

Firings For Facebook Comments Violate NLRB

By: Jack Greiner on September 13, 2011 on graydon.law

The National Labor Relations Board has issued [its first post-hearing decision](#) on the question of whether an employer can fire employees who post Facebook messages about their terms of employment. And the ruling is not good for employers. The NLRB in the case of Hispanics United of Buffalo, Inc. decided that the comments, traded among co-workers at the not for profit agency, constituted concerted, protected activity. It's an interesting case, because the firings resulted from concern that the comments constituted harassment of an employee. Apparently that employee, Lydia Cruz, had criticized her fellow workers' performance. Those employees posted comments on Facebook in response. At one point, in the midst of the exchange, Cruz posted: "stop with ur lies about me." But the NLRB found that the comments did not rise to the level of harassment, and could not be the basis for termination. One important point here is that the employees were talking among themselves. The NLRB has indicated that criticisms about an employer made to a third party are not protected. The ultimate point here is, I think, for employers not to overreact to a Facebook string. Annoying as it may be, it's not worth liability with the NLRB.