



2018 Chief FOIA Officer Report

NATIONAL LABOR RELATIONS BOARD

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Associate General Counsel
Division of Legal Counsel
Chief FOIA Officer

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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Training

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Answer: Yes, see below.

2. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Answer:

Throughout the year, various members of the NLRB FOIA Branch attended the following trainings:

- *DOJ OIP Training: Continuing FOIA Education*
- *DOJ OIP Training: Fiscal Year 2017 Annual Report*
- *DOJ OIP Training: 2018 Chief FOIA Officer Report*
- *DOJ OIP Best Practices Workshop Series: Self-Assessments and Improving FOIA Processes*
- *American Society of Access Professionals (ASAP) 10th National Training Conference*
- *ASAP 2017 FOIA-Privacy Act Training Workshop — Chicago*
- *American Bar Association Webinar: FOIA 101: Understanding the Freedom of Information Act*
- *Federal Privacy Council: Federal Privacy Boot Camp*

On a monthly basis, the FOIA Branch meets to discuss new case law and FOIA policy updates. During these meetings, the FOIA Officer and staff members have presented trainings on the following subjects: the FOIA Annual Report, the Chief FOIA Officer Report, Exemption 6 and Exemption 7C, Administrative Closures, Adobe Tool Tips, Ten Day Extensions, FOIAonline Process Training, e-mail encryption of responses to first party requesters, and FY 2018 Backlog Reduction Plan.

In July 2017, the FOIA Branch became a FOIAonline participating agency. As the FOIA case management system, FOIAonline provides the FOIA Branch with technology tools for FOIA tracking, processing, and posting. For two days, the FOIAonline Training Team provided in-house training on the system to the entire Branch and the nuances of the tracking, posting, and reporting tools.

The FOIA Branch continues to promote and use the DOJ training tools such as the FOIA Professional e-Learning Module and the Federal Employee e-Learning Module, which are available to all Agency employees on the NLRB e-Learning platform. New FOIA Branch employees and Agency employees, who are temporarily detailed to the FOIA Branch, review these modules to assist them with their FOIA work tasks.

3. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Answer: 100% of NLRB FOIA Branch attended FOIA training.

4. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Answer: This is not applicable to the NLRB. The NLRB FOIA Branch continues to send FOIA professional to trainings to hone their processing skills and knowledge of the FOIA.

B. Outreach

5. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

Answer: The FOIA Officer and the FOIA Branch’s Deputy Assistant General Counsel presented a CLE webinar entitled *FOIA 101: Understanding the Freedom of Information Act* for the ABA Government and Public Sector Lawyers Division. The presenters discussed the FOIA Exemptions, the business submitter process, FOIA lawsuits, the FOIA Improvement Act of 2016, FOIA fees, and tips for filing FOIA requests, among other FOIA issues. The participants included private sector attorneys, state, local, and federal government attorneys, and requesters.

The FOIA Officer gave a presentation regarding FOIA technology at the Digital Government Institute: E-Discovery, Records and Information Management Conference and Expo 2017.

This conference was attended by federal government employees and private sector employees.

Additionally, the FOIA Branch staff attended the following outreach events with the requester community:

- *DOJ OIP Conference: FOIA IT Working Group Sunshine Week Meeting*
- *DOJ OIP Sunshine Week 2017 Celebration*

C. Other Initiatives

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.

Answer: At the Chief FOIA Officer's request during Sunshine Week, the General Counsel and the Acting NLRB Board Chairman sent an Agency-wide memorandum advising Agency employees of FOIA training opportunities with a link to the Federal Employee e-Learning Module, and instructing Agency employees to contact their FOIA Branch colleagues with questions. This memorandum informed Agency employees of the monthly proactive disclosure of certain records filed or issued by the twenty-six Regional Offices' 1) Representation Petitions, 2) Certifications, 3) Unfair Labor Practice Charges, and 4) Dismissal Letters. These documents are located on the Agency website at: <https://www.nlr.gov/region-monthly-uploads>.

On May 3, 2017, two FOIA Branch staff members provided the Regional Offices and Headquarters with a tour of the Agency's new FOIA resources and tools on the Agency's website. This live tutorial was prepared to assist Agency employees in answering the public's questions regarding FOIA and to provide guidance as to the location of records on the Agency website. Four videoconference meetings were set up by time zones in order to allow for full Agency participation throughout the country. The Web Tour Tutorial was recorded to allow Agency employees to review the tutorial at their convenience, if they need a review or if they were unable to attend the live sessions. This training was highly praised by the Agency employees and leadership.

Throughout the year, the FOIA Branch promotes FOIA awareness to new and current Agency employees through trainings. The FOIA Branch conducted FOIA overview presentations to newly hired attorneys, new Regional Directors, summer law interns, the Regional Directors during the Regional Director Conference, employees temporarily detailed to the FOIA Branch, and regional staff visiting headquarters as a part of an NLRB Washington Exchange Program. At these trainings, FOIA materials are provided with information regarding employees' FOIA obligations as they perform the Agency's mission-related activities, along with FOIA Branch employees' contact information.

7. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Answer: Since the enactment of the FOIA Improvement Act of 2016, the FOIA Branch staff has been trained to complete a foreseeable harm analysis for each proposed FOIA exemption redaction. FOIA Branch staff routinely contact subject matter experts for their opinion regarding the release of records and for their input on what, if any, foreseeable harm exists. Lastly, to ensure the presumption of openness is being applied, the responsive records undergo at least two, and occasionally three, levels of review.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

The DOJ's 2009 FOIA Guidelines emphasized that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

1. For Fiscal Year 2017, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2017 Annual FOIA Report.

Answer: For Fiscal Year 2017, the NLRB adjudicated FOIA requests for expedited processing in an average of 2.46 days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: This is not applicable to the NLRB.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

Answer: In the past, the FOIA Branch has used the comparison of the FOIA Annual Report and the Quarterly Reports as a method for conducting self-assessments. In July 2017, the FOIA Branch made the transition to FOIAonline. FOIAonline's generous reporting tools, including a custom report feature, allow for greater self-assessments for the Branch and for the individual staff members. With FOIAonline, the FOIA Branch has been able to regularly conduct various reports to track the review status of FOIA requests and response time.

This summer, a FOIA Branch manager attended the *DOJ OIP Best Practices Workshop Series: Self-Assessments and Improving FOIA Processes*. The FOIA Branch managers have reviewed the *FOIA Self-Assessment Toolkit* prepared by DOJ and have highlighted areas for

improvement. For example, after completing Module 13: FOIA Website Development and Maintenance, the FOIA Branch is currently 1) updating the NLRB FOIA Homepage with additional FOIA guidance and detailed instructions for filing FOIA requests, and 2) updating Frequently Requested Records and E-Reading Room with additional records and links.

With the use of the FOIAonline reporting feature and the *DOJ FOIA Self-Assessment Toolkit*, the FOIA Branch has the tools to conduct helpful future assessments and looks forward to translating the assessment results into effective and efficient processing.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison.

Answer: The FOIA Public Liaison assisted approximately 110 requesters in Fiscal Year 2017.

5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.

Answer: Over the past year, the FOIA Branch has processed records for its FOIA cases ranging from one page to 20,000 pages. The FOIA Branch does not have the tools to provide an accurate response to this question.

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

Answer: Last year, the FOIA Branch and the Office of the Chief Information Officer (OCIO) staff began to investigate alternatives to the Agency's proprietary FOIA casehandling system, which had limited functions and limited reporting tools. The FOIA staff conducted surveys at other agencies on their FOIA casehandling systems and prepared a detailed list of requirements for the FOIA casehandling system. OCIO conducted a cost benefit analysis of the Agency's proprietary FOIA casehandling system and a review of other FOIA casehandling systems. Based upon the recommendations provided by the FOIA Branch and OCIO, NLRB Leadership entered into a Memorandum of Understanding with the Environmental Protection Agency, thereby allowing the NLRB to become a FOIAonline participating agency. In the five month period with FOIAonline, the FOIA Branch has observed a significant improvement in the filing, assigning, and tracking of FOIA requests, as well as the reporting and processing systems, and looks forward to greater improvements in the future with FOIAonline as its new FOIA casehandling system.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

Answer: The NLRB makes numerous proactive disclosures as follows:

- A. Since July 2017, the FOIA Branch has made proactive disclosures by making frequently requested records and records requested by the media publicly available on FOIAonline. Additionally, the FOIA Branch is working with OCIO to make these records, which are publicly available on the FOIAonline website, also available on the Agency website.
- B. The NLRB E-Reading Room contains a potpourri of NLRB materials, which are of interest to the public. It is located at <https://www.nlr.gov/news-outreach/foia/e-reading-room>.

E-Reading Room

The E-Reading Room is a collection of NLRB materials that may be found elsewhere on this site that are frequently requested or of broad general interest to the public. Here, the Agency keeps links to its rules and regulations, links to case summaries and publications.

- [Decisions and Orders of the NLRB](#)
- [Weekly Summary of NLRB Cases](#)
- [News Releases](#)
- [NLRB Rules and Regulations](#)
- [NLRB FOIA Regulations](#)
- [NLRB Public Notices](#)
- [NLRB Manuals](#)
- [Miscellaneous NLRB Publications](#)
- [NLRB Certification of Compliance with FOIA's Reading Room Requirements \(October 2008\)](#)
- [NLRB's Improvement Plan Under Executive Order 13392 \(FOIA\) \(June 2006\)](#)

- C. From the FOIA Homepage on the Agency’s website, the FOIA Branch continues to update the Frequently Requested Records web page and has recently made several proactive disclosures. The Frequently Requested Records web page is located at <https://www.nlr.gov/news-outreach/foia/frequently-requested-records>. In an effort to increase the number of proactive disclosures, there are links to new webpages: i) Cases and Organizations of Interest, and ii) Representation Petitions and Certifications / Unfair Labor Practice Charges and Dismissal Letters.

Frequently Requested Records

FOIA requests are generally “third-party” requests or concern an organization, or a particular topic of interest. This section includes some of the NLRB’s frequently requested records.

- Datasets requested relating to Specialty Healthcare
- As of August 1, 2017, frequently requested records may be found on FOIAonline 
- Representation Petitions and Certifications (RD, RM, & RC) / Unfair Labor Practice Charges and Dismissal Letters (CB, CC, CD, CP, CG & CE)
- Cases and Organizations of Interest

- i. The Cases and Organizations of Interest web page, which is located at <https://www.nlr.gov/cases-decisions/organizations-interest>, provides links to the case pages where documents about each case may be found, and provides direct links to public records available on the Agency website.

Cases and Organizations of Interest

Every case in the Agency’s Next Generation Case Management System (NxGen) has a corresponding “case page” that allows the public to see activity in that case and provides direct links to available public documents. With this page, the Agency is taking its first step towards presenting lists of cases for organizations that are of interest to the public. We expect to maintain this page, with organizations being added or removed as circumstances warrant. Additionally, our future plans are to present an “organization page” for most organizations involved in cases before the Agency.

- Bridgewater Associates
- Columbia University
- Google
- Harvard College
- Ithaca College
- Lyft Inc
- McDonald’s
- Menard, Inc
- National Football League
- Northwestern University
- Postmates, Inc
- Tesla Inc.
- The New School
- Trump Companies
- Volkswagen Group of America, Inc.
- Walmart
- Yale University

- ii. In response to receiving several monthly requests for certain records filed or issued by the twenty-six Regional Offices, the FOIA Branch decided to create a webpage where requesters may directly search for these records. These records are: Representation Petitions and Certifications in RD, RM, & RC cases; and Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, & CE cases. The FOIA Branch began posting the January 2017 records online at:

<https://www.nlr.gov/region-monthly-uploads>. On a monthly basis, the FOIA Branch maintains and updates this webpage with new responsive records in accordance with the FOIA.

Home Rights We Protect What We Do Who We Are Cases & Decisions News & Outreach

Home

Representation Petitions and Certifications / Unfair Labor Practice Charges and Dismissal Letters

This page contains Representation Petitions and Certifications in RD, RM, & RC cases as well as Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, & CE cases. The documents are organized by document type, region, and date.

Note: Records for certain NLRB offices are grouped together as follows:

1. **Region 1:** Boston, MA Regional Office and Hartford, CT Subregional Office
2. **Region 10:** Atlanta, GA Regional Office, Birmingham, AL Subregional Office, and Nashville, TN Resident Office.
3. **Region 15:** New Orleans, LA Regional Office, Memphis, TN Subregional Office, and Little Rock, AR Resident Office
4. **Region 12:** Tampa FL Regional Office, Hato Rey, PR Subregional Office, and Miami, FL Resident Office.
5. **Region 14:** St. Louis, MO Regional Office, Overland Park, KS Subregional Office, and Tulsa, OK Resident Office.
6. **Region 18:** Minneapolis, MN Regional Office and Milwaukee, WI Subregional Office.
7. **Region 19:** Seattle, WA Regional Office and Portland, OR Subregional Office
8. **Region 20:** San Francisco, CA Regional Office and Honolulu, HI Subregional Office
9. **Region 25:** Indianapolis, IN Regional Office and Peoria, IL Subregional Office

Region Year Month Document Type (Select One)

All 2017 Jan All

Select any item from dropdown and click on Apply to see results.

- D. Two categories of memoranda issued by the NLRB’s Division of Advice are released to the public on the Agency website at <https://www.nlr.gov/cases-decisions/advice-memos>. These are memoranda directing dismissal of unfair labor practice charges that are required to be released pursuant to NLRB v. Sears, Roebuck & Co., 421 U.S. 132 (1975), and Memoranda in closed cases that are not required by law to be released but are released in the General Counsel's discretion. On a monthly basis, the FOIA Branch reviews these Advice Memoranda pursuant to the FOIA and proactively posts these records.

Advice Memos

Two categories of advice memoranda are released to the public: memoranda directing dismissal of the charge that are required to be released pursuant to NLRB v. Sears, Roebuck & Co., 421 U.S. 132 (1975), and memoranda in closed cases that are not required by law to be released but are released in the General Counsel's discretion.

The tables below have been restructured and memos are now listed by date of issuance instead of date of release. Click [here](#) to see a list of the most recent releases.

Issuance Date

Case Number	Case Name	Issuance Date
29-CB-188219	New York State Nurses Association (Fresenius Medical Center)	08/31/2017
31-CA-185659	Ashley Furniture Industries	08/23/2017
14-CA-191636	Paycom Payroll	07/24/2017
28-CA-193540	CalPortland Co.	07/12/2017
05-CA-184753	United States Postal Service	05/12/2017
04-CA-183191	IBM Corp.	05/11/2017
13-CA-182757	Savage Fueling	05/04/2017
02-CB-184756	Electrical Workers Local 3 (Time Warner Cable New York)	05/02/2017
21-CB-188416	National EMS Association (NEMSA)(American Medical Response)	04/28/2017
10-CA-185899	Proffitt & Sons	03/30/2017
27-CA-179230	Western Logistics	03/22/2017
20-CA-186264	Matheson Postal Services	03/21/2017
21-CA-180992	Brinderson Constructors	02/27/2017
05-CB-182595	Machinist and Aerospace Workers Local 2424 (Jacobs Technology)	02/24/2017

- E. The Cases and Decisions Homepage, which is located at <https://www.nlr.gov/cases-decisions>, provides Board Decisions, Administrative Law Judge Decisions, Briefs and many other records as illustrated below.

Cases & Decisions

Board Decisions

Online NLRB decisions are offered in PDF format. Slip opinions are subject to revision before publication in bound volumes.

Unpublished Board Decisions

The Board decisions listed below are not intended or appropriate for publication and are not binding precedent, except with respect to the parties in the specific case. The Board began posting all unpublished decisions here on February 4, 2011. Please note that this page does not contain a complete collection of all unpublished Board decisions dated prior to February 4, 2011.

Notable Board Decisions

The Office of the Executive Secretary has identified the following Notable Board Decisions that may be of special interest to the labor-management community.

These decision summaries are provided for informational purposes only and are not intended to substitute for the opinions of the National Labor Relations Board.

Information on Decisions Issued by January 4, 2012 Board Member Appointees

On January 4, 2012, three individuals were named as recess appointments to the National Labor Relations Board. On June 26, 2014, the United States Supreme Court ruled in *NLRB v. Noel Canning*, 134 S. Ct. 2550 (2014), that these appointments to the Board were not valid. Below is a list of contested cases in which one or more of these appointees participated in the issuance of a decision.

Administrative Law Judge Decisions

After a Regional Director issues a complaint in an unfair labor practice case, an NLRB Administrative Law Judge hears the case and issues a decision and recommended order, which can then be appealed to the Board in Washington. If no exceptions are filed, the judge's order becomes the order of the Board. An administrative law judge's decision is not binding legal precedent in other cases unless it has been adopted by the Board on review of exceptions; these judges function much like trial court judges hearing a case without a jury.

Advice Memos

Advice memoranda issue guidance to regional office directing dismissal of charges.

Appellate Court

After the Board issues a decision and final order in a contested unfair labor practice case, any person aggrieved may seek review of the final order, and the Board may seek enforcement of its order, in an appropriate United States Court of Appeals. The General Counsel represents the Board in the Court of Appeals.

Contempt, Compliance, and Special Litigation Branch Briefs

The Contempt, Compliance, and Special Litigation Branch (CCSLB) represents the Board and the General Counsel in all suits not statutorily based on Sections 10(e) and (f) of the Act, and conducts civil and criminal contempt litigation to obtain compliance with Board orders.

Invitations to File Briefs

The National Labor Relations Board occasionally invites the public and all interested parties to file amicus briefs in cases of significance or high interest.

Cases and Organizations of Interest

Every case in the Agency's Next Generation Case Management System (NxGen) has a corresponding "case page" that allows the public to see activity in that case and provides direct links to available public documents. With this page, the Agency is taking its first step towards presenting lists of cases for organizations that are of interest to the public. We expect to maintain this page, with organizations being added or removed as circumstances warrant.

Weekly Summaries of Decisions

The Weekly Summary of Decisions is a digest of decisions issued by the Board and Administrative Law Judges each week, with a short description of the issues and facts of the case and a link to the decision, and also decisions by Appellate Courts involving NLRB cases.

Regional Election Decisions

Three types of Regional election Decisions are available here:

- F. The News & Outreach Homepage, which is located at <https://www.nlr.gov/news-outreach>, provides News Releases, Brochures, Material from NLRB Information Programs, and Graphs and Data.

News & Outreach

The Office of Congressional and Public Affairs is dedicated to helping journalists and the general public understand the mission and activities of the National Labor Relations Board. This is the place to find news about significant cases, settlements, complaints and decisions, as well as background material on the Agency and its leaders.

Contact the Office of Congressional and Public Affairs
Have questions about our news and initiatives? Contact the Office of Congressional and Public Affairs for more information.

News Releases
News releases are issued in cases of national and regional significance, and to announce initiatives of the Board and General Counsel.

Announcements
Announcements are notices of personnel and other administrative changes at the NLRB.

Fact Sheets
Visit here for background information on significant cases as well as issues pending before the Board and initiatives undertaken by the General Counsel.

Graphs & Data
The National Labor Relations Board (NLRB) has counted millions of votes, investigated hundreds of thousands of unfair labor practice charges, and issued thousands of decisions. The numbers tell an important part of the Agency's story. Making what we do accessible to the public is an important part of the NLRB's mission. In this section, you will find charts and tables that reflect the Agency's work, and downloadable data for your own analysis.

Request a Speaker
The NLRB's Outreach and Public Information Programs help to educate the citizens we serve and provide needed services to those who rely upon the NLRB to enforce the statute. To do this, the NLRB maintains a centralized Speakers' Bureau to handle requests for NLRB representatives to make presentations that explain what we do.

NLRB representatives may be available at no cost to speak at and participate in meetings, conferences and seminars with a variety of organizations, including but not limited to:

- i. In the Graphs and Data Homepage, which is located at <https://www.nlr.gov/news-outreach/graphs-data>, the public may download data on Recent Charge and Petition Filings and the Tally of Ballots from elections, as well as obtain graphs and tables regarding the Agency's mission.

Graphs & Data

The National Labor Relations Board (NLRB) has counted millions of votes, investigated hundreds of thousands of unfair labor practice charges, and issued thousands of decisions. The numbers tell an important part of the Agency's story. Making what we do accessible to the public is an important part of the NLRB's mission. In this section, you will find charts and tables that reflect the Agency's work, and downloadable data for your own analysis.

Over time, this page will be updated and expanded, and we welcome your input. Please forward comments and suggestions to publicinfo@nlrb.gov.

Graphs & Tables

- Charges and Complaints
- Petitions and Elections
- Decisions
- Litigation
- Remedies

Data

- Recent Filings
- Tally of Ballots

- G. The Reports and Guidance Homepage, which is located at <https://www.nlr.gov/reports-guidance>, provides NLRB Manuals, General Counsel Memoranda, Operation-Management Memoranda and more records as shown below.

Reports & Guidance

The National Labor Relations Board offers many resources on this site, where labor professionals, lawyers and the general public can learn more about the Agency's mission and how the National Labor Relations Act affects the private sector workplace in the U.S.

Reports

The NLRB offers many reports on the web for public review. Where available, archived versions are also posted.

NLRB Reports

Rules & Regulations

On December 15, 2014, the National Labor Relations Board adopted changes to its representation case procedures. Those changes became effective April 14, 2015 and are being applied to all petitions filed on or after April 14, 2015. Petitions filed before April 14, 2015 are being processed under the representation case procedures that were in effect when the petition was filed and do not include the changes that became effective April 14, 2015. Accordingly, the Rules with and without the changes appear below.

General Counsel Memos

General Counsel memoranda are issued to field offices and/or Washington offices by the General Counsel to provide policy guidance.

Operations-Management Memos

Operations-Management memoranda are issued to the field offices from the Division of Operations-Management of the General Counsel's Office in Washington to give direction in case handling matters.

Public Notices

[NLRB Shutdown Contingency Plan in The Event of Lapsed Appropriations](#)

Federal Register Notices

[Information on Quality Guidelines](#)

Customer Service Standards

Manuals

Our manuals are written for legal and non-legal audiences and provide a wealth of material useful for understanding and navigating NLRB cases. Hard copies for many of the following manuals may be ordered through the Government Printing Office here: <https://bookstore.gpo.gov/>

Policies

Find more information about important NLRB policies, including privacy, accessibility and social networking.

2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

Answer: Yes. As described in detail in Section I Question 6, the FOIA Branch staff provided the Regional Offices and Headquarters with web tours of the Agency's FOIA resources, tools on the Agency's website, and location of Agency records. This live tutorial was prepared to assist Agency employees in answering the public's questions regarding FOIA and to provide guidance as to the type and location of records on the Agency website. The positive feedback included grateful responses from Agency employees who were not aware of the volume of records available on the Agency website. The Regional Office employees are in contact with the public on a daily basis. The goal of the web tours was to inform Agency employees of the location of these records, so they may in turn share this information with the public.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Answer: Yes.

4. If yes, please provide examples of such improvements.

Answer: The FOIA Branch routinely guides requesters on the Agency website showing requesters the location of records and how to download the data in CSV format. Requesters provide the FOIA Branch with feedback and notes are taken in order that the Agency can make improvements when the homepage upgrades are implemented. The responsive records posted on FOIAonline are available to the public. Due to FOIAonline's powerful search engine, the public can easily conduct a search and readily obtain records made publicly available.

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

Answer: After conducting a self-assessment, the FOIA Branch is upgrading the FOIA Homepage, including the Frequently Requested Records page and the E-Reading Room, to make it more user friendly and to greater assist the public. Additionally, the FOIA Branch is working with OCIO to make these records, which are publicly available on the FOIAonline website, also available on the Agency website.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing.

Answer: The FOIA Branch obtained FOIAonline as its new FOIA case management system. On the FOIAonline website, the FOIA Branch is able to post records quickly and FOIAonline has an excellent search engine, which is user friendly for the public. Due to the FOIAonline tracking and filing tool, the FOIA Branch has increased its FOIA workflow

process. The FOIAonline reporting tool allows the FOIA Branch to produce custom reports for staff and management and to create metrics to increase efficiency. Additionally, the FOIAonline report tools enable the FOIA Branch and the staff to easily conduct self-assessments. The FOIA Branch uses Relativity for FOIA cases involving voluminous responsive records.

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

Answer: Yes, the NLRB successfully posted the four quarterly reports for Fiscal Year 2017. The reports are available on the FOIA.gov website at:

<https://www.foia.gov/quarter.html?NLRB> and on the NLRB website at:
<https://www.nlr.gov/reports-guidance/reports/foia-quarterly-reports>.

3. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2018.

Answer: This is not applicable to the NLRB.

4. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

Answer: The NLRB 2016 FOIA Annual Report is posted on the Agency website at:
<https://www.nlr.gov/reports-guidance/reports/foia-annual-reports>.

5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

Answer: By using technology, the FOIA Branch created an electronic FOIA processing system. The electronic FOIA processing system has streamlined the FOIA workflow process by converted the paper files into digital form. Being a paperless office allows the FOIA Branch to be environmentally friendly, to save money for the agency, to reduce the need for file cabinet storage, to facilitate information sharing, and to make exempt information more secure. The FOIA Branch's use of technology is one of the reasons they received the DOJ Sunshine Week Award for "Award for Exceptional FOIA Service by a Team of Agency Professionals."

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Answer: No. The NLRB does not have a separate track for simple requests pursuant to the NLRB regulations. However, the FOIA Branch manually reviews each FOIA request and makes an effort to process the simple requests first.

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

Answer: This is not applicable to the NLRB, because the Agency does not have a separate track for simple requests.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

Answer: This is not applicable to the NLRB, because the Agency does not have a separate track for simple requests.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Answer: The average number of days to process all non-expedited requests was over twenty working days.

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016? If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.

Answer: The NLRB had a FOIA request backlog of 121 at the end of Fiscal Year 2016. At the end of Fiscal Year 2017, the NLRB had a FOIA request backlog of 294, which reflects a backlog increase of 143%.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: The NLRB backlog is attributed to several factors. The first factor was the understaffed FOIA Branch lost several senior staff members. Over the past year, the FOIA Branch has expended resources for trainings on the FOIA and case law, electronic FOIA casehandling, and technology tools to new staff members and detailed agency employees. Ongoing training requires a shifting of resources from FOIA case processing to training staff at various intervals. While the detailed agency employee assistance was time limited and cost the FOIA Branch training time, a positive outcome is that the detailed employees can share their FOIA knowledge with other Agency employees. Additional staffing would assist in eliminating the backlog, but the Branch is working on training current staff on efficiencies.

The second factor is the increase in the number of proactive disclosures made available on the Agency website, which need to be reviewed and redacted pursuant to the FOIA by the FOIA Branch. Previously, the FOIA Branch received several monthly requests for the twenty-six Regional Offices' Representation Petitions, Certifications, Unfair Labor Practice Charges, and Dismissal Letters. Pursuant to the FOIA Improvement Act of 2016, beginning in FY 2017, the NLRB began posting these records online at: <https://www.nlr.gov/region-monthly-uploads>. Additionally, the FOIA Branch reviews all NLRB Advice Memoranda and

posts these records at: <https://www.nlr.gov/cases-decisions/advice-memos>. These proactive disclosure postings require a large amount of search and review time, which diverts staff from FOIA request processing and consequently increases the backlog. The FOIA Annual Report does not have a section to discuss the proactive disclosure work, which is as important as the responses to FOIA requests.

The third factor is that for much of FY 2017, the NLRB was using an outdated proprietary FOIA casehandling system, which was created in 2001 and needed an enormous amount of technical updating by OCIO. In order to properly use Agency resources, the FOIA Branch, OCIO, and NLRB Leadership made the decision to become a FOIAonline participating agency. The FOIAonline workflow system and repository allows the FOIA Branch to receive, manage, track, and respond to FOIA requests, generate reports, communicate with requesters, manage FOIA case files as electronic records, and proactively disclose records. In late July 2017, the NLRB made the transition to FOIAonline. However, a large amount of staff time was needed for the data migration, implementation, and training. Going forward, the FOIA Branch projects the transition to FOIAonline will save the FOIA Branch time and the Agency's resources in this time of fiscal constraints.

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2017.

Answer: The NLRB received 2,218 requests during Fiscal Year 2017. The total Fiscal Year 2017 backlog was 294, which is the equivalent of 13% of the total requests received.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog.

Answer: No. The NLRB did not have an Administrative Appeal backlog at the end of Fiscal Year 2016. At the end of Fiscal Year 2017, the NLRB had an Administrative Appeal backlog of one case.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
 - An increase in the number of incoming appeals.
 - A loss of staff.
 - An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
 - Any other reasons – please briefly describe or provide examples when possible.

Answer: The three factors discussed in answer 6 above explain the cause for the NLRB backlog. It is important to note that in Fiscal Year 2016 the NLRB received 26 FOIA appeals and in Fiscal Year 2017 the NLRB received 11 FOIA appeals. The FOIA Branch attributes this decrease to dispute resolution training offered by OGIS and the FOIA Branch Managers and to the well drafted interim and final response letters. In addition, the one backlogged FOIA appeal was complex and required a considerable amount of work.

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

Answer: The NLRB received 11 FOIA appeals during Fiscal Year 2017. The total Fiscal Year 2017 FOIA appeals backlog was 1, which is the equivalent to 9.09% of the total FOIA appeals received.

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2017?

Answer: THE NLRB did not have a backlog in excess of 1000 FOIA requests in Fiscal Year 2016. In Fiscal Year 2017, the FOIA Branch took the following steps to reduce backlog:

- Obtained FOIAonline as its new FOIA case tracking system;
 - Made more records publicly available on the FOIAonline website;
 - Streamlined the FOIA workflow process;
 - Utilized the FOIAonline report tool to provide metrics to measure effectiveness and make assessments;
- Authorized compensatory time and time off awards for the FOIA Branch staff members;
- Obtained two attorneys for a 90-day period detail;
- Provided in-house training for FOIA Branch staff;
- Encouraged FOIA Branch staff to attend DOJ and OGIS training sessions and the ASAP 10th National Training Conference;
- Provided FOIAonline training by FOIAonline Training Team at the NLRB Headquarters in Washington, DC;
- Requested additional staff personnel and additional supervisory personnel; and
- Requested personnel for vacant positions.

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?

Answer: This is not applicable to the NLRB.

D. Status of Ten Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Answer: No.

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: The FOIA Branch is pleased to report that it closed nine of the ten oldest FOIA requests reported in the Fiscal Year 2016 Annual FOIA Report. The tenth FOIA request was a voluminous request, which required the use of Relativity. Due to a shortage of staff, only one attorney was tasked with this FOIA request, which required hundreds of review hours. The FOIA Branch provided seven rolling productions. The final production and final response letter was provided on January 10, 2018.

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

Answer: None of the requesters withdrew their request on the ten oldest cases. The FOIA Branch closed the requests by providing the responsive records to the requester. The FOIA Branch did not provide an interim response.

TEN OLDEST APPEALS

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Answer: For the Fiscal Year 2016 Annual FOIA Report, the NLRB reported it did not have any old administrative appeals.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: This is not applicable to the NLRB. For the Fiscal Year 2016 Annual FOIA Report, the NLRB reported it did not have any old administrative appeals.

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Answer: For the Fiscal Year 2016 Annual FOIA Report, the NLRB reported no outstanding consultations.

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: This is not applicable to the NLRB. For the Fiscal Year 2016 Annual FOIA Report, the NLRB reported no outstanding consultations.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.

Answer: The NLRB did not face any obstacles in closing its ten oldest requests.

21. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: This is not applicable to the NLRB.

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2017.

Answer: This is not applicable to the NLRB. The NLRB closed the last oldest request from the 2016 FOIA Annual Report in January 2018.

G. Success Stories

Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from

any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer: National Labor Relations Board: Using technology to process electronically and proactively post over 30% more records on its FOIA website.

- By using technology and transitioning to FOIAonline as the Agency FOIA case management system, the NLRB FOIA Branch created a streamlined, electronic FOIA workflow process, completely eliminating paper files. Being a paperless office allows the FOIA Branch to be environmentally friendly, boost productivity, more efficiently share information, and save the Agency funds.
- Pursuant to the FOIA Improvement Act of 2016, the NLRB FOIA Branch has helped improve the website and increased the number of FOIA website postings by 30%. Additionally, upon transitioning to FOIAonline, the NLRB has proactively made more responsive records available to the public on the FOIAonline website.