Unscrambling The Hy-Brand Egg - NLRB Tackles Ethics/Recusal Mess

June 11, 2018 | National Labor Relations Board,Labor And Employment

Keith J. Brodie
Partner

The National Labor Relations Board (NLRB) recently announced that it will comprehensively review its ethics and recusal policies. This follows a string of recent investigations, the most recent being an investigation into NLRB member, Mark Pearce, for comments he made regarding the *Hy-Brand Industrial Contractors* case. While Pearce was cleared by the NLRB's Inspector General (IG), earlier the NLRB IG found Board member William Emanuel should have recused himself in the *Hy-Brand* case. Some have accused the IG of playing politics, but no matter Congress and the public have taken note of these issues. Taking the issues into its own hands, the NLRB is promising to evaluate all its existing procedures for determining when members should recuse themselves, along with the roles and responsibilities of agency personal who play a part in those decisions. The board has committed to reviewing the recusal practices of other independent agencies with adjudicatory responsibilities to better inform itself during this process. The NLRB's news release promises to report its findings. It seems the ultimate goal of the review is to reassure the American people and other stakeholders that there is reason to have full confidence in the integrity of the board. NLRB Chairman John F. Ring has stated this review will "ensure an appropriate Board majority" while also safeguarding "each Board Member's right to participate in cases" and "uphold the Board's strong ethical culture." This would surely be a welcomed sight to avoid fallout in future cases akin to what happened following the *Hy-Brand* case. It may also help address what some have perceived is an attempt to leverage the issue to hi-jack the current republican majority.

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations
National Labor Relations Board (NLRB)

RELATED TOPICS

Ethics Review
Recusal