

New Labor Board Members Are Likely To Change Handbook Rules

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With President Trump's recent appointments to the National Labor Relations Board (Board), it appears that the case law holding numerous employer handbook provisions to be unlawful is headed for an overhaul. Under current Board law, "civility" rules are unlawful if employees could "reasonably construe" them to prohibit organizing and other employee activity protected by the National Labor Relations Act (Act). The current Board believes that employees may not fully understand their rights when faced with a rule that could have the effect of "chilling" their rights to discuss a union with co-workers. However, Phillip Miscimarra, the current NLRB Chairman, recently expressed surprise that language with regard to "respectful" or "courteous" behavior is unlawful when this type of conduct "would reasonably be expected by everybody." Based on Miscimarra's views, and the fact that there is now a majority Republican-appointed Board, we are likely to see a shift in the Board's position on employer policies of this nature.

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