

New NLRB Guidance on Employee Handbooks: Complying With New Rules After the Boeing Decision

CLE Webinar

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Since the NLRB's Dec. 14, 2017, decision in *Boeing*, employers have faced significant confusion about how the Board would evaluate workplace policies under the NLRA and how to place workplace rules into the three categories defined in the decision. On June 6, 2018, the **general counsel of the NLRB published much-needed guidance** on how the *Boeing* standard should be applied.

The *Boeing* decision is a significant departure from the prior standard for evaluating the lawfulness of workplace rules under *Lutheran Heritage Village-Livonia*, which turned on whether a given rule would be "reasonably construed" by an employee to prohibit the exercise of NLRA rights. Instead, the Board promulgated **a two-part test that balances a worker's NLRA rights against the employer's legitimate business justifications** for the rule.

Boeing also set forth a categorizing system labeling workplace rules as either Category 1 (rules that are generally lawful to maintain), Category 2 (rules requiring individualized scrutiny), or Category 3 (rules that are unlawful to continue). Even with this framework, there remains a great deal of room for **subjectivity and nuance when evaluating handbook rules** under the *Boeing* standard.

Listen as our panel of experts discusses the *Boeing* decision, the NLRB's 2018 guidance memo, and how to apply the new standard to workplace policies. Our panel will also shed light on how to best to evaluate, modify or justify handbook rules and procedures under the new test and rule-categorization system, and provide practical lessons for employers in maintaining compliant employee handbooks.

Speaker: John Bolesta, *Special Counsel*

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