

STRUCTURES TO GUARANTEE IMPARTIALITY  
AT THE NATIONAL LABOR RELATIONS BOARD  
AFTERNOON PRESENTATION TO NAFTA TRILATERAL SEMINAR  
MARCH 20, 2003  
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NATIONAL LABOR RELATIONS BOARD

- I. First line of defense: the Nomination Process
  - A. All nominees go through extensive vetting by FBI and White House Counsel's Office.
    - 1. Financial Conflicts of Interest are examined.
    - 2. Conflicts that would impede confirmation by the Senate are also vetted.
  
- II. Second Line of Defense: Political Makeup of the Board
  - A. Board is made up of 3 Members of President's Party, 2 Members of Opposition Party.
  - B. "Packaging" of Nominees Means that, in Practice, entire Board has to be acceptable to both Political Parties.
  - C. Some commentators have concluded that, as a result of the "packaging" of nominees and the political process, recent Boards have been divided in this manner: 2 Pro-Management Representatives, 2 Pro-Labor Representatives, and 1 Relatively Neutral Representatives. According to this theory, the Board is not unlike a Tripartite Arbitration Board, with equal

representatives from management and labor and one neutral representative who is the “tiebreaker.”

III. Third line of defense: the parties to the cases.

- A. Can file motions to recuse Board Members for perceived conflicts of interest.
- B. Board Members also recuse themselves based on their own conclusion that they have conflicts.
- C. Parties also challenge judges’ decisions on the grounds of bias and conflict.

IV. Final Line of Defense: the Inspector General.

- A. An official within the Board who is appointed pursuant to the Inspector General Act and who is accountable to Congress as well as to the Board and the General Counsel.
- B. Investigates accusations of impropriety leveled not only against Board Members, but any staff member throughout the Agency.
- C. Can refer conflict of interest allegations to Justice Department for prosecution or, if staff members, to the Board or the General Counsel for administrative action.
- D. Board Members, as well as all staff members, are bound by strict conflict of interest and ethics rules laid out by Federal

law. The full extent of these rules is beyond the scope of this presentation.