



UPDATE Labor and Employment

National Labor Relations Board Upholds Rule Prohibiting Disrespectful and Negative Behavior

Employers seeking to maintain a respectful, positive, and productive work environment received welcome support from a recent National Labor Relations Board (NLRB) decision on work rules. Despite a growing number of NLRB decisions striking down common workplace rules, a majority of the NLRB found that an employer could proscribe the following conduct:

Insubordination to a manager or lack of respect and cooperation with fellow employees or guests. This includes displaying a negative attitude that is disruptive to other staff or has a negative impact on guests.

Copper River of Boiling Springs, LLC, 360 NLRB No. 60 (2014).

In upholding the rule, the NLRB reasoned that employees would not reasonably understand the rule to prohibit protected activity under the National Labor Relations Act (NLRA), such as discussing wages, hours, and other terms or conditions of employment with co-workers. The NLRB noted that the rule was limited to conduct that was disruptive to staff or that had a negative impact on customers, which sufficiently narrowed the scope of the rule to unprotected conduct that would interfere with the company's legitimate business concerns.

The NLRB, however, was not unanimous on the issue. The chairman of the NLRB dissented, claiming that an employee would reasonably interpret the rule as preventing employees from discussing controversial topics, including their terms and conditions of employment.

While the NLRB's decision is a positive development, employers may want to exercise caution in maintaining similar work rules and policies, due to the [NLRB's increased scrutiny and invalidation](#) of other common handbook provisions. Employers may wish to review their existing rules to ensure they are narrowly focused on legitimate business concerns and cannot be interpreted to interfere with the NLRA.

WEBINAR

Join us for a webinar to discuss recent National Labor Relations Board initiatives and decisions that affect nonunionized and unionized employers.

April 29, 2014

Noon–1:00 p.m.

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The webinar is offered free of charge, with audio/visual computer connection.

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