

Publications

Employee Handbook 'Savings Clause' may Preserve Employer Policies

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Ohio Matters

Nelson Cary, a partner in the Vorys Columbus office and a member of the labor and employment group, authored an article for *Ohio Matters* (a publication of the Ohio Chamber of Commerce) about the ongoing debate regarding "savings clauses," or a disclaimers, stating that employees should not interpret any of an employer's rules in a way that would deny rights under the National Labor Relations Act (NLRA). According to Cary, a case decided by the National Labor Relations Board (NLRB) earlier this year provided some guidance on these clauses.

The article states:

"In the case, the employer maintained what it called a 'Freedom of Association Policy' in its employee handbook. The policy was lengthy, spanning three pages of the employer's 73-page handbook. The policy reaffirmed various employee rights, including a secret ballot election, 'informed choice' and 'representative voter turnout.' It also included the following sentence: '[D]uring union organizing campaigns, management shall support the employee's individual right to choose whether to vote for or against union representation without influence or interference from management.'

The employer argued that this policy precluded the NLRB from finding that its employees would read any of its other work rules as unlawfully restricting their rights under the NLRA. While the NLRB agreed that 'an employer's express notice to employees advising them of their rights under the [NLRA] may, in certain circumstances, clarify the scope of an otherwise unambiguous and unlawful rule,' it found the employer's 'Freedom of Association Policy' insufficient."

To read the entire article (PDF), visit the Ohio Chamber of Commerce [website](#). The article appears on Page 6.