

## Employer Email Policies Subject to Federal Review

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Employers should be aware that The **National Labor Relations Board** is considering whether employees have a federal right to use employer owned and maintained email systems for union organizing purposes and to discuss wages, discipline and other protected concerted activity. This will impact all employers regardless of whether their workers are represented by a union.

Employers have been able to maintain and enforce electronic use policies forbidding such use of their employer owned systems since the NLRB's decision in *Register Guard* (2011). The NLRB has invited briefs in the case of *Purple Communications Inc.*, on the issue of whether the NLRB should now prohibit employers from restricting use of their systems and property for union organizing purposes and other activity protected by the National Labor Relations Act. The NLRB General Counsel has asked the Board to adopt a policy that employers can only limit email and other electronic communication use to the extent they need to maintain production and discipline.

This case will impact every private sector employer that maintains email and other electronic communication services for its employees. Briefs are due on or before June 13, 2014. We will closely monitor this case and keep you informed of the decision that ultimately issues. All employers need to review their policies and practices to see what changes will be needed if the NLRB, as expected, finds employees have a right to use email for union or other protected concerted activities.

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