

Can You Terminate An Employee For Talking To The Press?

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It's a potential nightmare scenario for employers. Something happens at the company. Maybe it's a safety hazard that resulted in a significant employee injury, or a product defect that is resulting in public outcry. The press gets wind of it and interviews some of your employees. Can you terminate employees who talk to the reporters? As demonstrated by a recent advice memo from the National Labor Relations Board (NLRB), that route could result in legal problems, depending on the circumstances.

In a [memo released on April 15](#), the agency evaluated a case where a company maintained a policy that prohibited employees from speaking to the media at any time. The NLRB found this rule to be unlawful and explained: "Employees have a statutory right to speak publically about their complaints or concerns with their terms and conditions of employment, including to the press, without employer authorization."

In other words, employees have a right under the National Labor Relations Act generally to discuss their employment – including with the press. Based on the finding that the policy was unlawful, the NLRB also found that the company violated labor law when it terminated two employees pursuant to the policy for speaking to the media about a workplace issue. A more narrowly tailored policy may have passed muster, but the broad media prohibition, in this case, crossed the line.

This is the latest in a series of reminders for employers to [ensure their policies](#) are drafted in a way that conforms to applicable NLRB standards. Rules that [run afoul of labor laws](#) can result in protracted legal proceedings and headaches for companies.

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