

## Employer Social Media Policies Struck Down as NLRB Targets Non-Union Workplaces

*XpertHR: NLRB attempts to change the way non-union employees are permitted to discuss working conditions via social media and email*

New Providence, NJ (November 13, 2013) – The National Labor Relations Act (NLRA) has always applied to non-unionized workplaces, which is a surprise to many organizations. Now, the National Labor Relations Board (NLRB) is targeting and striking down common workplace policies it sees as “chilling” (i.e. restricting non-union employees’ right to engage in protected activity), says [XpertHR](#), a leading employment law resource.

“The NLRB is aggressively inserting itself in non-union workplaces, scrutinizing and finding overbroad employment handbook policies, including employee conduct (“courtesy”) policies, social media policies and confidentiality policies, unlawful under the NLRA,” says [Melissa Gonzalez Boyce](#), JD, Legal Editor with XpertHR. “For instance, the NLRB is on a crusade to categorize certain social media communications as ‘protected concerted activity,’ and it’s important for employers and supervisors who work with both union and non-union employees to be aware of the ever-evolving definition of protected activity.”

Employees are finding it rather easy to air all their [gripes and concerns](#) on social media platforms like Facebook and Twitter. The NLRB evaluates each and every social media post individually, because “Comments” and “Likes” can be construed to suggest that other employees share a concern expressed in a post, therefore making it protected under the NLRA.

“Before disciplining or terminating employees, it is critical that employers and supervisors carefully evaluate each social media post and consider what is said, whom it is said to and if, when and how other employees reacted or commented in order to determine whether the conduct may be protected,” explains Boyce.

XpertHR will host a free webinar on November 21, 2013 at 11:00 a.m. EST for HR professionals, employers and supervisors who want to keep their workplaces compliant with the NLRA and avert the ever-growing reach of the [NLRB](#). Boyce will discuss:

- the type of non-union activity the NLRB considers to be protected under the NLRA;
- why the NLRB finds some routine handbook policies, such as social media and confidentiality policies, unlawful;
- how social media and email are changing the way non-union employees are permitted to “discuss” working conditions;
- how employers may lawfully restrict such activity; and
- how and why any attempt to discipline or terminate a non-union employee for engaging in protected activity could result in NLRB sanctions.

To register for the free webinar, visit <http://www.xperthr.com/pages/yes-the-national-labor-relations-act-applies-to-you-the-nlra-and-nlrbs-impact-on-non-union-workplaces/>.

XpertHR has also made available a Social Media Model Policy free to employers at <http://www.xperthr.com/pages/social-media-employer-compliance-resources>. This model policy may be used by an employer to communicate what type of social media use is acceptable for employees and what may and may not be posted about the employer.

### **About Melissa Gonzalez Boyce, JD**

Melissa Gonzalez Boyce is the legal editor for the labor relations section of XpertHR. Prior to joining XpertHR, Melissa practiced labor and employment law with a focus on union-related matters, including collective bargaining, grievance and disciplinary procedures and unfair labor practices, as well as a variety of other employment-related claims. Melissa represented private and public employers before the US District Court, the New Jersey Superior Court and Appellate Division, the EEOC and the New Jersey Public Employment Relations Commission.

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