

## **Trump Administration Signals Significant Changes from Labor Board**

On February 14, 2025 the new GC William B. Cowan issued a memo to regional directors modifying their enforcement directives on a wide range of employment related policies. During the Biden administration, the NLRB sought to expedite and eliminate barriers to unionization as well as regulate the non-unionized workplace with policies impacting severance agreements, non-competes and electronic monitoring.

For example, the Biden era memo GC 23-05 provided enforcement guidance on an NLRB decision that prohibited employers from proffering severance agreements that included broad non-disparagement and confidentiality provisions. The Biden era Board held that such agreements stifled employees' ability to engage in concerted protected activity relating to the terms and conditions of their employment. The Biden GC even held that this prohibition applied to supervisory employees not typically protected by the National Labor Relations Act.

Furthermore, the Biden era memos GC 23-08 and GC 25-01 sought to work in coordination with the Federal Trade Commission ("FTC") to prohibit employer use of non-compete agreements. The Biden era GC asserted that non-competes "chill employees from concertedly threatening to resign to demand better working conditions;" "chill employees from concertedly seeking or accepting employment with a local competitor to obtain better working conditions;" or otherwise prevent employees from engaging in protected, concerted activity. In October 2024, the Biden era GC doubled down on her view that non-competes violated the NLRA. Now, the Trump Administration has rescinded these broad policies.

It is expected in the coming months as the Trump administration seeks to reshape the NLRB that the Board will issue decisions overturning some of the more pro-employee/union policies issued under the Biden Board as well as revoke guidance relating to employee handbooks. Employers should use this opportunity to reevaluate language in severance agreements, employment agreements including restrictive covenants as well as handbooks that were modified to comport with the Biden era guidance. Furthermore, we anticipate major changes in the union election procedure that will lengthen the timeframe for union elections.

The Labor and Employment attorneys at Bochner PLLC stand ready to assist you in reviewing your personnel documents as well as all aspects of labor-management relations. Partner/Employment Chair Jeffrey Douglas ([jdouglas@bochner.law](mailto:jdouglas@bochner.law)), Eric Dawson ([edawson@bochner.law](mailto:edawson@bochner.law)), and Chloë Brownstein ([cbrownstein@bochner.law](mailto:cbrownstein@bochner.law)).