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Macy's Employee Handbook Found to Violate NLRA

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An administrative law judge (ALJ) recently found a provision of Macy's employee handbook to be overly broad and in violation of employees' rights under the National Labor Relations Act. Macy's confidentiality policy required employees to keep "information about employees" confidential and stated that "personal information of the Company's employees and customers" is considered a company asset and requires protection and confidentiality. Unauthorized disclosure of employee and consumer information was prohibited.

Pursuing a charge brought by the United Food and Commercial Workers, the National Labor Relations Board (NLRB) general counsel contended that the policy would interfere with employees' ability to engage in concerted activity for their mutual aid or protection, insofar as employees would believe that they couldn't share employee contact information or discuss wage, hours, or working conditions among themselves or with a union. The ALJ agreed and also found that the policy unlawfully required employees to notify management before participating in government investigations.

Tip: This case serves as a reminder that the NLRB and other governmental agencies are reviewing confidentiality and privacy policies and claiming that some of these policies improperly impair employees' statutory rights. Employers should carefully consider, among other things, the specific business justifications and language used if employee information is included in the definition of confidential or proprietary information in employment policies. For more information and tips, view this briefing on recent developments by our firm's labor and employment group.

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