

Just What Constitutes Protected Concerted Activity in Social Media Use by Personnel?

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Abstract

An employee goes home at night, frustrated by what he or she perceives to be an unjust workplace and unfair manager, but can this employee go to social media to complain? Employers sometimes mistakenly accuse personnel of making inappropriate or harmful comments about the employer on social media. However, the federal National Labor Relations Act protects employees in the private sector who want to raise legally significant issues about their workplace, unionized or not. Those issues might constitute protected concerted activity under the federal statute.

Learning Outcomes

In completing this assignment, students should be able to:

1. Appraise the NLRB adaptation of the Wagner Act of 1935 to apply to protected concerted activity on social media.
2. Interpret what constitutes protected concerted activity.
3. Judge legitimate uses of social media by employees with uses that an employer can legally prohibit.

Application

The critical incident is best suited for an undergraduate human resources or business law class. It is a descriptive case in that the events of an NLRB case are described. Instructors could ask students to discuss whether or not the employees should complain online or not; in that way, the critical incident could be construed as decision oriented.

Key Words

protected concerted activity, social media, labor relations

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