

NLRB Holds That Confidentiality Agreement Barring Employees From Discussing Human Resources-Related Information is Unlawful

David Moore

03.31.2015

In ***Battle's Transportation, Inc. and Jerome Kearney***, the National Labor Relations Board (NLRB) held that an employer's confidentiality agreement that barred employees from discussing "human resources related information" and "investigations by outside agencies" was overbroad and unlawful. According to the NLRB, employees could reasonably construe those phrases to encompass terms and conditions of employment or to restrict employees from engaging in protected activity, such as NLRB complaints or investigations. The decision follows the NLRB's trend of striking down similar confidentiality obligations in work rules and employee handbooks, including rules instructing employees to keep "employee information secure" and not to disseminate information from an employee's personnel file. In light of this trend, employers should review their confidentiality agreements, rules and policies to ensure that they clearly identify the types of information that are considered confidential and are narrowly drafted so that they cannot be construed as deterring employees from engaging in protected activity.

Attorneys

David A. Moore

Practice Areas

Counseling and
Transactional

EEO and Other Corporate
Investigations

Grievance Administration

Labor Management
Relations