

NLRB General Counsel Looks to Partner with the Federal Mediation and Conciliation Service (FMCS) to Support Voluntary Recognition and Collective Bargaining

Labor Relations Update Blog on April 27, 2022

On April 27, 2022, NLRB General Counsel Jennifer Abruzzo released a [memorandum](#) to all NLRB field offices detailing and encouraging an extensive partnership with the Federal Mediation and Conciliation Service (“FMCS”).

The FMCS is an independent agency created to “preserve and promote labor-management peace and cooperation.” In doing so, FMCS provides services to assist with collective bargaining, including trainings on collaborative contract negotiation, conflict resolution, and partnership building between management and unions. Additionally, FMCS provides mediation services and, as of April 26, 2022, offers assistance in card counts if an employer has agreed to voluntarily recognize a union where majority support for the union can be demonstrated via signed employee cards. FMCS services are free of charge at the time of certification, for first contract bargaining and if charges are filed alleging bad faith bargaining.

General Counsel Abruzzo stated that this partnership takes a “whole-of-government approach” and “builds on the strengths, expertise, and resources of each Agency to advance national policy.” Regions are encouraged to both remind parties of FMCS offerings and engage FMCS mediators when instituting remedies in 8(a)(5) and 8(b)(3) bad faith bargaining cases to facilitate good faith bargaining between parties.

Additionally, General Counsel Abruzzo noted that Regions should integrate FMCS services “more directly” by attaching documents detailing FMCS services when sending notices or letters to parties pertaining to certification or unfair labor practices. The attachments note the offerings of FMCS and provide contact information for FMCS personnel so that parties can talk to the agency directly.

This partnership will likely have an interesting effect on NLRB resolutions going forward. Regions will likely try to incorporate FMCS services where possible and parties may find themselves before FMCS mediators, or involved in FMCS trainings, more so than before.

We will keep you updated on any new developments pertaining to this new partnership.

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