

Workplace Rules Seldom Pass Labor Board's Legal Test

News

8.07.19

Administrative law judges have struck down 16 of the 17 confidentiality rules that they've examined in cases applying the NLRB's December 2017 decision in *Boeing*. The rulings provide clues about whether the myriad rules employers impose to control employee conduct in unionized and nonunionized workplaces will ultimately survive board review under the *Boeing* framework. Speaking with *Bloomberg Law* about how the NLRB categorizes its rules since *Boeing*, labor relations attorney Reyburn Lominack said: "Trying to fit every workplace rule into one of the *Boeing* categories is problematic because, even though certain rules may involve the same subject matter, the context of the rules and the specific verbiage used can vary significantly among employers. I caution employers not to get too comfortable with the notion that certain rules are always lawful or always unlawful."

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