotiate and less attractive to respondents. You have rescinded that guidance. Please describe what a fair settlement looks like under your policy and how regional directors' discretion has been restored.*

Answer: In my answer to Q. 6, I explain my views and policies on settlements in some detail, and I cite memoranda in which I reversed directions from my predecessor which limited Regional Directors' ability to exercise their discretion in this area. Settlements can be complex matters, but generally my view is that any settlement which includes

lawful terms and satisfies both parties is fair. I must note that in your question you mention *Thryv* remedies. We have not requested, thus far, any remedies which would be considered *Thryv*-type remedies. Please note, it will take a proper vehicle to place the issue of *Thryv* remedies before the Board for reconsideration. My office is reviewing pending cases to identify potential vehicles to seek reconsideration of *Thryv* by the Board.

5. *The 2025 closure surge—the highest total since 2019—sounds like progress, but independent data shows that 69 percent of charges closed in 2025 were filed during the Abruzzo era. Regional offices are largely resolving 2022–2023 disputes, not current complaints. The median settled case under the current leadership is 657 days old at the time of settlement, compared to 279 days before 2021. What does this mean for workers and employers who filed a charge in 2022 or 2023 and are only now getting a resolution? What are you doing to ensure that people filing charges today do not face the same multi-year wait?*

Answer: Overall, it is problematic and costly. I've taken steps to ensure swifter case processing including, but are not limited to:

- Encouraging reasonable settlements;
- Improving docketing practices;
- Discouraging investigators from making evidence requests until a charging party has presented its own *prima facie* case of misconduct under the Act;
- Providing guidance on maintenance of rules issues, which were once simple, but became tedious and needlessly complex prior to my tenure; and
- Apprising field staff of my stance on questions of law, to avoid unnecessary and duplicative referrals to Advice.

While I feel we have restored common sense to case-handling practices, we must prioritize aging backlog cases and again, we are significantly understaffed in the field. With more resources, the Agency could further capitalize on the policy changes I have introduced to achieve timely and high-quality outcomes for employers, workers, and unions alike.

6. *Practitioners reported that the prior Office of the General Counsel (GC) refused to approve settlements in cases where not only the employer but also the charging union had agreed to settle, effectively substituting the agency's ideological preferences for the actual resolution the affected parties had negotiated and consented to. Can you confirm whether that was the prior office's practice? Do you believe the GC has the authority to—and should—block a settlement that both parties have agreed to. Has your office's approach changed?*

Answer: Historically, the General Counsel has had discretion to direct and implement broad settlement policy. It is my view that the General Counsel should never reject lawful bilateral (both parties agree upon) settlements. To do so would undermine the Act's core purpose of promoting labor stability without furthering its other core purposes of protecting employee concerted activity and free association.

I can confirm that the prior General Counsel took unprecedented and extreme positions toward settlement approvals, often proposing the addition of humiliating and unhelpful

enhanced remedies. She also demanded that regions reject settlements unless penalties were roughly equivalent to what would be imposed in a full Board judgement. For all intents and purposes, this policy made settlement of cases nearly impossible—most practitioners will tell you that approach severely disincentivized settlement of cases.

Restoring longstanding approaches to bilateral settlements has been one of my top enforcement policy priorities. In General Counsel Memo 26-02, I urged Regional Directors to resolve cases through settlements rather than litigation where possible, which aligns with Congress' intent in creating the Act. In that same memo, I encouraged approval of bilateral settlements proffered by parties so long as their terms are lawful. Notably, Regional Directors also retain the discretion to approve unilateral settlement agreements they believe otherwise effectuate the Act.

To that end, I frequently advise Regional Directors to support settlements that meet the approval of both parties. I believe this better effectuates the Act's core purposes than drawn-out administrative proceedings.

7. *The prior GC moved away from the use of consent orders, which had been a long-established mechanism for resolving cases efficiently with court-enforceable terms that both parties accepted. Eliminating that tool removed a meaningful incentive for employers to resolve cases early and added to the litigation burden on regions and administrative law judges (ALJs). Have you restored the use of consent orders as a settlement tool? If not, why not, and what replaces the function they served?*

Answer: The prior General Counsel not only opposed the use of consent orders for ideological reasons but took action to prohibit them. Regrettably—the Board eliminated their use in the *Hospital Metropolitano* decision.¹

I do not share my predecessor's views on consent orders. By contrast, I believe consent orders are a useful tool in proper circumstances to uphold labor stability and put an agreeable end to ULPs. For this reason, on June 3, 2026, I asked the Board to overturn *Hospital Metropolitano* and reinstate the standard set in *UPMC Presbyterian Shadyside* and the nearly forty-year-old four factor test used by ALJs to assess their situational appropriateness.²

8. *You announced that approximately 3,500 pending ULP cases were transferred from overloaded regions to those with more bandwidth, and new intake procedures were implemented to provide relief to regional staff. How many of those transferred cases have been resolved? Are there regions that remain chronically overloaded? What is your long-term plan to balance the docket geographically?*

Answer: In May, the Agency transferred 3,499 pending unfair labor practice cases from higher-volume regions to offices with additional capacity, as part of a nationwide workload-balancing initiative. As of July 8, 2026, 727 of these cases (20.8%) have been resolved. This progress coincides with revised intake procedures implemented at the end

¹ *MetroHealth Inc. D/B/A Hospital Metropolitano Rio Piedras*, 373 NLRB 89 (2024)

² *UPMC and its Subsidiary, UPMC Presbyterian Shadyside*, 365 NLRB 1418 (2017)

of 2025, which helped stabilize incoming filings and contributed to dispositions exceeding new cases in both 2025 and 2026.

Although the transfer initiative has alleviated some of the immediate pressure on the most overloaded regions, it has not eliminated long-term workload strain. Several offices continue to receive comparatively high volumes of new filings. We also continue to work with regions across the country to update their internal case processing methods to meet the new demands we face as an Agency.

9. *Practitioners have reported a practice in which regional offices require employers to submit formal affidavits to authenticate documents that were pulled directly from a union's own public website or that are otherwise clearly authentic on their face, rather than simply asking the union whether it disputes authenticity before burdening the parties with formal authentication procedures. This adds cost and delay to hearings without any apparent evidentiary benefit. Is this a practice your office has authorized or encouraged? If not, are you aware of it occurring, and what are you doing to address it?*

Answer: While I am not aware of this practice, I take the concerns of the practitioner community about Agency function seriously. I presume this phenomenon is uncommon, but I will investigate it further and consider whether and what action may be needed to address it.

10. *We have also heard that regions have been issuing overbroad subpoenas on the eve of hearings—sometimes days before the scheduled start—rather than serving them with sufficient lead time for the receiving party to respond or seek modification. The practical effect has been to delay the start of hearings and, in some cases, force postponements, increasing costs for all parties and adding to the docket burden of ALJs. Is your office aware of this pattern? What guidance, if any, have you issued to regions about subpoena timing and scope?*

Answer: In FY25, the average caseload held by our full-time field investigators was just under 60 cases. Managing this type of caseload is unsustainable, and results in inefficient case-handling. The sheer scale of the burden on our field investigators at current staffing levels makes it difficult to issue subpoenas timely, as issuance is weighed against numerous other deadlines.

I understand, however, this is an issue that a section of the practitioner community finds frustrating. I am hopeful that the improved case handling and docketing procedures I've promulgated will have a salutary effect of addressing some of the concerns about subpoena practices that we have heard about. I also hope that over time, the reduction of our case backlog will free up staff bandwidth and allow for more targeted and timely subpoenas.

Like many issues confronting this agency's day-to-day operations, sustainable staffing in the field would give us more latitude to effectively target and address timeline issues with subpoena issuance. I will continue to monitor this matter to determine whether further action may be helpful.

11. *The Abruzzo era can be described as an attempt to overturn hundreds of years of longstanding legal precedents, including many that were established or reaffirmed on a bipartisan basis, across dozens of doctrinal areas simultaneously. The practical consequence was that regional offices, ALJs, and the Board itself were consumed with grappling with novel, aggressive legal theories rather than resolving the ordinary disputes that workers and employers had brought to the agency. In your assessment, how much of the agency's current caseload crisis is attributable to that deliberate diversion of resources away from retail case resolution and toward ideological agenda-setting?*

Answer: My answer to Question 4 also answers elements of this question.

In short: my predecessor's deviation from the Agency's core mission of neutral implementation of the National Labor Relations Act toward a focus on imposing progressive norms on American workplaces harmed the NLRB in numerous ways.

Combined with a per-investigator case burden that was steadily growing (due to increased filings and stagnant staffing,) the activist approach you describe accelerated the accumulation of the backlog considerably. Under a more conventional approach, there would likely still be a backlog due to existing personnel constraints, but it would be more manageable.

12. *There are a number of charges and complaints currently pending in regional offices that are predicated in whole or in part on Biden-era Board decisions that the current leadership has publicly signaled it disagrees with and that are widely expected to be reversed once the Board reaches full strength. Your office has already taken steps consistent with this view, such as moving to withdraw exceptions in UPS Supply Chain Solutions. How many such cases are currently pending across the agency's docket? What is the status of investigations and hearings in those matters?*

Answer: My office does not track cases in this manner. You are correct that I have taken positions publicly to encourage the Board to overturn several cases and return to long-standing precedent. These include:

- *McLaren Macomb* - placed significant restrictions on employers and employees' ability to enter into reasonable severance agreements.
- *Hospital Metropolitano* - prohibited consent orders and eliminated a long-used settlement tool.
- *Stericycle* - introduced an unworkable and extreme framework for adjudicating rules/handbook language maintained by employers.
- *Siren Retail* – overturned decades on lawful employer predictions and statements about the potential impact of unionization on a workforce.
- *Tesla* - pertained to aspects of dress code policies and an employer's ability to maintain those types of policies.
- *Amazon.com Services* – disposed of decades of precedent related to an employer's ability to hold so called "captive audience" meetings.
- *Endurance Environmental Solutions* - required parties to bargain over all aspects of

terms and conditions of employment, and a union is only deemed to have waived its right to bargain on a topic if they “clearly and unmistakably” waived that right. This leads to protracted bargaining.

13. *This Committee has an oversight responsibility to track the agency’s progress. What specific, measurable benchmarks are you committing to—for inventory levels, front-end resolution speed, and median case age—and by what dates? Will you provide the Committee with regular reporting against those benchmarks so that members can assess whether the agency is genuinely recovering or whether the backlog is simply being managed rather than resolved?*

Answer: The focus is to complete the investigation of most cases pending on January 7, 2026. I am aware that, as the oldest cases are closed, the average number of days from the filing of the charge to the date a decision on the disposition is made will increase – essentially it will get worse before it gets better. In terms of ongoing metrics, the Agency measures and reports performance in the Annual Performance and Accountability report. The Agency’s target is for 90% of all cases to be processed to a determination in 100.1 days. As you are aware, that target has not been met for years. We are working hard to get back to this point, but it will take time.

14. *The NLRB’s Inspector General (IG) issued reports in 2023 and 2024 finding gross mismanagement and a lack of candor in the agency’s mail ballot election procedures—problems the IG warned could negatively impact the agency’s ability to carry out its mission. Rather than acknowledging those findings, prior leadership attempted to discredit the IG’s conclusions and claimed the Board was not bound by its own procedures. Do you accept the IG’s findings? What specific corrective actions have you taken in response?*

Answer: The report by the IG has been taken seriously by the Agency and all efforts have been made to ensure that Regions are following the proper procedures when conducting all elections, not just those conducted by mail. As an initial matter, I note that on average, only around 10-12% of all elections conducted each year are conducted by mail. In response to the recommendations made by the IG, the Division of Operations Management reviewed both the NLRB Casehandling Manual – Part Two – Representation Cases and the Administrative Professionals Manual to ensure that the manuals received appropriate revisions and accurately reflect the proper procedures for conducting elections by mail. All field employees were required to attend remedial training and the Agency issued updated forms to ensure proper documentation of a region’s actions – all of which were recommended in the IG report. I strongly believe that in person elections are the gold standard and will continue to advocate for this method of election whenever possible.

15. *In 2023, a whistleblower from within the NLRB provided evidence that agency personnel colluded with labor organizers to influence union representation elections and ULP cases against a specific employer. Are you aware of any ongoing or completed investigation into those allegations? What steps are you taking to ensure regional staff are acting as neutral administrators of the law rather than as advocates for one side?*

Answer: The 2023 IG investigation mentioned in question 14 above was conducted in

response to that whistleblower claim. The IG report can be found on the Agency's website. As I explained in my answer to question 14, the Agency has updated the Casehandling manuals and provided remedial training for employees.

Representative Robert C. "Bobby" Scott (D-VA)

1. *Last year, Acting General Counsel Bill Cowen filed a joint request with Elon Musk's SpaceX before the U.S. Court of Appeals for the Fifth Circuit to halt a NLRB case alleging the company had illegally fired workers for criticizing Mr. Musk and allow the National Mediation Board to review whether SpaceX fell within its jurisdiction. In February of this year, just one month after you were sworn in, the NLRB dismissed the case against SpaceX, claiming it did not have jurisdiction after years of prosecuting the case.*
2.
 - a. *Ms. Carey, are you aware that your former law firm, Morgan Lewis, represents SpaceX?*

Answer: Yes.

- b. *Describe the role you played in dismissing the SpaceX case.*

Answer: I played no role in the dismissal of the case.

Did you request, direct, or provide approval for the Regional Director to dismiss it?

Answer: No. I was recused from the case and played no role in the decision.

- i. *If yes, did you consult with an ethics official regarding your involvement in this case? Why or why not?*

Answer: No. There was no reason to consult with the DAEO, I was recused from the case as Morgan Lewis represented the company in the case you reference. As a result, and pursuant to my Ethics Agreement, I was recused, and the case was screened and handled by my Deputy.

- c. *Did the White House and/or a political appointee from a different agency contact you, Acting Deputy General Counsel Michalski, Acting Associate to the General Counsel Wagner, and/or Acting Associate General Counsel Cowen regarding SpaceX and/or this specific case?*

Answer: I was not contacted by anyone from the White House and/or a political appointee from a different agency regarding SpaceX and/or this specific case. Based on your question, I inquired whether any of the individuals you named were contacted, and all confirmed they were not.

3. *Ms. Carey, provide the following information:*

- a. *The total number of unfair labor practice cases processed (dismissed, withdrawn, or found to have merit) in each calendar year: 2021, 2022, 2023, 2024, and 2025, and*

Answer: 14,602 in 2021, 14,266 in 2022, 15,233 in 2023, 16,013 in 2024, 19,056 in 2025.

- b. *The total number of representation cases processed (certified by the Regional Director or withdrawn) in each calendar year: 2021, 2022, 2023, 2024, and 2025.*

Answer: 1,687 in 2021, 2,472 in 2022, 2,568 in 2023, 3,174 in 2024, 2,349 in 2025