

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 22-03

February 10, 2022

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

FROM: Jennifer A. Abruzzo, General Counsel

SUBJECT: Inter-agency Coordination

There is no better calling than to ensure that the rights of workers in this country are protected and that violations of their rights are swiftly remedied. That is why I am so pleased that the current administration is so committed to workers' rights, including creating a White House Task Force on Worker Organizing and Empowerment to consider issues that may be hindering full enforcement of workplace protections. I fully embrace the recommendations contained within its February 7, 2022 report, which will help to restore some economic stability and correct imbalances of power and voice for many workers throughout this country through internal process improvements and robust inter-agency coordination. I recognize and appreciate all that you do to help these workers each and every day and look forward to working with you to ensure that the NLRB is doing our part to act as a model employer and to effectively partner with other federal agencies.

For worker protection agencies, such as the NLRB, EEOC, and DOL's WHD, OSHA, OLMS, OFCCP, and MSHA, in order to fully effectuate our respective missions, I agree with the Task Force that we need to engage in better inter-agency collaboration and coordination to ensure that the government is co-functioning and co-enforcing all related laws in the most effective and efficient way, which will ensure workers are fully protected while minimizing employers' compliance burdens. Stronger collaboration and networked enforcement will particularly assist those most vulnerable and will help to secure: a voice at the table through union representation if workers so choose; increased protections from systemic abuses, including discrimination, retaliation, and other mistreatment; closure of gender and racial wage gaps; more equitable compensation; and sustained economic opportunities, fairness, and mobility.

As you are aware, our [current Memoranda of Understandings \(MOUs\)](#) with other worker protection agencies establish ground rules for information-sharing, investigation, enforcement, training, and outreach. However, they need to be strengthened and enhanced, and I am leading efforts to do just that. I recently signed MOUs between the NLRB and DOL's WHD and OLMS and have initiated discussions with other agencies as well.

Relatedly, I am pleased to advise you that we are partnering with our colleagues at DOL and EEOC at the Headquarters' level to establish a regular series of virtual webinars with targeted audiences that focuses on combatting retaliation. All Regional Offices are strongly encouraged to develop similar inter-agency partnerships and engage in similar joint activities with their local counterparts.

By coordinating among worker protection agencies where there is jurisdictional intersection, building relationships at the headquarters and local levels, and establishing improved referral, resource and information sharing mechanisms, we will create better avenues for joint investigations, joint enforcement, joint training and outreach activities, and joint policymaking, where appropriate. This allows for increased efficiencies for agencies and parties, as well as improvements in our respective investigations and decision-making.

And, as we deal with the challenges and impacts associated with the COVID-19 pandemic, it is more important than ever to have effective inter-agency partnerships that go well beyond traditional worker protection agencies to fully effectuate our respective missions so that workers, their families, and our communities are afforded equal opportunities to thrive at work. In that regard, I am taking steps to enhance partnerships with FMCS, NMB, and DOJ's Civil Rights Division.

I am also proceeding with efforts to establish partnerships with IRS, DOJ's Antitrust Division, and FTC to address unfair methods of competition that undermine workers' rights. This includes coordination in order to: reduce the incidence of misclassification of employees and ensure that employers properly pay their employees and their employment taxes; create mechanisms for sharing data about acquisitions, mergers or similar employer organizational actions that may detrimentally affect organizing or bargaining efforts, such that workers are more in need of whistleblower and anti-retaliation protections; and give greater attention to non-disclosure, non-solicitation, and non-compete agreements that harm fair competition and violate employees' rights under Section 7 of the Act.

I am also committed to ensuring that all immigrant workers are able to fully and freely exercise their labor rights. While we have a current [MOU](#) with DHS to avoid conflicts between workers' rights and immigration enforcement agencies to protect immigrant workers, I believe it needs strengthening so that immigrant workers are more effectively protected. I fully support DHS Secretary Mayorkas' [memo](#) on worksite enforcement that puts DHS's focus where it belongs—on unscrupulous employers, who exploit the vulnerability of undocumented workers through threats of deportation in order to undermine the labor standards of everyone in our workforce and disadvantage law-abiding employers.

I look forward to working together with DHS, as well as with DOJ's Employee Immigrant Rights Section and other worker protection agencies, to ensure that our respective investigatory, administrative, and enforcement actions do not conflict and to establish mechanisms such that all workers, regardless of immigration status, have the full protections they need to freely assert their labor and employment rights. As I stated in GC Memo 22-01, Ensuring Rights and Remedies for Immigrant Workers Under the NLRA, I believe this must include prosecutorial discretion in all appropriate cases involving workers who are victims of, or witnesses to, violations of our Act.

As you are also aware, I am focused on promoting more education for workers, businesses, advocates, and the broader public through a robust outreach program, and I welcome engagement with the SBA to assist them with a resource guide for employers. You are instrumental in effectuating our broad educational goals and I plan to fully support and build upon your Regional outreach work by providing you with necessary resources. It is imperative that we have equitable and inclusive engagement with all stakeholders to ensure that we have a better

understanding of the issues and concerns of community members, especially young, underserved, and marginalized workers, including women and people of color. Finally, through these active engagements we will better assess the success of our joint activities.

Thank you, as always, for your continued dedication to effectuate our Agency's mission in fully protecting the workplace rights of employees throughout this country, which includes vigorous, exceptional and comprehensive education, enforcement, and compliance efforts.

/s/
J.A.A.