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2026 NLRB Update: 3-1 Republican Majority Could Accelerate Decisions During the Second Trump Administration

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KEY POINTS

- After more than a year without a quorum, the NLRB confirmed a 3-1 Republican majority on August 7, 2026, when the Senate confirmed James Macy alongside the renomination of Democratic Member David Prouty.
- By longstanding Board tradition, three affirmative votes are required to overturn significant precedent — a threshold now within reach, making reversals of key Biden-era decisions likely in the second half of 2026 and into 2027.
- General Counsel Crystal Carey's February 2026 memorandum directed regional offices to prioritize early settlement, restrict enhanced remedies to genuinely egregious cases, and focus unfair labor practice enforcement on clear facial violations.
- The Supreme Court's decision in *Trump v. Slaughter*, 609 U.S. ___ (2026), overruled *Humphrey's Executor*, holding that officers exercising executive power must be removable by the president — a ruling expected to affect the pending challenge to the firing of former Member Gwynne Wilcox.
- The bipartisan Faster Labor Contracts Act, passed by the House on June 9, 2026, would require employers and unions to begin bargaining within 10 days of certification, submit disputes to federal mediation after 90 days, and proceed to binding interest arbitration if mediation fails.

Despite the hopes of employers, the National Labor Relations Board (NLRB or the Board) has been at a standstill for most of President Donald Trump's second administration. After nearly a year without a quorum, the Board regained its ability to decide cases when the U.S. Senate confirmed Scott Mayer and James Murphy as Members, and Crystal Carey as General Counsel, on December 18, 2025, all of whom were sworn in on January 7, 2026.

On April 13, 2026, President Trump nominated James Macy to fill the vacant Republican seat and renominated Democratic Member David Prouty for a second term. Following a June 10, 2026, confirmation hearing, the Senate Health, Education, Labor and Pensions (HELP) Committee approved Macy's nomination on July 15, 2026, by a party-line 12-11 vote. On August 7, 2026, the Senate confirmed both nominees.

Prior to the Senate's confirmation of Macy, the Board had a three-member quorum and could issue decisions interpreting the National Labor Relations Act (NLRA), which covers most private-sector employers. However, because the current Board members have expressed an intent to continue the Board's historical reluctance to reverse significant precedent without a three-member majority, the NLRB has not yet reversed several Biden-era decisions that have had a significant negative impact on employers.

However, following the Senate's recent vote on August 7, the Board is now composed of three Republican appointees (Mayer, Murphy, and Macy) and a single Democratic appointee (Prouty). Accordingly, the 3-1 Republican majority presents an opportunity for the NLRB to accelerate what has previously been a slow and methodical approach to decision-making over the past several years. Below are key NLRB and labor law developments that warrant employer attention in the second half of 2026.

NEXT STEPS FOR THE 3-1 REPUBLICAN MAJORITY

By longstanding Board tradition, three affirmative votes are required to overturn significant precedent. With only two Republican Members since January 7, 2026, the current Board has deliberately refrained from revisiting key Biden-era decisions. Following his confirmation on August 7, 2026, Macy gives Republicans a 3-1 majority. As a result, the Board will likely revisit precedent on key issues including joint employment, union recognition and election procedures, handbook and severance-agreement standards, employer speech, and captive-audience meetings.

RECENT GENERAL COUNSEL ACTIVITY

Even before the Board secured its 3-1 majority, the NLRB General Counsel's Office has been busy. On February 14, 2025, then-Acting General Counsel William B. Cowen issued Memorandum GC 25-05, rescinding 29 pro-union memoranda issued by his predecessor, Jennifer Abruzzo. A General Counsel memorandum is not law, but it indicates how the General Counsel intends to exercise its unfair labor practice investigatory and prosecutorial discretion and guides Regional Directors in enforcing the NLRA.

Since her confirmation in January 2026, General Counsel Carey has issued her own memoranda regarding the NLRB's enforcement priorities. On February 27, 2026, she issued Memorandum GC 26-03, providing updated case-handling guidance to the NLRB's regional offices. The memorandum directs regions to prioritize early settlement, including approving lawful settlements and granting withdrawal requests regardless of the nature of the allegations. The memorandum also restricts Biden-era enhanced remedies such as notice readings, public apology letters, and nationwide posting requirements, limiting them to genuinely egregious or recidivist cases. In addition, when employees bring unfair labor practice charges related to an employer's workplace rules and policies, GC 26-03 directs regions to focus on rules that "present clear, facial violations—such as outright bans on discussing wages among employees." General Counsel Carey has explained that these changes will reduce the NLRB's backlog of cases.

OTHER NOTABLE DEVELOPMENTS

While the NLRB has not yet reversed Biden-era decisions as expected, the legislative and judicial branches have been active in shaping the Board and federal labor law. For example, in the legal fight over President Trump's firing of former NLRB Member Gwynne Wilcox, the D.C. Circuit upheld the termination, and the Supreme Court signaled in a preliminary stay order that the removal was proper. Although Wilcox's challenge remains pending, the Supreme Court is expected to uphold the termination based on its recent decision in *Trump v. Slaughter*, 609 U.S. ___ (2026), in which the Court overruled *Humphrey's Executor v. United States*, holding that officers who exercise executive power (*e.g.*, commissioners and board members in executive agencies) must be removable by the president. Accordingly, the Supreme Court may likely reach the same result in Wilcox's case.

Meanwhile, on June 9, 2026, the U.S. House of Representatives passed a bipartisan bill aimed at speeding up collective bargaining through mandatory first-contract arbitration: the Faster Labor Contracts Act (FLCA). If enacted, the FLCA would be a significant amendment to the NLRA. Key FLCA provisions would require employers and unions to: (i) begin bargaining for a first union contract within 10 days of a union's post-certification request, (ii) submit any bargaining disputes to federal mediation after 90 days of bargaining, and (iii) participate in binding interest arbitration (*i.e.*, the union and employer agree to accept the terms of a collective bargaining agreement set by a neutral third party) within 30 days after mediation fails. Although the FLCA's fate in the Senate is uncertain, the bipartisan support in the House represents a shifting view of labor law that employers should continue to monitor given the increasing Republican support for labor law reform.

LOOKING AHEAD TO 2027

The NLRB is open for business with a quorum, and now, more than one and a half years after President Trump began his second administration, the NLRB has a 3-1 Republican majority. Accordingly, both the pace and extent of the Board's decision-making on significant issues are likely to increase and expand in 2026 and 2027. In the meantime, employers should use this window to review handbooks, workplace rules, and policies, and train managers on evolving NLRB standards and election procedures.

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