

**Board Memorandum Describing the Authority and Assigned
Responsibilities of the General Counsel of the
Agricultural Labor Relations Board with respect to Labor Code Section 1160.4(a)**

The Board announces a revised delegation of its authority to seek injunctive relief under Section 1160.4(a) of the Act. The change in the delegation does not otherwise alter the terms of the delegation previously entered into between the Board and the General Counsel in 2010 and under which the agency has been functioning since then.

The Board hereby adopts the following internal management Memorandum delegating the authority to apply for 1160.4(a) relief:

The General Counsel may initiate and prosecute injunction proceedings as provided in Section 1160.4(a) only upon approval of the Board. The requirement of Board approval shall extend to the pursuance of any appeals or defenses to appeals that may follow the initial filing in the superior court and Board approval must be sought at least 24 hours before the date of filing. All complaints, appeals, or defenses to such appeals shall include the representation that Board approval has been obtained.

In accordance with this requirement, when it appears that 1160.4(a) relief may be appropriate, the General Counsel shall notify all parties of his/her intention to seek authorization to pursue injunctive relief and invite them to submit written evidence and argument for both the General Counsel's and the Board's consideration of the propriety of seeking such relief. Parties shall be given 24 hours to submit their written argument and evidence, if any, to the General Counsel.

In connection with seeking the Board's authority to seek injunctive relief, the General Counsel shall provide the Board with the following documents: (1) copies of the proposed complaint for such relief and the papers in support thereof, prepared for the superior court; and (2) attached copies of the parties' submissions, if any; and (3) a schedule of the superior court's calendaring procedures for injunctive relief petitions.

The Board shall strive to act as expeditiously as possible upon all requests for injunctive relief. Upon receipt of a request from the General Counsel for authorization to seek injunctive relief under 1160.4(a), the Executive Secretary shall notify the General Counsel within 24 hours whether the Board will act within 24 hours, 48 hours, or 72 hours. The determination of the timeline shall be based on the following categories:

Category I (24 Hours): This category is reserved for cases involving the most straightforward legal and factual claims. For example, cases alleging the discriminatory firing of one or more employees for participation in organizing activities.

In addition to the cases involving straightforward legal and factual claims, the Board shall strive to act within 24 hours in cases where the particular urgency of the facts alleged and the court's procedures governing setting of a hearing date militate in favor of the need for a more immediate decision.

Category II (48 Hours): Any case not falling into either Category I or Category III.

Category III (72 Hours): The complex case. This category is reserved for cases involving complex factual or legal issues or disputes. For example, cases involving novel theories of law.

Upon the expiration of the timeline provided by the Executive Secretary, if the Board has not disapproved the request for authorization, or has not acted, the General Counsel shall have authority to proceed with filing the 1160.4(a) action.

Finally, in connection with his/her responsibilities under 1160.4 (a), the General Counsel shall provide copies of any and all papers filed in the case by any person, and any orders of the court within 24 hours of their receipt and shall report to the Board on the outcome of all court proceedings. The obligations under this paragraph shall not include the provision to the Board of any facts or other information which would constitute prohibited communications under sections 20700 and 20740 of the Board's regulations. (Title 8, Cal. Code Regs., sec 20700, 20740.).


William B. Gould IV, Board Chairman

8/7/15
Date


Cathryn Rivera-Hernandez, Board Member

8/7/15
Date


Genevieve A. Shiroma, Board Member

8/7/15
Date