

NLRB (National Labor Relations Board) Finds Hospital Must Bargain with Union on Changes to Dress Code Policy

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Workplace Safety and Health

A hospital's newly implemented dress code policy was a material, substantial, and significant change to union employees' terms and conditions of employment that required bargaining with the union, the NLRB has ruled. *Salem Hospital Corp.*, 360 NLRB No. 95 (Apr. 30, 2014).

The hospital maintained a dress code policy, which allowed employees wide latitude to determine the color and type of scrubs they wear. Employees also were permitted to wear hoodies, sweatshirts, and fleece jackets.

Wanting to improve the professional image of its employees, the hospital decided to revamp its dress code policy. Included in the revisions was a color-coded uniform system designed to help staff, patients, and visitors more easily identify and distinguish employees. The hospital did not inform the union about the revisions to the policy.

Once it found out about the changes, the union sent a letter to the hospital demanding bargaining over changes to the dress code policy. The union did not receive a response. It filed a charge against the hospital for unilaterally implementing the new dress code policy.

The NLRB held that the hospital violated the NLRA by imposing a new dress code policy without bargaining with the union. An unlawful change, the NLRB explained, is one that is "material, substantial, and significant" to employees' terms and conditions of employment. The NLRB reasoned the new color-coded uniform requirements "rendered useless most, if not all, of their personal scrub inventories containing other colors and styles." The NLRB found "the hospital must have recognized this adverse financial impact because it provided three free sets of scrubs to reduce the initial monetary cost to employees of complying with the new policy." The hospital's offer to provide free uniforms did not make the dress code any less of a financial burden on the employees, the NLRB said, because the dress code also banned outerwear such as hoodies, sweatshirts, and fleece jackets if they did not match the new color-coded uniforms.

The NLRB ordered the hospital to make employees who were adversely affected by the "major workplace policy change" to the dress code policy whole by reinstating employees who were terminated for dress code-related infractions and paying employees for any loss wages, as well as any out-of-pocket expenses incurred as a result of complying with the dress code policy.

National Law Review, Volume IV, Number 139

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