

President Biden Ousts NLRB General Counsel; Changes NLRB Chairman (US)

Article By:

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In an unexpected shakeup at the National Labor Relations Board (NLRB), on January 20, 2021, President Biden fired NLRB General Counsel Peter Robb after Mr. Robb declined to comply with the President's ultimatum that he resign or be terminated.

Just twenty-three minutes after assuming the powers of the Presidency – and thus while President Biden still was participating in the inauguration ceremony – an official in President Biden's new administration emailed Mr. Robb requesting his resignation as the NLRB's General Counsel, and informing him that if he did not resign by 5:00 p.m. that same day, he would be terminated.

Mr. Robb fired back in a letter made public. In that letter, he declined to resign, noting that he had been confirmed by the United States Senate to a four-year term that did not expire until November 2021. More importantly, Mr. Robb explained that "removal of a General Counsel would set an unfortunate precedent for the labor relations of this country that will permanently undermine the structure and thus the proper function" of the NLRB and the law it administers and enforces. The General Counsel position was created, Mr. Robb noted, to be "independent of the [NLRB] and the Executive Branch so that the General Counsel, as chief prosecutor of the [National Labor Relations Act (NLRA)], can prosecute potential violation of the NLRA free from political influence and pressure."

The administration was unmoved by Mr. Robb's letter, and thereafter followed through on its threat to fire him if he did not voluntarily resign, terminating him as NLRB General Counsel on January 20, 2021. Alice Stock, formerly a Deputy General Counsel, is now serving as Acting NLRB General Counsel.

Congressional Democrats and labor leaders, who reviled Mr. Robb, believing that his actions had been skewed towards reducing worker and union rights, hailed the President's action. Others soundly criticized the move, noting that firing a sitting General Counsel during his term had happened only once before, and then, in 1950, and that the President's doing so now opens the door for future and continued politicizing of a position that, for more than seven decades, had been insulated to changes in presidential administrations. (For example, former President Trump did not terminate the Democrat-appointed then-NLRB General Counsel when he was inaugurated in January 2017, and instead permitted that General Counsel (Richard Griffin) to complete his four-year term, which

expired at the end of October 2017.)

In addition to firing the NLRB's General Counsel, President Biden also stripped former NLRB Chairman John Ring of his chairmanship, installing current NLRB Member and Democrat-appointee Lauren McFerran as the NLRB's new Chairman. However, this move is largely symbolic, as the current Board has only four members (one seat is vacant), and three of those members are Republican appointees. It will not be until August 2021, when Member Emanuel's term ends and presumably the vacant seat has been filled, that the NLRB will be comprised of a Democrat-appointed majority.

Although President Biden's campaign promised sweeping changes to the nation's labor laws and policy, the precipitous firing of General Counsel Robb was nonetheless an unexpected, and rather shocking, move. It is a signal to those who supported President Biden's campaign based on his labor-related promises that he intends to make good on them, and is also a signal that more changes are to come.

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