

Another One Bites The Dust: NLRB Now Rules Certain "No-Disruption Rules" Are Unlawful

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We've all seen the immense scrutiny coming down on employer personnel policies by the NLRB in recent years, and a new "no-no" as far as the Board is concerned can be added to the list: "no workplace disruption policies." In *Purple Communications, Inc.*, 361 NLRB No. 43 (2014), the NLRB took a look at a hearing impaired communication services company that maintained a rule that prohibited employees from "Causing, creating, or participating in a disruption of any kind during **working hours** on Company property." The Board affirmed an Administrative Law Judge's (ALJ) reasoning that such a policy is "overbroad and could be interpreted as barring Section 7 activity, including the right to engage in a work stoppage." The ALJ further noted that "[S]ince the Employer operates 24 hours a day, 7 days a week--meaning that the prohibition on disruptions during 'working hours' arguably applies to all hours of the day and night. Moreover, the rule does not only prohibit

employees from directly participating in a disruption, but also from 'causing' or 'creating' a disruption that takes place during working hours on company property. Employees could reasonably fear that this would allow the Employer to discipline them for participating in meetings or other Section 7 activities that take place during nonwork time and away from the workplace if those activities are causally linked to a disruption at the facility." In short, this is just the latest example of the Board taking a common workplace conduct rule and twisting it to find it somehow violates Section 7. The ALJ noted that had the rule been limited to "work time" rather than "work hours," he may have found it to be lawful, but the Board made no such indication so it remains unclear how far an employer can go with these (at least with the current NLRB). The worst part for the company, though? Well, it won 2 separate union elections at two of its plants to remain union-free; but both elections now have been overturned, in large part due to the company's maintenance of the "no-disruptions rule." This case serves as an important reminder to stay abreast of the NLRB's latest cases on handbook policies so you can ensure your policies remain compliant. The Board's decision can be found [here](#).