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November 29, 2012

The Honorable Mark Pearce
Chairman
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Dear Chairman Pearce and Acting General Counsel Solomon:

On November 19, in response to my inquiry, the National Labor Relations Board's (NLRB) Office of Inspector General (IG) issued a memorandum, attached, stating that "certain statements in e-mail messages from personnel in the Division of Advice and Region 19 infringed upon the statutory prohibitions regarding ex parte communications to Board Members."¹ Given these findings, the IG stated that "the Agency's public affairs activities could benefit from more clearly defined policies and procedures."² To ensure policies and procedures are timely and effectively implemented to stop prohibited ex parte communications, the committee is requesting a briefing on and documents and communications relating to the NLRB's actions in response to the November 19 IG report.

On April 29, 2011, the NLRB's Director of Public Affairs requested assistance from NLRB personnel, including then-Chairman Liebman and Acting General Counsel Lafe Solomon, in responding to questions posed by CNN.³ In a chain of emails that included then-Chairman Liebman, individuals reporting to the NLRB General Counsel discussed the remedy sought in the

¹ Memorandum, Report of Investigation-OIG-I-473 at 1 (November 19, 2012).

² Memorandum from David Berry, NLRB Inspector General, to Mark Pearce, NLRB Chairman, and Lafe Solomon, Acting General Counsel (November 19, 2012) (on file with author).

³ Memorandum, Report of Investigation-OIG-I-473 at 2.

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NLRB's case against The Boeing Company (Boeing) and a potential response by Boeing.⁴ As these discussions were relevant to the merits of the case against Boeing, the e-mails that included then-Chairman Liebman were prohibited *ex parte* communications under 5 CFR § 102.126(a).⁵

Clearly, revisions to policies and procedures are necessary to stop prohibited *ex parte* communications at the NLRB. To ensure such policies and procedures are timely and effectively implemented, please contact committee staff to arrange a briefing on and provide all documents and communications relating to policies and procedures adopted in response to the November 19 IG report no later than December 13, 2012. To arrange the briefing or ask any questions regarding this request, please contact Marvin Kaplan, House Education and the Workforce Committee, at (202) 225-7101.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce

cc: The Honorable George Miller, Senior Democratic Member, Education and the Workforce Committee

⁴ *Id.* at 1-8.

⁵ *Id.* at 8.