

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 08-26

February 5, 2008

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

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Revised Forms

Recently, the Agency determined that CATS and the associated Regional Office paper case files were subject to the requirements of the Privacy Act of 1974. The Privacy Act requires that the Agency must inform each individual who is requested to supply information of the authority for soliciting the information, whether disclosure of such information is mandatory or voluntary, the purposes for which the information is intended to be used, the routine uses which may be made of the information,<sup>1</sup> and the effects, if any, of not providing the requested information. Charge and Petition forms, as well as subpoenas, have previously been revised to include this language. The following forms have now been revised to include this information:

Form NLRB-1026	-	Request for Certification of Representatives as Bona Fide Under Section 7(b) of the Fair Labor Standards Act of 1938
Form NLRB-4685	-	Notification of Change of Address
Form NLRB-5081	-	Questionnaire on Commerce Information
Form NLRB-5168 (English and Spanish)	-	Affidavit
Form NLRB-5224 (English and Spanish)	-	Claimant Expense, Search for Work, and Interim Earnings Report

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<sup>1</sup> There have been no changes to the Agency's potential uses of the information contained in the case files. A complete list of the routine uses, as set forth in the Agency's Privacy Act Notice, 71 Fed. Reg. 74942-43, is attached.

In addition, Regions must include the Privacy Act Statement set forth in Form NLRB-5168, Affidavit on any questionnaires that are used.

The revised Form NLRB-5081 is available on the Web Forms Library. The other revised forms listed above will be sent to each office shortly, with the exception that the Spanish versions of the forms need to be requested by Regional Offices from the Warehouse Unit.

If you have any questions regarding this memorandum, please contact your AGC or Deputy or the undersigned.

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R.A.S.

cc: NLRBU

Attachment  
Release to the Public

## **ATTACHMENT**

### **Standard Routine Uses**

Records may be disclosed:

1. to a federal, state, or local agency (including a bar association or other legal licensing authority), charged with the responsibility for investigating, defending, or pursuing violations of law or rule (civil, criminal, or regulatory in nature), in any case in which there is an indication of a violation or potential violation of law or rule;
2. in a federal, state, or local proceeding or hearing, which is administrative, judicial, or regulatory, in accordance with the procedures governing such disclosure and proceeding or hearing, including, but not limited to, National Labor Relations Board Rule § 102.118, 29 C.F.R. § 102.118, and such records are determined by the Agency to be arguably relevant to the litigation;
3. to the Agency's legal representative, including the Department of Justice and other outside counsel, where the Agency is a party in litigation or has an interest in litigation, including when any of the following is a party to litigation or has an interest in such litigation: (a) the Agency, or any component thereof; (b) any employee of the Agency in his or her official capacity; (c) any employee of the Agency in her or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components;
4. to a party or his or her representative in an Agency administrative unfair labor practice or representation proceeding or related judicial proceeding, for the purpose of: (a) negotiation or discussion on matters in furtherance of resolving the proceeding; (b) providing such persons with information concerning the progress or results of the Agency administrative or judicial proceeding; or (c) ensuring due process in the Agency's administrative proceedings by disclosing copies of all documents referenced by the Agency's Casehandling Manual, Part One, Unfair Labor Practice Proceedings § 11842 (.1-.3), or releasing documents in accordance with the Board's Rules and Regulations;
5. to any person who, during the course of an Agency administrative unfair labor practice or representation proceeding or related judicial proceeding, is a source for information or assists in such proceeding, to the extent necessary to obtain relevant information or assistance or for a reason compatible with the purpose for which the record was collected;

6. to a federal, state, local, or foreign agency or agent, in order to: (a) aid in the Agency's collection, administration, and disbursement of remedial funds owed under the NLRA; or (b) assist in collecting an overdue debt owed to the United States by an unfair labor practice respondent;

7. to individuals who need the information in connection with the processing of an internal Agency grievance;

8. to an arbitrator to resolve disputes under a negotiated Agency grievance arbitration procedure;

9. to officials of labor organizations recognized under 5 U.S.C., chapter 71, when disclosure is not prohibited by law, and the data is normally maintained by the Agency in the regular course of business and is necessary for a full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. § 7114(b)(4);

10. to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the constituent about whom the records are maintained;

11. to the public, news media, and other individuals and organizations, concerning unfair labor practice or representation proceedings, limited as follows: Administrative unfair labor practice or representation hearings are usually open to the public, pursuant to 29 C.F.R. § 102.34 and § 102.64, and formal documents (those documents traditionally considered by the Agency to be publicly available) are made available for public inspection under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Additionally, Board decisions are posted on the Agency's Web site at [www.nlr.gov](http://www.nlr.gov), see 5 U.S.C. § 552(a)(2)(A) and (E), and may be distributed to publishers. Party and party-representative contact information is also made available to the public on the Agency's Web site. Information that would not be exempt from disclosure under the FOIA may also be released to the news media, in order to provide information on events in an administrative or judicial proceeding. Such information that would not be exempt from disclosure under the FOIA is also used to respond to inquiries from governmental, non-profit, business, labor, and legal organizations, as well as academic researchers, concerning pending related legislation and Agency performance;

12. to FOIA requesters, when the Agency discloses requested documents under the circumstances of the Agency's discretionary release policy, set forth in the Agency's FOIA Manual (available on the Agency's Web site at [www.nlr.gov](http://www.nlr.gov));

13. to the following federal agencies: (a) the Office of Management and Budget in order to obtain advice regarding the Agency's obligations under the Privacy Act, or to assist with the Agency's budget requests; (b) the Department of Justice in order to obtain advice regarding the Agency's obligations under the Freedom of Information Act; or (c) the National Archives and Records Administration, in records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906;

14. to contractors, for the purpose of reproduction, by typing, photocopying, or other means, of any record within the system for use by the Agency;

15. to contractors and other federal agencies, for the purpose of assisting the Agency in further development and continuing maintenance of electronic case tracking systems; and

16. to agencies of the United States Government, or to foreign or international law enforcement or administrative authorities, in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements in which the United States participates.