

## What Not To Wear: Employer Dress Code Policy Ruled Unlawful

May 7, 2018 | [National Labor Relations Board, Labor Relations](#)



**David J.  
Pryzbylski**  
Partner

Many companies implement policies and/or guidelines regarding acceptable attire in the workplace, but the National Labor Relations Board (NLRB) often scrutinizes such policies and believes them to be unlawful to the extent they impair employees' ability to wear union-affiliated items, absent special circumstances. The board's rulings in this area apply to both union and non-union employers alike. The NLRB recently issued a decision in the case [Long Beach Memorial Medical Center](#), in which the agency yet again struck down an employer's dress code policy. There were two dress code policies at issue in the case. The first policy only permitted "approved pins, badges, and professional certifications" to be worn on the employees' uniforms. The second policy stated that "badge reels may only be branded with [company] approved logos or text." The board noted the second policy "prohibits employees from wearing badge reels branded with union insignia." The NLRB found both dress code policies to be unlawful because they effectively prohibited employees from wearing union-related insignia on their uniforms. In its ruling, the board held: "It is well established that employees have a protected right to wear union insignia at work in the absence of special circumstances." The board determined there were no "special circumstances" presented in the case that could justify the broad policies that impeded employees' ability to wear union-affiliated apparel. Accordingly, the company was ordered to rescind its dress code policies. This case serves as an important reminder that companies need to thoroughly evaluate their personnel policies, including dress code policies, to ensure they are drafted and administered in a way that comports to NLRB precedent. While a [recent ruling](#) from the agency relaxed the standard it utilizes to evaluate personnel policies, this remains an area companies need to navigate carefully.

### RELATED PRACTICE AREAS

Labor and Employment  
Labor Relations  
National Labor Relations Board (NLRB)

### RELATED TOPICS

Labor Unions  
NLRB