

President Biden Fires NLRB General Counsel as Pendulum Swings in Favor of Organized Labor

By Monica Frantz

In a bold move that is sure to change the trajectory of the labor law landscape, President Biden has fired National Labor Relations Board (NLRB) General Counsel Peter Robb. Robb, who was appointed by President Trump, was serving a four-year term that was set to expire in November 2021.

Just minutes after President Biden took office on January 20th, the new administration requested Robb's resignation. In a letter to the White House, Robb declined to resign from his position, noting that doing so would "undermine Congress's intent that the Office of General Counsel be independent of the Board and the Executive Branch so that the General Counsel, as chief prosecutor of the NLRA, can prosecute potential violations of the NLRA free from political influence and pressure." Robb expressed concern that a presidential removal of the NLRB's General Counsel would result in the prosecution of NLRA violations being subject to the political influence of the White House and jeopardize the NLRA's mission to fairly resolve labor disputes. After Robb refused to resign, and despite his remarks, the new administration moved forward with ousting him from his position.

Robb is a veteran management-side labor law attorney who has pushed a pro-employer agenda throughout his term. Often at odds with union leaders and workers' advocates, Robb has been described by critics as an "anti-worker" union enemy. The Service Employees International Union (SEIU), which represents some two million workers in healthcare, the public sector, and property services, urged President Biden to immediately fire Robb upon taking office. Indeed, union leaders have applauded the president's decision to fire Robb as a step forward in reversing anti-union policies and initiatives.

The NLRB is a federal agency tasked with enforcing labor laws and is governed by a five-person board and a General Counsel, who serves independently from the board. The NLRB's Office of General Counsel is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB field offices in the processing of cases. Since the NLRB's General Counsel is the individual who prosecutes unfair labor cases before the board, the General Counsel has significant influence in setting federal labor policy by determining what charges to pursue and what legal arguments to present to the board. The General Counsel also wields influence regarding the federal rule-making process. During his tenure, Robb has often used rulemaking and advice memos to further employer-friendly agendas.

The swift ousting of Robb signals that President Biden is serious about his campaign promise to support unions. While President Biden has not yet named Robb's successor, the removal of Robb will undoubtedly result in a shift in focus from pro-employer policies to workers' rights and organized labor. Employers can expect that many of Robb's business-friendly initiatives will be undone once he is

replaced by a new General Counsel who is sure to be more sympathetic to union interests.

Roetzel will continue to monitor developments in this area. For more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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