

BREAKING: The Department of Labor and The National Labor Relations Board Announce Agreement Enhancing Cooperation Between the Agencies

Labor Relations Update Blog on January 6, 2022

On January 6, 2022, the U.S. Department of Labor (DOL) and the National Labor Relations Board (NLRB) [announced](#) that the two agencies signed a [Memorandum of Understanding](#) (MOU) detailing procedures on information-sharing, joint investigations and enforcement activity, and training meant to strengthen the agencies' partnership in enforcing the laws administered between the two agencies.

The MOU outlines several areas where the agencies agree to cooperate and work in concert to enforce federal labor and employment laws. For example, with respect to information sharing, the agencies agree to share any information or data that "supports each agency's enforcement mandates," including complaint referrals and information in investigative files.

The agencies also pledge to share information regarding the following topics:

- Unlawful compensation practices,
- Retaliation based on the exercise of rights guaranteed by the NLRA or laws enforced by the DOL/Wage and Hour Division (WHD),
- Discriminatory failure to hire, and
- The "identification and investigation of complex or fissured employment structures, including single or joint employer, alter ego, and business models designed to evade legal accountability."

Further, each agency has agreed to advise employees when they have reason to believe that there may be "unlawful conduct that falls within the jurisdiction" of the other agency. For example, if in the course of an investigation of an employer, the DOL uncovers conduct that it believes may violate the NLRA, the DOL will advise employees that an opportunity may exist to file a charge with the NLRB.

The MOU also announces initiatives to provide training to each agency's staff in identifying cases and issues that potentially arise under the other's jurisdiction, joint participation in regional presentations and to develop shared training materials and programs. The MOU takes effect immediately and, absent renewal, will expire in five years.

The impact of this MOU likely will be an uptick in enforcement actions by the respective agencies. As always, we will keep you informed of any updates on this interagency collaboration.

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