

NLRB's Acting General Counsel Releases Another Report On Social Media Policies

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On May 30, 2012, Lafe Solomon, the NLRB's Acting General Counsel (the "AGC"), released a third report on social media cases brought before the Board. This report deals with seven different cases involving social media policies, covering topics such as the use of social media and electronic technologies, confidentiality, privacy, protection of employer information, intellectual property, and contact with the media and government agencies.

In the first six policies reviewed, the AGC concluded that at least some of the provisions in the employers' policies and rules were overbroad and, accordingly, unlawful, under the National Labor Relations Act (NLRA). Importantly, the Board found that the savings clauses in these otherwise unlawful policies did not save the policies. Only the final social media policy reviewed by the AGC was found to be entirely lawful.

In finding the final reviewed policy lawful, the AGC pointed to the policies substantial use of examples of allowed and proscribed behavior. Specifically, the AGC stated that "rules that clarify and restrict their scope by including examples of clearly illegal or unprotected conduct, such that they could not reasonably be construed to cover protected activity, are not unlawful."

We'll post a more detailed analysis on the report in the coming days. In the meantime, the report itself can be [seen here](#).

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