

# NLRB Considering More Anti-Employer Changes

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## Practices

Employment & Labor Law

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## Article

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The National Labor Relations Board (“NLRB”) governs employees, both union-free and unionized, covered by the National Labor Relations Act (“NLRA”). According to recent announcements, the NLRB is considering a series of changes, including requiring employers to revise or rescind important workplace policies.

Most employers use personnel policies or employee handbooks to communicate important workplace rules or procedures to employees. Employers, particularly those who are union-free, have flexibility creating and enforcing work rules, provided the policies do not violate employees’ NLRA Section 7 rights including the right to engage in protected concerted action. The NLRB recently announced that it will be reconsidering prior rulings, indicating that it will likely make it easier for employees or unions to challenge work rules such as:

- Rules prohibiting outside employment a/k/a “moonlighting”;
- Policies protecting the confidentiality of internal investigations;
- Work rules against disparagement;
- Requiring confidentiality in mandatory arbitration agreements; and
- Likely other policies such as workplace monitoring, solicitation and distribution, computer usage, etc.

Policies such as those listed above are generally permissible under the current rules, but the reconstituted NLRB is likely to change that within the next few months. See our prior article [here](#). If that happens, employers would need to review and quickly update personnel policies, employee handbooks, arbitration agreements, and other work rules. Unions could take advantage of the situation by filing unfair labor practice charges against employers, with a goal of triggering legal liability, negating policies, or even re-running union elections. Given those risks, employers should consider reviewing and updating their policies and procedures sooner rather than later.