

# NLRB Overhaul: Setting Stage for Employers, Trump Removes Board Member Wilcox, Fires GC Abruzzo

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## Takeaways

- Member Gwynne Wilcox's unprecedented removal leaves the Board without a quorum for issuing decisions. However, underlying administrative cases and petitions for elections will continue to be processed as usual.
- President Trump is expected to appoint an employer-friendly general counsel and nominate Board members in the coming months.
- Employers should continue to monitor closely the latest Board developments amid the changing labor law landscape.

## Related link

- [Winds of Change at NLRB: Employer Guide for Upcoming Trump Administration](#)

## Article

Although National Labor Relations Board General Counsel Jennifer Abruzzo's termination by President Donald Trump was widely expected, his removal of Board Member Gwynne Wilcox is unprecedented. Wilcox's removal also leaves the Board without a quorum and thus unable to issue decisions in cases until a new member is appointed to the five-seat Board and confirmed by the U.S. Senate. Installing a new Board member usually takes months.

The Board shakeup suggests the new Trump Administration intends major reversals by the agency. Wilcox's removal also may create a third Board vacancy for Trump to fill, likely leading to more employer-friendly standards and rules.

## Future of the Board

The Board now consists of two members: Democrat David Prouty and Republican Marvin Kaplan. Kaplan was appointed Chair on Jan. 21, 2025.

Although the U.S. Senate confirmed Wilcox to a second five-year term in September 2023, Trump nevertheless removed Wilcox, thereby teeing up a legal challenge that he exceeded his authority under the National Labor Relations Act. The Act provides that the president can remove a Board member only "upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause." This limitation on the president's removal authority is supported by the U.S. Supreme Court's 1935 *Humphrey's Executor v. United States*, which

upheld restrictions on the president's authority to remove commissioners of "independent" agencies.

Many employers and business groups, however, are already challenging the limits to the president's removal authority. They argue the removal protections for both Board members and administrative law judges are unconstitutional. As the legal challenges play out across federal courts, the U.S. Supreme Court will likely have to weigh in on the issue in the end. Wilcox also stated she intends to challenge her removal, according to Bloomberg Law.

In the meantime, the Board has three vacant seats, with at least two available for Trump to fill with Republican nominees and return the Board to a Republican majority. The Board cannot issue decisions, however, until the U.S. Senate confirms at least one new member to achieve a three-member quorum.

### GC Status

In conjunction with Wilcox's removal, the Board announced that Deputy General Counsel Jessica Rutter replaced Abruzzo as acting GC. Abruzzo, for her part, has been a lightning rod for criticism from employers and business groups in the last four years. Although Abruzzo's term was not slated to end until July 2025, her termination was not a surprise. Former President Joe Biden similarly fired then-GC Peter Robb minutes upon taking office, a move that has since been upheld by multiple courts.

As in his first administration, Trump is expected to select a new GC in the coming months. The new GC is expected to [rescind many current GC memos](#) and pursue cases before the Board that will lead to the return of more employer-friendly standards and rules.

### What This Means for Employers

Although the Board is unable to issue decisions for the time being, any underlying cases will proceed as usual. Regional directors will process petitions for election and administrative law judges will issue decisions on unfair labor practices. Decisions pending before the Board, though, will stall. This means case resolution may be delayed until a third member is confirmed.

Employers should continue to monitor closely the latest Board developments amid the changing labor law landscape. A new GC and Republican Board majority will likely return to more employer-friendly precedent and undo many of the pro-union decisions issued under the previous administration.

Please contact a Jackson Lewis attorney with questions on these developments.

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