

ARE YOUR EMPLOYEE HANDBOOK POLICIES UNLAWFUL? THE NLRB MOST LIKELY THINKS YES.

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Mathew Parker was a guest blogger for the *Columbus CEO* on June 11, 2015.

Jobs, jobs and more jobs. More than one million people work in central Ohio and even more are on the way. Announcements such as Amazon's plans for a data center network in central Ohio, which is expected to create 1,000 new jobs, and the region's growing economy have us believing that job growth is here to stay. Columbus 2020 even says that the region is on track for 200,000 new jobs by 2020.

New jobs mean new workplaces to manage and that's why central Ohio employers should be aware of the National Labor Relations Board's (NLRB) general counsel's 30-page report identifying eight common handbook policies that now may fail to comply with the National Labor Relations Act (NLRA). These policies concern confidentiality, employee conduct, communication with third parties, use of the company's intellectual property, workplace photography and recording, leaving the workplace and conflicts of interest.

In the article, Mathew discusses how although the guidelines found within the NLRB's general counsel's 30-page report are vague, what is clear is that the general counsel may find your employee handbook policies unlawful if you:

- **Confidentiality.** Prohibit employees from disclosing "confidential information."
- **Conduct Towards Co-Workers.** Restrict inappropriate comments between employees.
- **Conduct Towards the Company and Management.** Prohibit conduct that may harm the reputation of the company or supervisors.

- **Communications with Third Parties.** Restrict employees from speaking to news media or government agencies.
- **Use of Company IP.** Ban the use of the company's IP.
- **Workplace Photography and Recording.** Prevent employees from taking photographs or making recordings.
- **Leaving the Workplace.** Restrict employees from leaving work.
- **Conflicts of Interest.** Prohibit employees from engaging in activities that conflict with the company's interests.

Mathew also provides employers with five things they should consider to minimize the risk of a future handbook challenge.

1. Reviewing the eight handbook policies identified in the report to determine whether they could be interpreted as “chilling” protected concerted activity — if it's ambiguous or overbroad it's most likely unlawful
2. Putting handbook policies in context by either keeping together any policies that must be read in tandem to understand their intended meaning or providing internal references in policies to other policies that would clarify their intended meaning
3. Explaining in the policy itself why the policy is important to the employer
4. Using more specific language in policies or providing specific examples of the behavior targeted by them
5. Noting that protected concerted activity is exempt from the policy

To read the full article, please visit [Columbus CEO](#).