

Employee Access- Lit Review

Unions	Not job related	Virtual Space	Policies	Reasonableness
What if an employee requests permission to use a company's email system to invite fellow workers to a union rally or meeting? Can the company lawfully deny such a request ?(King, 2014, p. 21).	The request is a strong indication that the Board is considering overturning its 2007 decision in Register Guard, holding that an employer's policy that prohibited "non-job-related solicitations" on its email system was lawful (1 as cited by King, 2014, p. 21).	The Board's review of access rights of third parties to an employer's virtual space follows the filing of unfair labor practice charges by various unions seeking access to employer's physical space and presents significant questions regarding the rights of employers to control the use of their property, both physical and virtual (King, 2014, p. 21-22).	It is, therefore, prudent for employers to carefully watch how the Board proceeds in the Purple Communications case and also to review, and revise if necessary, their solicitation, distribution and access policies, including particularly, their electronic communication usage policies (King, 2014, p. 22).	In practice, the employer allowed some personal use of email, such as to send jokes, baby announcements, party invitations, and the occasional offer of sports tickets or request for services such as dog walking (King, 2014, p. 22).
Recently, the General Counsel of the National Labor Relations Board (NLRB or "Board") filed a complaint against a company for denying an employee access to the employer's email system for union organizing activity (King, 2014, p. 21).		Technology has changed the way companies conduct business allowing ease of communication and interactions across offices, supplanting some staff meetings, and allowing messages from the top of management to be quickly broadcast down	Pursuant to its policy, the employer issued two written warnings to an employee who was also a union official (King, 2014, p. 22).	Yet there was no evidence that the employer allowed employees to use email to solicit support for any outside organization (other than the United Way, for which the employer periodically conducted a charitable campaign) (King, 2014, p. 22).

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		the ranks (King, 2014, p. 22).		
The NLRB has agreed to consider the General Counsel's request to review the law in this area (King, 2014, p. 21).			The first warning sanctioned the employee for sending an email that discussed alleged factual misrepresentations in a prior management email regarding a union rally (King, 2014, p. 22).	Applying these principles to the facts of the case, the Board initially found that one of the disciplines was lawful because the emails it related to "called for employees to take action in support of the Union," and while the evidence showed that the Respondent had tolerated personal solicitations, there was no evidence that the employer permitted solicitation on behalf of groups or organizations (3 as cited by King, 2014, p. 23).
This workplace transformation has not been lost on labor unions that are eager to gain access to employer email to improve their			The other discipline was found unlawful because the employee had used company email "for the purpose of conducting Guild business" – a	The other discipline was found unlawful because the employee had used company email "for the purpose of conducting Guild business" – a

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own organizing campaigns (King, 2014, p. 22).			purpose that was not prohibited by the employer's policy, so the employer was guilty of discriminatorily applying its work rules (4 as cited by King, 2014, p. 23).	purpose that was not prohibited by the employer's policy, so the employer was guilty of discriminatorily applying its work rules (4 as cited by King, 2014, p. 23).
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The first warning sanctioned the employee for sending an email that discussed alleged factual misrepresentations in a prior management email regarding a union rally (King, 2014, p. 22).				
The second warning related to two further emails that urged employees, first, to				

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wear green in support of union negotiations, and second, to participate in a town parade on behalf of the union (King, 2014, p. 22).				
The union challenged the two warnings and in a split decision, the NLRB upheld the employer's right to impose a general policy restricting the non-business use of email (King, 2014, p. 22).				