



Mineral



Question of the Week

April 3, 2024

Question

Does the National Labor Relations Act apply to my business if we don't have a union?

ANSWER

It does! Congress enacted the National Labor Relations Act (NLRA) in 1935 to protect the rights of employees and employers, to encourage collective bargaining, and to limit certain labor and management practices that can harm the general welfare of workers, businesses, and the U.S. economy. Although a good portion of the NLRA deals with unionization, Section 7 of the act provides protections for *all* nonsupervisory employees, even those not involved with a union.

Specifically, Section 7 defines and protects *concerted activity* by employees. *Concerted activity* happens when employees act as a group (i.e., in concert) for their mutual aid or protection. That said, it's easy for an individual employee to gain protection under the NLRA if they're discussing the terms and conditions of their employment either physically around coworkers or in the same virtual space (e.g., on social media). The "terms and conditions of their employment" are just as broad as they sound. They include pay, benefits, treatment by management, dress codes, workplace policies, scheduling, and more.

The most common violation of Section 7, at least in non-unionized environments, happens when employers restrict or prohibit discussions of wages. If you have policies or practices that explicitly or implicitly forbid employees from talking about how much they're paid, you should eliminate those policies immediately.

Many activities *protected* by Section 7 may seem like common sense to limit or prohibit (e.g., griping about management or discussing pay), so it's important that all managers are trained on and understand the law. Unintentional violations that don't stem from corporate policy can be just as costly as any other, so education is key.

This Q&A does not constitute legal advice and does not address state or local law.