

National Labor Relations Board Guidance on Handbook Rules

(Extracted from the June 6, 2018 NLRB Office of the General Counsel Memorandum GC 18-04, intended to provide guidance to NLRB Regional Directors for analyzing handbook policies and rules)

Category 1: Rules That are Generally Lawful to Maintain

1. **Civility Rules:** Includes rules that prohibit behavior that is rude, condescending, or otherwise socially unacceptable; negative or disparaging comments about a coworker; name-calling and gossip; discourteous or unbusinesslike behavior; and offensive language.
2. **No-Photography and No Recording Rules:** Those that prohibit employees from recording conversations, phone calls, images, or company meetings with any recording device without prior approval, and rules that prohibit employees from recording telephone or other conversations with coworkers, managers, or third parties unless such recordings are approved in advance.
3. **Rules Against Insubordination, Non-cooperation, or On-the-Job Conduct that Adversely Affects Operations:** Includes rules that prohibit employees from being uncooperative with supervisors and from engaging in conduct that does not support the company's goals and objectives, insubordination toward a manager, and lack of cooperation with fellow employees or guests.
4. **Disruptive Behavior Rules:** Includes rules that prohibit boisterous and disruptive conduct; roughhousing, dangerous conduct, or bad behavior; creating a disturbance on company premises; creating discord with clients and fellow employees; and disorderly conduct on company premises and/or during working hours for any reason. Can also include rules that address issues created by yelling, profanity, hostile or angry tones, throwing things, slamming doors, waving arms or fists, verbal abuse, destruction of property, threats, or outright violence.
5. **Rules Protecting Confidential, Proprietary, and Customer Information and Documents:** Includes rules that ban discussions of such information and documents that make no mention of employee or wage information.
6. **Rules Against Defamation or Misrepresentation:** Includes rules that prohibit employees from misrepresenting the company's products or services or its employees and rules that prohibit employees from emailing messages that are defamatory.
7. **Rules Against Using Employer Logos or Intellectual Property:** Includes rules that prohibit employees from using the company logo for any reason and/or from using any company logo, trademark, or graphic without prior written approval.
8. **Rules Requiring Authorization to Speak for the Company:** Includes rules that state the company will respond to media requests for the company's position only through the designated spokesperson and rules stating that employees are not authorized to comment for the employer.
9. **Rules Banning Disloyalty, Nepotism, or Self-Enrichment:** Includes rules that address these types of conflicts of interest and conduct that is disloyal, competitive, or damaging to the company (including employment with another employer). This also includes rules banning employees from activities or investments that compete with the company, that interfere with one's judgement concerning the company's best interests, or that exploit one's position with the company for personal gain.



Category 2: Rules Warranting Individualized Scrutiny

1. **Broad Conflict-of-Interest Rules:** Includes rules that do not specifically target fraud and self-enrichment.
2. **Broad Confidentiality Rules:** Includes rules that broadly encompass “employer business” or “employee information.”
3. **Rules Regarding Disparagement or Criticism of the Employer** (as opposed to civility rules regarding disparagement of employees).
4. **Rules Regulating Use of the Employer’s Name** (as opposed to rules regulating use of an employer’s logo/trademark).
5. **Rules Generally Restricting Speaking to the Media or Third Parties** (as opposed to rules restricting speaking to the media on the employer’s behalf).
6. **Rules Banning Off-duty Conduct that Might harm the Employer** (as opposed to rules banning insubordination or disruptive conduct at work).
7. **Rules Against Making False or Inaccurate Statements** (as opposed to rules against making defamatory statements).

Category 3: Rules that are Unlawful to Maintain

1. **Confidentiality Rules Specifically Regarding Wages, Benefits, or Working Conditions:** Includes rules that prohibit employees from disclosing their salaries or contents of employment contracts, rules that prohibit discussions of working conditions and terms of employment, and rules that prohibit employees from disclosing any information pertaining to the wages, commissions, performance, or identity of employees of the employer.
2. **Rules Against Joining Outside Organization or Voting on Matters Concerning the Employer:** Includes rules that ban or limit membership in or work for outside organizations that would be interpreted as covering unions.