Social Media Policies Continue To Give Rise To Litigation Before The Labor Board

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David J. Pryzbylski

Partner

The Washington Post will have to defend allegations regarding its social media policy. *Bloomberg BNA* is reporting that Region 5 (Baltimore) of the National Labor Relations Board (NLRB) has issued a complaint against the media company regarding its implementation of a social media policy. According to *Bloomberg BNA*, "The newspaper updated its social media policy in May 2017 to prohibit conduct that 'adversely affects The Post's customers, advertisers, subscribers, vendors, suppliers or partners.' … The National Labor Relations Board complaint alleges management failed to negotiate with the union over its changes to the company's social media policy. A hearing before an administrative law judge is scheduled for July 10. Management has until March 14 to answer the board's complaint." Accordingly, unlike many of the "social media cases" we've seen in front of the NLRB in recent years where the policies were alleged to "chill" employees' rights under the National Labor Relations Act, the primary dispute in this case appears to revolve around whether *The Washington Post* satisfied a potential duty to bargain with its union before implementing the policy at issue. Given the NLRB recently announced a new standard for evaluating personnel rules of employers , which generally includes social media policies, we may see a downturn in the amount of cases challenging the content of such policies – but that remains to be seen. For now, a social media policy has landed yet another employer in front of the labor board. How the agency treats this issue in the coming months and years will be interesting to watch given the board's focus on these policies under the prior administration.

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