

EMPLOYER LAW BLOG

NLRB ALERT: Board Announces End of Consent Orders... For Now

AUTHOR: JAMES KEANEY

On August 22, 2024, the National Labor Relations Board (NLRB) announced the end to its practice of accepting consent orders from employers to resolve charges of unfair labor practices. This will almost certainly make the process of handling and resolving such complaints more difficult and expensive.

Previously, employers responding to charges of unfair labor practices could try to resolve the claims by proposing a consent order to the NLRB, without the consent of the complainant or the NLRB's general counsel.

However, in the recent case of *Metro Health, Inc.*, the NLRB declared that such consent orders “create[] administrative challenges and inefficiencies, tend[] to interfere with the General Counsel’s statutory prosecutorial authority, and, most importantly, fail[] to effectuate the policies of the [National Labor Relations Act].”

Unsurprisingly, there was a strongly worded dissenting opinion in the case that vehemently disputed these conclusions. Characterizing the change in practice as “deeply flawed,” the dissent went to great lengths to explain precedent and practice on consent orders and argued the majority decision “could not be more wrong” and its result was “absurd.”

For now, however, the majority opinion in *Metro Health, Inc.* sets the standard the NLRB will follow. And that unfortunately means that employers will have one less option available to them to timely and efficiently resolve unfair labor practice charges.

Stay tuned for further developments in this space.