

Hey, Hey, Hey, Goodbye: DOL Persuader Rule Nixed

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Back in 2016, the Department of Labor (DOL) [issued regulations](#) that would have significantly narrowed the scope of the legal advice exemption to the persuader rules. Persuader rules require companies to report certain financial information on monies paid to companies and/or individuals who help “persuade” employees regarding various labor relations issues. The new rule would have required reporting of monies paid for legal services when those services included “indirect persuasion” activity, including advice on what is to be said to employees in connection with union organizing campaigns as well as communications regarding the status of collective bargaining and contract proposals to rank and file employees. Historically, labor lawyers’ assistance through indirect persuasion was exempt under the legal advice exemption. Soon after the rule was slated to go into effect, however, a [nationwide injunction](#) was issued against the rule because, among other things, it had the potential to encroach on the [attorney-client privilege](#). The Trump administration [signaled](#) last year that it would formally nix the rule. Now that process is complete. *Bloomberg BNA* [reported](#) on July 17: “The Trump Labor Department has officially killed an Obama-era rule requiring expanded disclosure of employers’ use of union-avoidance consultants. By issuing a [final rule](#) July 17 to rescind the ‘persuader rule,’ the DOL concludes a contentious regulatory and litigation history that occupied much of the Obama administration. The rule was shot down by a federal judge before it took effect, a factor that influenced the current administration’s decision to change course.” This is great news for all employers on the union-avoidance front.

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