

[E-mail policies: Tricky when unions target you](#)

September 4, 2009 by Tim Gould

Posted in: [In this week's e-newsletter](#), [Legal & Compliance](#)

What with all the talk about the Employee Free Choice Act, unions are a hot topic among business leaders these days. Here's a look at the kind of trouble companies can get into when they deal with employees who are either in a union or trying to form one.

A recent federal court case involved a newspaper copy editor who served as president of her union. She was disciplined after she used a company computer to send co-workers an e-mail concerning a union meeting.

Her employer cited the firm's e-mail policy, which prohibited personal messages and others that involved "religious or political causes."

Can't pick and choose

months later, she sent two more e-mails concerning union activities, and was disciplined again. The union filed suit, charging the employer was guilty of unfair labor practices because of its misapplication of the e-mail policy.

A federal appeals court judge agreed. The court pointed out the firm's e-mail system was routinely used for such things as birth announcements, party invitations and even solicitations for United Way contributions — and no one had ever been disciplined.

What's the take-away here? Employers can't pick and choose when to enforce policies, especially ones that deal with communication among employees. Obstructing the flow of information concerning unions — either existing ones or ones in the formative stages — can land companies in serious hot water.

Cite: *Guard Publishing v. NLRB*, U.S. Circuit Crt. DC, No. 07-1528, 7/7/09.