

NLRB reverses course to establish new restrictions on severance agreements

On February 21st, the National Labor Relations Board (“NLRB” and the “Board”) ruled that overbroad non-disparagement and non-disclosure provisions in severance agreements are an “unfair labor practice” in violation of Section 7 of the National Labor Relations Act (“NLRA” or the “Act”). This ruling, in McLaren Macomb is a reversal of its prior decisions in Baylor University Medical Center, 369 NLRB No. 43 (2020) and IGT d/b/a Inter-national Game Technology, 370 NLRB No. 50 (2020), which have been relied upon by employers for the past three years.



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What are Section 7 rights?

When most employers think of the NLRA they think of unions and union related activity. It is important to note, however, that the NLRA protects the rights of union and non-union workers alike when it comes to Section 7. Section 7 of the Act is a basic federal law that protects the rights of covered workers to engage in protected concerted activities, to form unions, and to engage in collective bargaining activities with their employers over the terms and conditions (e.g., wages, leave policies, etc.) of their employment.

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