

LEGISLATIVE UPDATE

January 2016

NLRB strikes down Whole Foods' blanket rule prohibiting employee recordings

On December 24, 2015, the NLRB issued a ruling finding rules contained within Whole Foods' employee handbook prohibiting employee recordings anywhere in the workplace to be unlawful. The rules prohibited recording:

conversations, phone calls, images or company meetings with any recording device (including but not limited to a cellular telephone, PDA, digital recording device, digital camera, etc.) unless prior approval is received from your Store/Facility Team Leader, Regional President, Global Vice President or a member of the Executive Team, or unless all parties to the conversation give their consent.



Penalties for violation of these recording rules were up to and including discharge. The Board determined the rules covered any and all areas of the stores, including the parking lot, and applied without regard to whether the employee was engaged in protected concerted activity.

Although Whole Foods argued the rules were backed by legitimate business purposes, and were intended to foster employee participation in business operations, the Board determined the rules interfered with employees' Section 7 rights under the National Labor Relations Act to discuss wages, hours, and terms and conditions of employment. The Board further held the rules could be reasonably interpreted to prohibit other protected activities such as recording picketing, documenting unsafe or hazardous working conditions, or documenting inconsistent application of employer rules. Because the Board found the employees had rights in some circumstances to record conversations and occurrences in the workplace, the rules were found unlawful.

The full text of the Board's ruling can be found here: apps.nlr.gov/link/document.aspx/09031d4581f3e617

ACA reporting deadlines extended

On December 28, 2015, the IRS issued a notice delaying reporting deadlines under the Affordable Care Act. The new deadlines are:

- March 31, 2016 for providing forms 1095-B and 1095-C to employees
- May 31, 2016 filing forms 1095-B/C and 1094-B/C with the IRS (or June 30, 2016 if filing electronically).

Mark S. Barnes
mbarnes@bugbeelawyers.com

Carl E. Habekost
chabekost@bugbeelawyers.com

Dana R. Quick
dquick@bugbeelawyers.com

Tybo Alan Wilhelms
twilhelms@bugbeelawyers.com

BUGBEE
& CONKLE

www.bugbeelawyers.com