



## RELATED PRACTICE AREAS

Labor and Employment

Labor Relations

National Labor Relations Board (NLRB)

## NLRB General Counsel Issues Comprehensive Report On Handbook Rules

March 19, 2015 | [National Labor Relations Board, Labor And Employment](#)



**Keith J. Brodie**

Partner

Yesterday, the NLRB's General Counsel, Richard F. Griffin, issued [a report](#) addressing the legality of employer handbook policies under Section 7 of the National Labor Relations Act. While Griffin concedes that he does not believe employers generally write their handbook provisions to purposefully restrict the exercise of Section 7 rights, his report makes it clear that the legality/illegality of handbook rules will continue to be a NLRB priority.

The report reminds employers, unions and disgruntled employees alike that even maintaining an overbroad handbook rule can constitute illegal interference under Section 8(a)(1) of the NLRA. The NLRB's aggressiveness in this area will impact union and non-union employers alike. Griffin's report also demonstrates that the NLRB will find handbook rules unlawful where a construction of the rule suggests that an employee could reasonably construe it to prohibit Section 7 activities. The Report goes on to compare rules found to be unlawful with those found lawful. This at least provides employers some guidance on handbook rules that will not run afoul of the law. These comparisons in the Report include handbook rules related to:

- Confidentiality Rules
- Professionalism Rules
- Anti-harassment Rules

- Trademark Rules
- Photography/Recording Rules
- Media Contact Rules

Many employers are surprised to find that such rules (many of which they may have had in place and enforced for years) would now be found to be illegal *by the NLRB*. The NLRB has insisted the standards it is applying have not changed, but the reality is that: the legality of many handbook rules has been boiled down to a language-parsing exercise by the NLRB. As such, there is every reason to believe the universe of rules that the NLRB will find violate Section 7 rights will continue to expand.

Bottom line: Employers need to continue to review their employee handbook rules.