

From Employees' Lips To Customers' Ears: Can You Stop Employees From Complaining To Customers?

No organization wants its employees to air their work-related complaints to customers or clients. But can you forbid them from doing so? In a word, no. However, you do not have to put up with employees who go too far with their grouching.

What's stopping you from instituting a policy that prohibits employees from complaining to customers? Section 7 of the National Labor Relations Act (NLRA), which gives employees the right to engage in concerted activities for their mutual aid or protection, regardless of whether they are unionized. Specifically, the NLRA prohibits employers from interfering with, restraining, or coercing employees in the exercise of their Section 7 rights, which include discussing wages and other terms and conditions of employment.

Just as employees cannot be prohibited from discussing their wages, hours, etc., with other employees, the National Labor Relations Board (NLRB) has long held that a blanket rule that prohibits employees from lodging complaints or discussing terms of employment with customers violates the NLRA.

Beware: A company policy that explicitly prohibits employees from complaining to customers isn't the only policy that can run afoul of the law. For example, requiring employees to follow an internal chain of command for lodging complaints or discussing work issues can violate the NLRA even though it doesn't expressly limit employees' rights, because employees may *reasonably interpret* the language of the policy to prohibit them from complaining to customers.

Exceptions To The Rule

Of course, there are exceptions to the rule. Employees' right to complain to customers is not absolute. You may legally take disciplinary action against employees who complain to customers under certain circumstances.

- The employee makes maliciously, deliberately, or recklessly false statements. In other words, the employee knew the statement was false or made the statement with reckless disregard of whether it was false.
- The employee's statement rises to the level of disloyalty. Generally, a statement is not protected if it is damaging to the business.
- The statement is not related to the labor practices of the employer. Complaints that do not address

working conditions and, instead, focus on personal preferences or professional differences do not qualify for NLRA protection.

Personal Pause

Audit company policies related to complaints/grievances, customer service, and attitude/behavior to make sure that they do not prohibit employees from complaining about their working conditions to customers and clients or cannot reasonably be interpreted as restricting employees' NLRA rights.