



## RELATED PRACTICE AREAS

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

## RELATED TOPICS

Back Pay  
NLRB General Counsel

## Backpay: So, How Much Do I Owe The NLRB?

May 21, 2021 | [Labor And Employment, National Labor Relations Board](#)



**David J.  
Pryzbylski**  
Partner

When employers owe money for labor law violations in National Labor Relations Board (NLRB) proceedings, it's virtually always in the form of backpay of some kind to current or former employees. The NLRB recently announced that some [changes to its backpay determination](#) procedures may be on the horizon.

According to the agency's press release:

"On February 9, 2021, the Board found that [a company] had violated the National Labor Relations Act and ordered the employer to pay backpay to affected employees.

Additionally, at the General Counsel's request, the Board adopted a new remedy requiring the employer file with the Regional Director a copy of each backpay recipient's appropriate W-2 form(s). This was in addition to the existing remedy requiring respondent employers to submit backpay allocation reports to the Regional Director with 21 days. The Acting General Counsel has now asked the Board to impose a deadline for the filing of W-2 forms.

The Board issued a Notice and Invitation to File Briefs, inviting the parties and interested amici to file briefs addressing the following questions: (1) Should the Board impose a deadline within which a respondent employer must furnish to a Regional Director a copy of each backpay recipient's appropriate W-2 form(s), reflecting the backpay award? If so, what should the deadline be? (2) Should the Board modify the 21-day deadline for submission

of a report allocating the backpay award to the appropriate calendar year for each affected employee? If so, what modification would be appropriate?”

Anyone wishing to file briefs expressing views on these issues can do so by June 7, 2021, via the [NLRB's e-filing system](#). The proposals up for consideration here would greatly impact the current processes in place at the Board for these types of remedies.

While backpay numbers often aren't huge in nature, the NLRB did grab headlines last year with a more than [\\$75 Million backpay award against CNN](#). If you ever have proceedings before the agency, this is an issue to watch.