

First Social Media Policies And Now E-Mail?

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In what could be the first salvo in the NLRB's latest assault, the NLRB Division of Advice has recommended that an NLRB Regional Director issue a complaint against a call center company (Alpine Access) for the restrictions it placed on employee use of the company's e-mail system. The Advice Division not only concluded that the actions taken by the employer were unlawful under current Board authority in the *Register Guard* case, the advice memorandum went so far as to encourage the regional director to use this case to urge the reversal of *Register Guard*.

In *Register Guard*, the Board upheld an employer's policy that prohibited the use of company e-mail for "non-job-related solicitations." In doing so, the Board acknowledged that an employer could distinguish between uses such as allowing charitable solicitations but not non-charitable email solicitations that might adversely affect employees' NLRA Section 7 rights, provided that these policies did not discriminate along Section 7 or union-related lines.

In Alpine Access, the Division of Advice is seeking to use this "virtual workplace" case to test the *Register Guard* decision. Alpine Access provides around-the-clock virtual call-center services through 4,000 "customer care professionals" in 40 states. The CCPs have no face-to-face interaction with each other because they commonly work from their own homes. An employee used the company e-mail and chat room in an effort to organize the CCPs. When the employee's supervisor learned of his activity, the Department of Advice memo reports that the supervisor urged employees not to open the organizer's emails and to notify the supervisor if they received communications from the employee.

The company, upon hearing of the supervisor's directive, reversed that decision and informed employees that they could only engage in such communications when both were on down time. The employer also cut off access to the internal chat room due to alleged productivity lapses.

[The Advice Memo](#) concluded that the employees had a Section 7 right to use the employer's electronic communications system even under *Register Guard*. Because the employees were widespread and could not engage in face-to-face discussions, they would have been deprived of their protected rights if they couldn't use the employer's e-mail system.

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