

No Gossiping Rule Violates NLRA

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I'm almost afraid to tell you about this decision because I don't want to gossip, but, we now know, based upon an NLRB ALJ's decision last week, a broad no gossip policy violates the National Labor Relations Act.

Laurus Technical College has a policy that prohibits employees from participating in or instigating "gossip about the company, an employee, or customer." The policy defines gossip as "an activity that can drain, corrupt, distract and down-shift the company's productivity, moral, and overall satisfaction. It has the potential to destroy an individual and is counterproductive to an organization."

Gossip is further defined as "1) Talking about a person's personal life when they are not present; 2) Talking about a person's professional life without his/her supervisor present; 3) Negative, or untrue, or disparaging comments or criticisms of another person or persons; 4) Creating, sharing, or repeating information that can injure a person's credibility or reputation; 5) Creating, sharing, or repeating a rumor about another person; and 6) Creating, sharing or repeating a rumor that is overheard or hearsay."

Last week in [Laurus Technical College](#), Case 10-CA-093934, ALJ Donna Dawson ruled that the College's rule on its face prohibits protected activity. She found the policy to be "overly broad, ambiguous, and severely restricts employees from discussing or complaining about any terms and conditions of employment." She termed the rule "an expansive ban against any discussion" and therefore held that "[s]uch an overly broad, vague rule or policy on its face chills the exercise of Section 7 activity, and violates Section 8(a)(1). A reasonable employee would certainly view it as doing so."

Judge Dawson also overturned the dismissal of employee Joslyn Henderson. Judge Dawson found that the College admitted in its termination notice that it had terminated Henderson because of her violation of this rule. Board precedent is clear, she ruled, that, discharging an employee for violating an unlawful overbroad rule is likewise unlawful. The College argued however that it terminated Henderson for conduct unrelated to the gossip policy. She was terminated for attempting to solicit co-workers to go to work for a competitor of the College. Yet Judge Dawson determined that even that reason violated the Act because the alleged solicitations were made during discussions by the employees on issues relating to their own job security.

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