

NLRB: Employer Unlawfully Questioned Employees by Asking About Supervisor's Leadership Abilities

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The National Labor Relations Board ("NLRB") recently affirmed a 2013 ruling that found an employer violated Section 8(a)(1) of the National Labor Relations Act (the "Act") by interrogating employees when its human resources representative interviewed employees to evaluate a supervisor.

In Grand Canyon Education, Inc. d/b/a Grand Canyon University, Case No. 28-CA-022938, the employer engaged in one-on-one meetings with each of a supervisor's employees, asking a series of questions regarding the supervisor's leadership abilities. The human resources manager instructed employees to keep the discussions confidential. Additionally, she asked employees to name others who had complained about the supervisor.

The NLRB found that the questioning amounted to a coercive interrogation regarding protected activity by other employees concerning their terms and conditions of employment. The Board did not consider the employer's intentions in making its inquiry; instead the Court considered only whether the "questioning would reasonably tend to coerce the employee in exercising her Section 7 rights." The Board found that by requesting specific information about the protected activities of other employees, the employer's questioning amounted to an unlawful interrogation.

Client Tip: *This case continues the trend of the NLRB's enhanced enforcement of employees' Section 7 rights. Colleges and universities seeking to evaluate their supervisors and managers through employee interviews should advise employees of the purpose of the interview, that the discussion is voluntary, and that there will be no negative consequences for refusing to cooperate.*

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