



*Are you infringing on employees' rights according to Section 7 of the Labor Relations Act?*

In late May, the National Labor Relations Board (NLRB) released a [report on employer social media policies](#). Seven recent cases were highlighted in the report. In nearly all cases, except one, each policy included several unlawful statements.

According to the NLRB, unlawful provisions interfere with employees' rights under Section 7 of the Labor Relations Act. Download the [NLRB Memorandum](#) for more information about the details of the findings and a sample of the lawful policy

To further your knowledge, review the other reports they released in the past six months, including:

- [Discharge for Facebook postings](#)
- [Facebook posting about job performance and staffing](#)

**Disclaimer:** *Becky Livingston is not a lawyer, nor is accredited to offer legal advice. This blog is a summation of the NLRB Memorandum as she interpreted it.*

### **Be Aware of Pitfalls - What's considered unlawful?**

*Read the full brief for specifics for each bullet.*

What didn't work in six of the seven cases?

## Employer Social Media Policies – What’s working? What’s not?

- Rules that are ambiguous and contain no limitations, for example “use technology appropriately”.
- Including clearly illegal or unprotected examples of conduct, for example “don’t release confidential guest, team member, or company information...” as it restricts the employee from discussing conditions of employment.
- Threatening employees with unlawful discharge or criminal action if they do not report unauthorized access or misuse of confidential information.
- Posting only accurate and public information. This could be misleading and contradicts the Act’s malicious intent policy.
- Obtuse language, such as “professional behavior,” or “avoiding topics that could become heated,” is too generic to be considered lawful. This could be construed as prohibiting employees from discussions, such as union issues or working conditions.

There were many examples provided in the Memorandum, some in fact sounded lawful to a layman like myself. However, take the time to seek counsel on your social media policy to help ensure it is not considered unlawful.

### **What’s Next?**

- Review and consider the statements in the NLRB Memorandum.
- Take a look at your own policy.
- Check with your labor relation’s board to ensure the rules your company is putting into place are lawful according to the Labor Relations Act.
- Revise language that does not meet the Act’s regulations.
- Redistribute, or distribute the policy, noting the Labor Relation’s Act review.

**Tip:** Involve staff from many levels of the company to ensure they have input into the process, and to help them gain a better understanding of the Labor Relations Act. They may then become champions in helping other staff members to better understand the policy.

### **How did you develop your Social Media Policy?**

Many companies ask me about policy guidelines, to which I offer suggestions. However, involving legal and human resources staff who know the laws are crucial when crafting any policies related to employees.

How were your policies developed? Do you think it would be classified as a best practice?