



## What The Heck Do Girl Scout Cookies Have To Do With Personnel Policies?

March 29, 2021 | [Labor And Employment, Unions And Union Membership](#)



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It's that time of year again: Girl Scout cookie season! We've all seen Girl Scouts set up shop at businesses or in parking lots selling their famous cookies. This serves as a good time to remind employers that if you allow some organizations onto your property, such as the Girl Scouts, you may also have to allow labor unions access.

The Supreme Court has long held that employers can exclude non-employer labor union agents from its property, but [cannot discriminatorily enforce property rights](#) by excluding union agents while allowing other groups onto its property. The Board had traditionally interpreted this non-discrimination rule [very broadly](#), finding that employers discriminated if they barred non-employee union representatives but allowed other charitable or civic organizations on its premises.

The Board narrowed its interpretation of the non-discrimination rule in a [2019 decision](#), holding that an employer discriminates only if it treats "nonemployee activities that are similar in nature disparately," and that "protest and boycott activities are not sufficiently similar in nature to charitable, civic, or commercial activities." Under this standard, the Board will look at not only the nature, but also the purpose of the activities and organizations employers allow onto their property.

Therefore, under the current standard, employers can allow the sale of Girl Scout cookies or other activities by charitable or civic organizations on their

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property without also having to allow access to non-employee union agents. While the current standard is welcome news for employers and Girl Scout cookie lovers alike, the pendulum could swing back the other direction [under a Biden Board](#) if it reverts back to a narrower interpretation of the non-discrimination rule. Regardless, employers should give careful consideration to what types of groups—and for what types of purposes—they allow onto their property in order to avoid potential discrimination claims.