



nlrp calls into question confidentiality and non-disparagement provisions in agreements with employees

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On February 21, 2023, the National Labor Relations Board (the NLRB) issued a decision in *McLaren Macomb*, 372 NLRB No. 58 (2023), that will impact employers in both unionized and non-unionized workplaces. The decision holds that employers violate the National Labor Relations Act (the NLRA) when they present employees with severance agreements that contain overly broad confidentiality and non-disparagement provisions. The Board's decision overturns precedent from the Trump-era which held that severance agreements could lawfully include confidentiality and non-disparagement provisions; consequently, employers who have a practice of negotiating severance agreements to "buy out" employees in exchange for a release of claims or potential claims against the employer must now take a second look at those agreements, with a particular focus on confidentiality and non-disparagement language.

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