

EO 13985 – National Labor Relations Board Final Equity Action Plan

Agency name and mission: National Labor Relations Board (NLRB or Agency). The NLRB is an independent federal agency established in 1935 to promote workplace democracy and for more than 85 years has been at the forefront of the effort to promote and protect the rights of employees under the National Labor Relations Act (NLRA or Act). The NLRB achieves these objectives by carrying out its two principal statutory functions: (1) conducting representation elections among employees to determine their wishes regarding union representation; and (2) investigating and prosecuting alleged unfair labor practices by employers and unions. Thus, the Agency is geared toward protecting workers’ rights to choose union representation, engage in collective bargaining with their employers, and otherwise act collectively for their mutual aid and protection in the workplace.

Summary of Action Plan: Initially, the NLRB remains committed to its belief, articulated in our 200-day equity assessment, that the Agency can advance equity and remove barriers for underserved communities by clearly communicating, internally and externally, that Agency leaders are committed to achieving these objectives and by embedding consideration of these objectives into all aspects of its strategic planning and day-to-day operations. In sum, we continue to believe that taking an “all-hands” approach on a day-to-day basis is essential to success.

With that basic philosophy as the foundation, the Agency’s Action Plan to enhance equity comprises three initiatives. The first initiative is to expand Agency outreach programs to better reach underserved communities. This initiative is grounded in the reality that many underserved workers are unaware of their rights under the NLRA, and thus surely will not exercise them. The intent of this initiative is to educate these workers about their rights, so that they will understand when their rights have been violated and how to access Agency services when needed to vindicate these rights. At the same time, outreach encompasses educating small and minority-owned businesses as well, to provide resources for compliance with statutory obligations.

The second initiative is to begin gathering and analyzing meaningful demographic data about individuals and organizations—on a voluntary and anonymous basis—that use or are considering using Agency services. The intent is to learn as much as possible about our current and potential customers so that we can begin to measure whether we are reaching underserved communities, to understand where we are falling short in doing so, and to make educated decisions about how best to close those gaps.

The Agency’s third initiative is to expand digital resources for non-English speakers. This initiative recognizes the fact that many workers in this country do not speak English, and as a result may have difficulty learning about their rights under the NLRA and accessing the Agency’s services. Although we know that some of these workers may also be on the wrong side of the so-called “digital divide,” we are hopeful that this divide is narrowing every day and that expanding our digital resources to non-English speakers will pay ever increasing dividends in the years to come. To that end, and as further described below, the NLRB has made vast improvements in providing digital resources to the public and we intend to continue doing so.

Summary of Early Accomplishments: The Agency's three initiatives are intended to work together as an overall plan to reach and to serve underrepresented and underserved communities. The NLRB has realized early accomplishments in establishing the foundation necessary to achieve our goals. Since January 20, 2021, the Agency revitalized its Outreach Committee and created focused subcommittees: partnership with embassies and consulates, collaboration with workers' rights and other advocacy groups, advancement of the Agency's social media presence, and development and organization of outreach materials.

The Agency has conducted widely attended employee webinar trainings on outreach, addressing topics such as avoiding ethical pitfalls, developing regional social media presence, and engaging and establishing relationships with external entities like other federal and state agencies, consulates, and advocacy groups. The NLRB has also successfully partnered with the Mexican embassy and numerous consulates nationwide by signing Letters of Arrangement to further generate awareness in those communities of employees' rights under the Act. The Agency established its student ambassador program fostering relationships with high schools in underserved areas and reached out to regional worker centers with training and educational programs for the centers to share knowledge of the Agency and employees' labor rights. We are also collaborating with these external groups to share demographic data to better identify the underserved and underrepresented communities for whom we are striving to enhance awareness of, and access to, Agency services.

Since March 2021, the Agency has grown its social media presence on the General Counsel's side by about 800%. Over the period of January 2021-November 30, 2021, the NLRB expanded its on-line traffic to its English language websites by approximately 23% and to its Spanish- language websites by approximately 308%. In addition to measuring our progress on social media by number of followers, number of hits, and number of shares, we have developed a tool to analyze the metadata from the traffic to our websites. This geographic data, together with the data that the Agency has from case and petition filings and information from our external partnerships, will help us determine our baseline to measure our progress in reaching immigrant communities. We have also completed surveys of the regional offices to identify the languages other than English and Spanish that are most prevalent and in what context they arise to establish other non-English websites and to translate more Agency documents. We have updated our matrix of employees who speak languages other than English and the level of their proficiency to maximize our existing resources to ameliorate the disadvantages faced by non-English speakers/readers.

Since the inception of the EO, the Agency has fully developed our Action Plan, identified areas for progress with our existing resources, built the foundation for effectuation, and has seen early successes. We continue to evaluate and refine the plan, considering changes on the ground and Agency resources.

Equity Action Plan

Action 1: Expanding Agency Outreach Programs to Underserved Communities

A. Barrier to Equitable Outcome(s)

There are many workers in underserved communities who do not know their rights under the NLRA or that the NLRB can vindicate those rights. This lack of knowledge undermines workers' ability to exercise their rights and improve their wages, hours, and working conditions. These most vulnerable workers are those who are subject to the lowest wages and most difficult working conditions and therefore would potentially benefit the most from exercising their rights under the Act.

Further, there are significant barriers for immigrant communities to access the Agency, including being a non-English speaker and the fear and/or lack of trust of government. Immigrant workers and other underserved communities also face barriers that include a lack of access to technology and legal rights' education.. These barriers are worsened rather than mitigated by government processes becoming more complicated, being available only online, and by using complicated legal language. Thus, a key component of any effort to expand access is having sufficient staff and resources to develop and implement an effective outreach program that will break down these barriers. This is the NLRB's biggest challenge, as we currently lack a dedicated budget and staff to perform outreach and educational activities.

B. Action and Intended Impact on Barrier

The Agency has prioritized outreach despite not having a dedicated budget or staff. Without additional resources, outreach activities are dependent on mobilizing staff in regional offices to conduct outreach activities as a collateral duty on top of a significant caseload.. The following activities, building on previous outreach efforts, have been prioritized because they can be conducted within the existing authority of the Agency. These outreach activities are publicized internally so the efforts can be replicated across the Agency.

Immigrant Workers Outreach/Consulate Offices

In September, NLRB General Counsel Jennifer Abruzzo signed a Letter of Arrangement (LOA) with the Mexican embassy to advance the protection of the rights of Mexican workers in the United States. Many regional offices have renewed their own letters of arrangement with regional consulate offices to strengthen their partnership. General Counsel Abruzzo also participated in a training webinar with national Mexican embassy staff to provide an overview of our Agency and workers' rights under the Act.

Student Ambassador Program

The NLRB Student Ambassador Program is a partnership between regional office staff of the NLRB and local high schools with students from underserved communities, often called "uncommon" schools. The NLRB staff educates students about the rights protected by the Act, and also works with them to develop a project aimed at teaching other people in their schools or communities about the Act and the NLRB. The Program targets high schools from underserved communities to provide students an opportunity to develop leadership skills while also sharing and institutionalizing information about the Act and the NLRB in the community.

Social Media and Media

During Labor Rights Week (Aug. 30-Sep. 3), many of our regional staff participated in various “Know Your Rights” Facebook livestreams and radio shows in Spanish that were planned by the local Mexican consulates. Also, the NLRB made graphics and videos that explained workers’ rights under the Act to immigrant workers in Spanish and in English.

Worker Center Outreach

The Agency’s outreach committee continues to compile a searchable database of organizations that assist vulnerable populations and is accessible by Regional Outreach Coordinators. In October, the Committee focused on outreach to worker center groups. Using this database, Coordinators sent e-mails to worker center groups within their jurisdiction providing information about the Agency, offering to provide training, and attaching written materials that the center could review or further distribute.

Outreach to Employers

In November, the NLRB announced a joint initiative with the Department of Labor and the Equal Employment Opportunity Commission to raise awareness of worker retaliation issues. The initiative was launched with a virtual dialogue with the employer community focused on the importance of workers’ anti-retaliation protections for those exercising their rights, and the agencies’ shared commitment to vigorous enforcement. The virtual dialogue addressed issues particular to immigrant workers as well as cases involving workers advocating for racial justice in the workplace. Agency leadership has also participated in additional outreach events with employer associations and is working on enhancing information and compliance resources for employers on the employer.gov website.

C. Tracking Progress

The Agency has revamped its record keeping for outreach activities to include tracking whether underserved communities are being reached. Despite these improvements, without further funding, the Agency does not presently employ a data team who would be able to collect and interpret demographic data to establish definitively whether a barrier to service of vulnerable populations has or will be reduced as a result of specific Agency initiatives. Additionally, the NLRB is focused on growing our Spanish-language social media audience to help us reach more Spanish-speaking immigrant workers. The social media platforms have reporting functions giving the Agency feedback on post effectiveness and tracking the number of hits. The Agency is also actively cultivating relationships with reporters with audiences comprising underserved populations. The development of these relationships will also serve as a means of receiving feedback on the Agency’s efforts within these communities.

D. Accountability

The Agency’s Strategic Plan for FY 2019-2022 states that a priority of outreach is to reach underrepresented and underserved communities. The plan provides that the Agency will evaluate and improve its Outreach Program. Moreover, Agency Regional Directors are held accountable for reaching outreach measures in their annual appraisals.

Action 2: Gathering and analyzing meaningful demographic data

A. Barrier to Equitable Outcome(s)

The NLRB does not currently collect demographic data from the individuals or organizations that it serves.¹ As such, collection of demographic data is both uncharted territory and a significant opportunity for the Agency.² Gathering and analyzing meaningful demographic information about the individuals the Agency serves, assuming proper legal and privacy measures are in place, will help the Agency determine whether we are adequately serving under-represented communities, and, if not, help us develop strategies to expand access to them.

Because the Agency's work is geographically based, that information is and has been readily available. Additionally, the Agency has created a tool to assess the geographic traffic on its English and Spanish language websites. If the Agency were to begin collecting demographic data, that data in conjunction with the geographic data the Agency already has would create an opportunity to perform an analysis of the "gap" between the area demographics and the demographics of the people being served in a particular area, but there are significant potential barriers to gathering the data needed to conduct such analyses.

Potential barriers to collection of meaningful demographic data arise from the very nature of the service that our Agency provides. The NLRB serves workers who may be fearful of being subjected to unfair labor practices and being targeted by their employers for retribution for engaging in protected concerted activity. Thus, we must be mindful in designing data collection practices of the reality that individuals who file charges may be apprehensive when initially engaging with our field offices or online presence. It is important that the methods used for collection of data clearly be anonymous and structured to not discourage these individuals from contacting the Agency or otherwise alienate vulnerable populations.

Thus, initiating an Agency-focused collection of demographic data, particularly when the NLRB has not historically gathered such information, is a task that will require extensive resources to develop and roll out. With sufficient resources, such a program could provide reliable and valuable results while addressing the barriers discussed above.

B. The Action and Intended Impact on Barrier

Notwithstanding the challenges just discussed, the Agency selected this area for review because the collection of demographic data is a significant untapped opportunity. We cannot assess our equity practice until we learn all we can about who the Agency is currently serving and how well our service is reaching vulnerable workers and underserved communities. The key challenges in enhancing equity are to learn about underserved communities' needs for our services, the difficulties they face in accessing those services, and how we can eliminate the access barriers. To meet these challenges and increase awareness, we need timely, reliable, and continuous information from or about these communities and their members. This information will also help us

¹ The NLRB serves a broad range of individuals and organizations, including individuals who file unfair labor practice charges and election petitions, labor organizations who represent or seek to represent groups of employees, and private-sector employers. The Agency also serves those who visit www.nlr.gov seeking information about the Act, and assistance with their particular situation.

to effectively allocate our available funding for outreach and identify the need for future funding to support additional projects and staffing in line with this endeavor. The resources are not currently available to initiate this project; however, to overcome these challenges in the interim, partnering with other federal, state, and non-profit organizations to glean demographic information about communities already identified as underserved and underrepresented is a cost-effective approach. Collaborating with these entities and sharing data not only broadens the net to capture more of the underserved — it also increases the reliability of the information.

Outreach and demographic data tracking go hand in hand. Individuals from underserved communities may lack trust in the NLRB such that they may be unwilling to provide demographic data. Improved outreach, including partnerships with local organizations, education on rights under the Act, and having a strong presence in the community, will hopefully create the trust necessary to allow us to effectively collect demographic data. Further, such collection would be done on a voluntary and anonymous basis. The collection of demographic data therefore will likely be most successful with a two-pronged approach — strong outreach efforts coupled with anonymous collection of demographic data from the public we serve.

In terms of mechanisms for gathering demographic data, one would be collection of data via our public website. The trigger for the data collection questions would be searching for assistance or filing a charge or petition. As explained, the collection would need to be done anonymously and voluntarily and should be constructed in a manner that does not present any obstacles to vulnerable individuals.

Another mechanism for data collection is through the field offices. Individuals typically start with their local field office, usually with an in-person or telephone inquiry. We will need to identify a way to obtain demographic data in a non-obtrusive, strictly voluntary, and clearly anonymous fashion, such as surveying individuals electronically or providing touch screen “kiosks” in the Regional office lobbies for individuals to voluntarily complete a brief survey about their experience with the office, including questions about their demographics. The survey kiosks should be configured to make them as accessible as possible, including to individuals with disabilities. The format of the survey should provide language options as well as provide an option for the user to hear rather than read the survey questions. This should help eliminate language, hearing, or reading barriers for those who respond to the survey.

C. Tracking Progress

The “gap analysis” referenced above — looking at the geographic distribution of charges filed versus populations and demographic data in particular areas — will highlight the areas requiring focused outreach. Where the number of charges filed disproportionately trails the size of the population in an area, that can be an indication that the area is not well served. Review of the demographic makeup of that geographic location will further inform the Agency whether specific underserved communities in that area are not being adequately served.

Collection of demographic data from the individuals we serve will inform our progress. We can see whether we are missing certain underserved groups. While recognizing the limitations of the reliability of information provided on an anonymous and voluntary basis, comparing the demographic data of the individuals we have served in a particular area to the underlying demographics of the area can be a useful tool to reveal communities where our outreach efforts are falling short. If the demographics of the individuals we have served are not commensurate with the demographics of the overall population in that geographic area, then we know we must make

greater efforts to reach the underrepresented groups in that area.

The two areas of analysis above will provide significant information to local field offices regarding what groups they are not reaching, and how they should target their outreach efforts. It will also provide information for headquarters to analyze when planning broader regional or national outreach efforts.

D. Accountability

The Agency will name a member of its Senior Staff to oversee this initiative. Collection of timely and reliable data regarding individuals served will enable the Agency to establish a “baseline” of the present level of service provided to underrepresented communities. Through meaningful analysis and application of this data, the Agency will be able to structure and focus its outreach and barrier reduction activities. Going forward, the Agency will be able to use the on-going collection of data to determine whether and to what extent improvement is being made in reaching vulnerable workers and underserved communities. The initial baseline assessment will inform the development of targets for achieving measurable improvements moving forward.

Upon completion of the baseline, the Agency will be able to assess staff capacity for handling new intake responsibilities and data analysis functions. Proper collection of data, assurance of the reliability of the data collected, and meaningful analysis of the data are critical factors requiring resources not currently within the NLRB’s budget. Any additional capacity needed for implementation and on-going operations of the program will need to be addressed in the Agency’s budget request.

Action 3: Enhancing Digital Resources for Non-English Speakers

A. Barrier to Equitable Outcome(s)

The Act protects workers regardless of the language they speak. However, many workers in this country do not speak English, and it can be difficult for them to learn about their rights and to access the NLRB. While the NLRB acknowledges that many individuals do not have regular access to digital information, it also recognizes that access is growing with hopes that the digital divide will be ever-closing. According to the Pew Research Center, 93% of the population had access to digital resources in 2021, and various parts of the federal government, like the National Telecommunications and Information Administration and the Federal Communication Commission are working to ensure 100 percent of Americans are connected to the internet.³ Nevertheless, more than 8 percent of people in the United States speak English less than “very well,”⁴ which translates to millions of workers. Therefore, it is important that the NLRB provide information online in multiple languages to facilitate access to information about the Agency and the rights it protects.

For those who do have access to digital information, the NLRB has made vast improvements in

³ See, e.g., “NTIA Creates First Interactive Map to Help Public See the Digital Divide Across the Country.” National Telecommunications and Information Administration. June 17, 2021. Available at <https://www.ntia.doc.gov/press-release/2021/ntia-creates-first-interactive-map-help-public-see-digital-divide-across-country>.

⁴ See “People That Speak English Less Than ‘Very Well’ in the United States.” United States Census Bureau. April 8, 2020. Available at <https://www.census.gov/library/visualizations/interactive/people-that-speak-english-less-than-very-well.html>.

providing digital resources to the public. For example, it allows individuals to file charges and petitions online, and it posts information about employee rights on the NLRB website. However, many of these resources are available only in English—or sometimes in English and Spanish. This means that non-English speakers are at a disadvantage when it comes to knowing about and exercising their rights. The NLRB has not had enough resources to make digital materials for all non-English speakers, but it continues to increase digital resources for Spanish-speakers and is gradually adding to its library of documents in other non-English languages prevalent throughout the United States. The hope is that these efforts will continue to increase the number of non-English speakers who benefit from the Agency’s services.

B. Action and Intended Impact on Barrier

The NLRB will take several steps to increase the number of digital resources available to non-English speakers. Initially, the Agency will attempt to identify the non-English speaking populations most in need of information from the NLRB. The Agency will do this by looking at publicly available information, like Census data, as well as by conducting its own surveys. The NLRB has already completed its initial survey of field offices to identify the immigrant communities served by each regional office and the frequency and context in which the regional office encounters non-English speakers from those communities. The Agency will use this information to create additional non-English digital resources for both national use and to address the needs in the specific communities served by each office. The Agency has also identified personnel with proficiency speaking other languages who may be able to assist with these endeavors. The NLRB has continued to increase its reach to Spanish speakers by creating social media posts, by posting press releases in Spanish, and by establishing and continuing to enhance its Spanish-language website. Further, the NLRB is working on a platform for individuals to e-file unfair labor practice charges and union election petitions in Spanish.

The NLRB has prioritized Spanish-language resources because Spanish is the language most spoken in the United States after English. However, the NLRB is developing plans to translate its website to languages other than Spanish and to provide other non-English/non-Spanish resources. The NLRB has also established a work group (Tending to our Non-English Speakers or TONES) comprising high-level managers, supervisors, and employees to address the needs of non-English speakers in all aspects of the Agency’s mission from charge and petition filing, charge investigations, petition processing, to elections and litigation. The NLRB also works directly with a contractor for interpreting and translation services to meet the needs of non-English speakers.

The TONES group works hand-in-hand with the NLRB’s Outreach committee. The Outreach committee, described more fully above, is making strides in reaching out to embassies, consulates, worker rights’ organizations, and other entities to spread the word about the Agency among underserved communities. These relationships also provide important information on how to bring knowledge of the NLRB and the rights provided by the Act to those non-English speaking communities and populations.

C. Tracking Progress

In the next 2-4 years, The NLRB will track the number of users who visit its non-English website, sign up for its Spanish social media accounts, use its Spanish e-filing services, and the downloads of materials that have been translated into other languages such as Albanian, Amharic, Arabic,

Bengali, Bosnian, Brazilian Portuguese, Chinese, Farsi, French, Haitian Creole, Hindi, Italian, Japanese, Korean, Lao, Pashto, Polish, Russian, Samoan, Samoli, Tagalog, Thai, Urdu, and Vietnamese. The NLRB will aim for substantial growth and will set trackable goals for each area. In the long-term, 5-8 years out, the NLRB hopes that more non-English speaking communities will be aware of the NLRB and know how to access the Agency. The NLRB will work to ensure that organizations servicing non-English speakers are aware of the Agency's digital resources and will make it easy for them to access these resources. Also, in this time frame, the Agency will expand its digital services by continuing its translation of documents into Spanish and will pursue translations of Agency documents for online availability into other commonly spoken languages, including Chinese, Tagalong and Vietnamese.

D. Accountability

The NLRB is committed to making the Agency and its mission more accessible to non-English speakers. The Agency has highlighted this commitment as part of its focus on outreach in its forthcoming strategic plan and in its 2022 budget justification and will report to the public on its progress.