

NLRB Report: Employers' Social Media Policies Must be Narrow, Must not Restrict Right to Engage in Protected Activities

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The National Labor Relations Board (NLRB or the “Board”) released a [report](#) providing important guidance to employers on drafting social media policies that comply with its interpretation of labor laws. The report draws on several recent cases addressing employer policies limiting the use of social media by employees, and builds on a [similar report](#) issued last fall.

According to a [press release](#) issued by the Board, the report underscores two main points:

- Employer policies should not be so sweeping that they prohibit the kinds of activity protected by federal labor law, such as the discussion of wages or working conditions among employees.
- An employee’s comments on social media are generally not protected if they are mere gripes not made in relation to group activity among employees.

For employers, the key takeaway is that the NLRB takes the position that broad policies that substantially limit social media communications may violate Section 7 of the National Labor Relations Act (NLRA), which protects an employee’s right to engage in concerted activities for the purpose of mutual aid and protection. By way of example, the Board found that an employer’s social media policy was overbroad, where it prohibited its employees from disparaging the company and from identifying themselves as its employees. According to the NLRB, even having a disclaimer stating that the social media policy does not affect the rights of employees under relevant labor laws may be insufficient to comply with the NLRA if an employee cannot reasonably be expected to understand which communications are protected and which communications are not.

Employers, especially non-union employers that handle labor issues less frequently, should be mindful of the requirements of Section 7 of the NLRA when crafting social media policies. Employees must be allowed to discuss with each other the terms and conditions of their employment, regardless of the social media platform. Otherwise, the policy may run afoul of the NLRB’s proscriptions.

For more information on this topic, click [here](#)