



Shut Your Mouth: Policy Prohibiting Bad-Mouthing The Company Ruled Unlawful

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No one likes it when others talk bad about them or their organization. With the proliferation of seemingly unfiltered social media comments by workers about their companies, many employers have issued policies that attempt to restrict such comments in an effort to protect their brand and reputation. There are, however, legal landmines in this context, as [illustrated by a recent case](#) from the National Labor Relations Board (NLRB).

At issue in the case was a company that issued a rule restricting negative comments by an employee about the employer. The rule specifically proscribed “[s]tatements either oral or in writing, which are intended to injure the reputation of the Company or its management personnel with customers or employees.” The NLRB found this rule to be overbroad and unlawful.

The Board held:

“The rule’s prohibition against statements to other employees ‘that are intended to injure the reputation of the Company or its management personnel’ significantly restricts Section 7 [of the National Labor Relations Act] rights. ‘It is axiomatic that discussing terms and conditions of employment with coworkers lies at the heart of protected Section 7 activity.’ ... Such discussions are often inseparably linked to complaints about the employer itself and the managers who establish and enforce those terms and conditions ... The rule thus potentially interferes with the exercise of the right to engage in activities that lie at the core of Section 7 of the Act.”

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A more narrowly tailored or clearly defined rule may have passed muster, but the one at issue went too far. Accordingly, this is another reminder that companies should carefully evaluate the various legal issues implicated by policies that [limit employee comments](#) about their employer.