

National Labor Relations Board Changes Course on Employee Email



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Employers who revised their electronic communication policies under the National Labor Relations Board's (NLRB) *Purple Communications* standard may want to head back to the drawing board (again) in the new year.

In *Caesars Entertainment d/b/a Rio All-Suites Hotel and Casino* the NLRB rescinded the 2014 *Purple Communications* restrictions that precluded employers from restricting employee use of employer email systems. In its place, the NLRB reinstated its position that employers may regulate employer-provided equipment, including email, so long as the restrictions are substantively neutral – meaning that if restrictions are imposed, they are imposed across the board and not specifically on union activities or discussions of working conditions.

The NLRB carved out an explicit exception for circumstances in which employer-provided email is the only reasonable means for employees to communicate with one another on non-working time. In that case, employees must be permitted to communicate with one another using employer-provided email.

The *Caesars Entertainment* holding gives employers more liberty to regulate employee use of email. This liberty is not limitless, however, and employers who are tempted to ratchet up regulation should be cognizant that discriminatory application of otherwise neutral policies may still land them in hot water. In addition, employers should consider their legal obligations under other federal laws, including their legal obligations to prevent harassment and discrimination in the workplace.

Brooks Pierce employment attorneys regularly assist businesses and HR professionals in staying compliant with ever-changing regulatory requirements. For more information, please contact Jessi Thaller-Moran and Elizabeth Troutman,

linked below.