

NLRB Tosses Employer's Investigation Confidentiality Rule

August 1, 2012 | | [Labor And Employment](#)

An employer's rule that employees who make complaints should not discuss those complaints with co-workers during an on-going investigation violates the NLRA according to the National Labor Relations Board. Specifically, the Board found that the employees' Section 7 rights outweighed the employer's generalized need for confidentiality during an investigation. Accordingly, the rule (which was arguably a practice) was found to violate the law. The Board also did not modify the ALJ's determination that the employer's written confidentiality agreement - which prohibited employees from discussing their co-workers' discipline or salaries unless disclosed by the co-worker - violated the NLRA. The decision can be [found here](#).

The Board's determination in this matter is similar to their social media decisions which also struck down policies that contained broad prohibitions yet lacked specific caveats and/or and compelling needs for the policy. The Board's most recent memorandum on social media issues can be [found here](#).

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations