

STATEMENT OF
GENERAL COUNSEL PETER B. ROBB
NATIONAL LABOR RELATIONS BOARD
BEFORE THE SUBCOMMITTEE ON LABOR, HEALTH, AND HUMAN SERVICES
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES
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Chairwoman DeLauro, Ranking Member Cole, and Members of the Subcommittee, I am pleased to testify before you today.

As the Chairman explained, the National Labor Relations Board (“NLRB” or the “Agency”) is responsible for administering the National Labor Relations Act (the “Act”). As General Counsel, I have a dual role in directing the litigation of cases under the Act at the administrative, Board, federal district court, circuit court and Supreme Court levels as well as overseeing the operations of approximately 90% of the Agency. The General Counsel is also responsible for overseeing the investigation of unfair labor practice charges brought before the Agency, processing representation petitions filed with regional offices, enforcing the Board’s orders, and for supervising the operations of NLRB Regional and satellite offices throughout the nation as well as Headquarters staff who are responsible for case-handling, operational, administrative, financial, security, facilities, technology and personnel functions.

NLRB employees work diligently to ensure violations of the Act will be addressed quickly and effectively. The prompt resolution of labor disputes is essential to enforcing the Act and a key part of the Agency's mission. Expeditious case processing by the Agency is necessary to achieve the early resolution of labor disputes thereby helping to minimize industrial strife which may interfere with the free flow of commerce, thus fulfilling a primary purpose of the Act.

Over many decades, Agency case processing times and case backlogs have increased, causing the delayed resolutions of disputes. In the 1980s, the median processing time from the filing of an unfair labor practice charge to the issuance of a merit complaint was between 44 and 55 days. By the end of FY2018, the median processing time had risen to 128 days. The number of unresolved unfair labor practice cases grew, which resulted in increased backlogs and overage cases. For example, at the end of FY2012, there were 524 pending overage cases. By the end of FY2018, there were 724 pending overage cases – a 38% increase in unfair labor practice case backlog. These lengthened case processing times and backlogs surprisingly occurred during a period in which unfair labor practice case intake dropped from 21,622 to 18,866 – a nearly 13% decrease, while the Agency had spent millions of dollars on technology designed to increase efficiency.

My major objectives as General Counsel are to reverse this trend, to ensure the processing of cases in a timely manner and to improve our service to the public while maintaining the quality of our investigations and litigation. To that end, at the beginning of FY2019, the Agency issued a Strategic Plan which established case processing

objectives for the disposition of unfair labor practice charges in the Regional offices. The goal was to reduce case processing time by 20% over the next four years.

During FY2019, the Regional Offices made exceptional strides toward meeting that goal. By the end of FY2019, in just one year, the Regions nearly met our four-year goal by reducing the overall average time of filing to disposition of unfair labor practice cases from 90 to 74 days, a decrease of 17.5%.

The Regions also reduced the time from informal settlement to final disposition of an unfair labor practice case, which affects how quickly alleged violations are remedied, from 173 to 153 days, a decrease of 11.5%. In addition, the Regions improved the timeliness of representation case handling by processing 90.9% of representation cases in 100 days or less.

In FY2019, the Regional Office settlement rate was 99.1%, resolving over 5,000 cases prior to issuing complaint and over 800 cases post-complaint. Additionally, compliance was achieved in over 400 cases in which Board orders issued. The Regions also collected over \$58.4 million¹ in backpay, fees, dues, fines and reimbursements for employees.

At Headquarters, the Agency's other Divisions also stepped up to meet our Strategic Plan objectives with excellent results. For example, the Office of Appeals, which

¹ The NLRB's FY2019 Performance and Accountability Report ("PAR") reports a figure of over \$56.5 million in backpay, fees, dues, fines and reimbursements collected by the NLRB for employees. Since the publication of the PAR additional amounts were reported as having been collected in FY2019.

reviews appeals by individuals, unions and employers who believe their unfair labor practice charges have been wrongly dismissed by a Regional Office, which received 1,399 cases last fiscal year, reduced its case backlog from 294 cases in FY2018 to 98 cases in FY2019. Overall, the Office of Appeals closed 400 more cases in FY2019 than in the previous year. Our Appeals Office also processed 245 more appeals than it received during the fiscal year.

In FY2019, the NLRB's Division of Advice, which provides guidance to the Agency's Regional Offices regarding difficult and novel issues arising in the processing of unfair labor practice charges, reduced the average age of closed cases to 51.1 days, a 12.4% reduction in case processing time from FY2018. The average age of closed cases for the Injunction Litigation Branch was 9.1 days, a 34.5% reduction from FY2018.

These processing results are important because they have a real impact on the public we serve. The Agency's expeditious response to charging parties, prompt investigation and earlier complaint issuance provide quicker justice to wronged parties, better resolution of disputes and ultimately greater protections to employees.

These results were achieved without any detriment to the quality of case processing, including investigations and litigation, number of cases the field offices decided to prosecute, or amounts recovered by the Agency on behalf of wronged parties. Indeed, the percentage of merit findings by the Regional Directors remained constant. Over the past two decades, the percentage of charges that have been found to have merit has hovered between 35% and 37%. FY2019 was no different – percentage was 36.1%. Additionally, since FY2012, the median amount collected annually in backpay, fees,

dues, fines and reimbursements has been approximately \$55.2 million. In FY2019, the Agency collected over \$58.4 million – well above the median. Further, the Division of Operations Management, which monitors the quality of field work has confirmed that the quality of the work performed remains high.

Collectively our employees achieved outstanding results in FY2019 in which 18,549 unfair labor practice charges and 2,096 representation cases were filed. We are looking forward to maintaining and improving these high standards of efficiency and results in FY2020 and FY2021.

The National Labor Relations Board plays a critical role in ensuring that workplace disputes are resolved efficiently and effectively. I assure you that the Agency will continue working to ensure that labor disputes between or among workers, employers, and labor unions are resolved effectively and efficiently, as we have done for the past 85 years.

Madame Chairwoman, thank you for allowing me this opportunity to explain publicly to the Committee the achievements of this past year and congratulate all NLRB employees on a job well done.