

Strike One, Strike Two: The NLRB Knocks Down Another Confidentiality Policy

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Employers suffered another blow late last week when an ALJ struck down Boeing's confidentiality policy (strike one) and a revised confidentiality policy (strike two). Boeing's initial policy "directed" witnesses in HR investigations not to discuss the investigated matter with co-workers (limiting the discussion to investigators and union representatives). The ALJ struck down the initial policy based upon the Board's relatively recent decision in [Banner Estrella Medical Center](#). However, more troubling, was the ALJ striking down the company's revised policy which merely "recommended" that employees refrain from discussing ongoing investigations with co-workers. The ALJ found that the revised policy could be interpreted as a request for confidentiality and it did not notify the employee that the confidentiality recommendation could be disregarded.

The ALJ acknowledged the company's legal arguments, however he stated that he was bound by the NLRB precedent. Boeing announced that it intends to appeal the ALJ's determination which can be [found here](#).

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