

NLRB Administrative Law Judge Orders Postal Service to Rescind Policies on Recording in Workplace

On May 19, 2017, Administrative Law Judge (ALJ) Andrew S. Gollin of the National Labor Relations Board found multiple Postal Service policies that restrict the ability of its employees to record, photograph; use copyrighted or trademark materials, or speak to the media to be in violation of employees' legal right to work together for better wages, hours, and working conditions.

The ALJ determined that the following regulations were overly broad and violated the National Labor Relations Act:

- Employee and Labor Relations Manual section 667.2, which restricts the use of recording devices on postal property without the permission of management;
- Administrative Support Handbook 805 section 5-5(s), which prohibits the use of cameras, cell phones with cameras, and other personal imaging devices in all Postal Service areas without management permission;
- Administrative Support Manual section 663.4, which requires that any employee who wishes to use Postal Service trademarks or copyrighted materials must seek permission

The ALJ determined that the first two provisions overly restricted an employee's right to use photography and recording devices to document unsafe conditions and demonstrate unfair treatment by management. The third regulation was viewed as potentially restricting postal unions from using USPS trademarks and copyrighted materials as part of picketing or other collective activities. Along with the above provisions, the ALJ also found two local media policies in Fort Worth, Texas and Alabama overly restricted the rights of employees to speak to the media about their working conditions. The ALJ ordered the Postal Service to rescind all of the provisions at issue.

This decision was the result of a two day hearing in Austin, Texas which took place in February of this year. The APWU, NALC, and NPMHU put on a united front and participated in the hearing in support of the Board's contentions that these provisions violated the law. APWU Director of Industrial Relations Vance Zimmerman participated as a witness at the hearings. He delivered testimony as to why Postal Workers may need to use photography or recording devices to protect themselves, their coworkers, and why the Postal Service's restrictions were unjustified.

The ALJ's decision now must be approved by the National Labor Relations Board. The Postal Service may appeal the ALJ's decision and ask the Board to overturn it in part or completely. Until the Board has issued a final decision, the handbook and manual provisions at issue should be treated as still in effect.