

An Overview Of The NLRB's Memo Regarding Social Media In The Workplace

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On May 31, Barnes & Thornburg's Labor and Employment Law Department issued a legal Alert that contains an in-depth overview of the National Labor Relations Board's recent memorandum regarding social media in the workplace. An excerpt from the Alert is included below. To download a PDF of the Alert in its entirety, click on the link at the end of this blog post.

A. Executive Summary .

On May 30, 2012, the National Labor Relations Board's (NLRB) Acting General Counsel Lafe Solomon issued a memorandum regarding social media policies in the workplace, the third such memorandum in recent months. The memorandum provides numerous examples of employer policies that ran afoul of the National Labor Relations Act (NLRA), and a few examples where employers "got it right." While it remains to be seen whether the NLRB's interpretations are supported by the courts, employers should recognize that these policies are a top enforcement priority for the NLRB and proceed with great caution when drafting and enforcing social media policies against employees.

B. Background: How The National Labor Relations Act Is Implicated by Social Media Policies.

Section 7 of the NLRA gives employees the right to form, join, or assist labor organizations. It also guarantees employees the right to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Even in the absence of a labor union, an employee complaining about wages, hours or working conditions on behalf of himself or herself and other employees cannot be disciplined or discharged for such conduct under the NLRA. This can include communications via social media, even outside of work. Therefore, the General Counsel's memorandum is applicable to unionized and non-unionized workforces alike.

This blog post was originally issued as a Barnes & Thornburg LLP legal Alert. Download a PDF of the entire Alert at the [Barnes & Thornburg website](#).