United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL

Advice Memorandum

S.A.M. DATE: February 4, 2016

TO: George Velastegui, Regional Director
Region 32

FROM: Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: AT&T/Pacific Bell Telephone Company
Case 32-CA-156076

506-6090-3200-0000
512-5012-2500-0000
512-5012-3300-0000
512-5012-3367-0000
512-5036-0117-3333
530-6067-4055-0100
530-6067-4055-4000
530-6067-5000-0000

This case was submitted for advice as to whether (1) the Employer violated Section 8(a)(1) of the Act when it removed or instructed employees to remove stickers, including pro-union stickers, from their personally-assigned cubicles, shelves, and trucks, and (2) whether the Employer violated Section 8(a)(5) of the Act by unilaterally changing its established past practice of allowing employees to affix stickers with pro-union messages to cubicles, shelves, and trucks.

We conclude that the Employer violated Section 8(a)(1) of the Act by asking employees to remove stickers from their assigned cubicles and shelves and by removing employees' stickers from their assigned trucks. The Board has ruled that employees have a Section 7 right to wear union insignia, including stickers, while at work and has never held that this right does not extend to employees displaying stickers or other insignia on employer property that is assigned to individual employees for their own use. The Region should argue that when an employer cedes its property by assigning it to particular employees for their own use, the right to display union insignia extends to that property, absent a showing of special circumstances. Therefore, since the Employer has not shown special circumstances here, it violated Section 8(a)(1). We also conclude that the Employer violated Section 8(a)(5) of the Act when it unilaterally changed the past practice of allowing employees to display pro-union messages on the cubicles, shelves, and trucks. As an established past practice, permitting employees to display these pro-union messages had become a term and condition of employment. Moreover, the change had a substantial, material, and significant impact on the employees' working conditions.

FACTS

Background

AT&T/Pacific Bell Telephone Company (the Employer) provides telecommunications services in California. The two Employer facilities at issue in this case are in Fresno, California and Hanford, California. Communication Workers of America, Local 9408 (the Union) represents 200 unit employees based out of these facilities who work in the Employer's construction and engineering departments. Unit employees employed at the two facilities are classified as splicing technicians and outside plant technicians.

The Employer and Union have a long history of collective bargaining. Their most recent collective-bargaining agreement is in effect through April 9, 2016. Section 3.06 of the parties' collective-bargaining agreement, titled "Bulletin Boards," contains sub-item B, which states, in pertinent part:

> Unless otherwise agreed upon in advance by the Companies, the Union agrees not to post or distribute Union material any place on the Companies' premises other than on Union bulletin boards.

Additionally, since at least 2011, the Employer has maintained work rules entitled "Construction and Engineering West Guidelines" that contain a section titled "Motor Vehicle Driving Practices." That section states, in pertinent part:

> No materials or objects shall be attached by any means to the exterior of a company vehicle unless approval for such attachment has been obtained from management. Approval may be revoked at any time.

Usage of Personal Storage Spaces and Trucks

i. Shelves and Cubicles Assigned for Employee Personal Use

For the past four to five years, employees at the Fresno and Hanford facilities have kept their personal belongings in two types of open storage compartments located in the facility crew rooms. Employees use these Employer-provided spaces to store their belongings, including jackets, photographs, food, and other personal items.

One set of storage compartments consists of shelves, akin to bookshelves, that line the crew room's walls. The shelving units are assigned to individual employees and the employee's name is affixed to the compartment shelf. The second type of

storage compartment consists of cubicles or modules that also line the crew room's walls. The cubicles or modules are also assigned to individual employees.[1]

ii. Employer-Owned Vehicles

The Employer has a fleet of about 150 trucks at its Hanford and Fresno facilities. Approximately eighty-five of the trucks are based at the Employer's Fresno facility and are assigned to bargaining unit employees in the splicing department. The rest of the trucks are based out of Hanford.

Splicing technicians are assigned a truck on a long-term basis. The truck number is listed on the employee's time card, and the Employer uses the truck number to track down where splicing technicians are working. Splicing technicians load their equipment into the vehicle, use the truck during their shift, and park the truck at the Employer's facility at the end of the shift.

Employer's Past Practice Regarding Stickers on Employer's Property

i. Stickers on Cubicles and Shelves

The Union asserts that for more than ten years, the Employer had allowed employees at both the Fresno and Harford facilities to routinely affix stickers and banners to their assigned cubicles and shelves. These have included sports team stickers, flag decals, "union strong" and "union proud" stickers, and other items, such as "Monster" drink decals. In addition, when the parties entered negotiations for collective-bargaining agreements, employees would routinely affix stickers with messages in support of the Union's bargaining positions, such as "Don't affect the healthcare." The (b) (6), (b) (7)(C) asserts that before the employees were instructed to remove stickers from their personal spaces, Union material had been distributed and/or posted in other places at the facilities besides Union bulletin boards for years.

---

[1] In late 2014, the Employer also installed stacks of lockers in the Fresno crew rooms. The lockers are known as company lockers and they resemble security boxes. The lockers are assigned to individual employees, who use the lockers to store their company-owned computers, cell phones, and keys. The Employer has not assigned company lockers to employees at the Hanford facility. The employees have consistently been instructed not to place stickers on company lockers, and they have never placed any stickers on the lockers since they were installed in late 2014. Since the lockers are not at issue in this dispute, we have not addressed them in this memorandum. However, we note that the analysis regarding the personal shelves and cubicles, below, would apply to personally-assigned lockers as well.

ii. Stickers on Company-Owned Trucks

The Union also asserts that for the past eight to ten years, unit splicing technicians at Fresno and Hanford have regularly affixed stickers to their assigned trucks. The stickers have included football and baseball team decals, flags, and United States Marine Corps stickers, as well as pro-Union stickers with messages such as "Proud to be Union," "Overtime pay brought to you by Union labor," "Vacations: brought to you by Union labor," and "Safety: brought to you by Union labor." The Union claims that approximately seventy-five percent of all the trucks had stickers affixed on them. The Union's (b) (6), (b) (7)(C) asserts that if an employee affixed a sticker considered problematic or obnoxious, for example, a sticker that had foul or offensive language, a manager would request that (b) (6), (b) speak to the employee and request that the employee remove the sticker. During all such instances in the past, the employee removed the sticker after the Union's (b) (6), (b) (7)(C) spoke with the employee, and the Employer did not remove any stickers on its own from trucks during these years.

Employer Reissues and Enforces Policy Regarding Stickers on Trucks

In March 2015, the Employer re-distributed copies of its Construction and Engineering West Guidelines to unit employees and asked them to sign forms acknowledging their receipt.[2] The Union asserts that before the Employer re-issued the Construction and Engineering West Guidelines in March 2015, it had not enforced the guidelines at the Fresno and Hanford locations during the previous eight to ten years. The Employer denies the Union's assertion and claims that it has always enforced its rule regarding unapproved stickers on its trucks.

Over the course of a weekend in late June or early July 2015, the Employer removed most of the stickers that employees had affixed to Fresno-based trucks, which the Union estimated to be approximately 100 to 150 stickers. The only stickers that were left on the vehicles were company-logo stickers with messages like "don't text and drive."[3] The Employer's (b) (6), (b) (7)(C) told the Union's (b) (6), (b) (7)(C) that (b) (6), (b) had ordered the removal of the stickers according to the Guidelines.[4]

---

[2] A May 2011 version of the Construction and Engineering West Guidelines also contained the same language as the one distributed to the unit employees in 2015. The Union does not dispute that the May 2011 guidelines could have been distributed to unit employees in 2011.

[3] The Employer did not remove any stickers from the Hanford trucks. It appears that the unit employees removed stickers from the trucks at the Employer's request.

Following the mass removal of the stickers from the Fresno trucks, supervisors asked two unit employees to remove stickers that they had affixed on their trucks. A supervisor told one of these employees that failure to remove the stickers would be considered "insubordination." Subsequently, both employees complied by removing the stickers from their trucks. No employee has been disciplined for failing to remove stickers from the trucks. The Union's (b) (6), (b) (7)(C) states that the Union has decided to stop distributing stickers to employees for the time being because employees may be disciplined for affixing them to their trucks.

The Employer Enforces the Contract Provision Regarding Posting Union Material on its Property

Around July 15, 2015, the Fresno supervisors instructed employees to remove all unapproved stickers, flags, and banners from their personal-use storage spaces. Most employees complied with the instruction and only left personal photographs and company-issued stickers on display. One employee affixed a San Francisco Giants poster to [redacted] storage cubicle after the Employer asked employees to remove unauthorized stickers, flags, and banners. [redacted] supervisor has not asked [redacted] to remove it. Also, a few stickers that state "Don't affect the health care" remain on display in Fresno cubicles.

Employees at the Hanford facility did not contact the (b) (6), (b) (7)(C) regarding any Employer instructions to remove stickers and other materials from personal spaces. However, the (b) (6), (b) (7)(C) asserts that [redacted] performed a visual inspection of the area and observed that there were no stickers, banners, or flags in the employees' assigned storage spaces, whereas they had been on display previously.

ACTION

We conclude that the Employer violated Section 8(a)(1) of the Act by asking employees to remove stickers from their assigned cubicles and shelves and by removing employees' stickers from their assigned trucks. The Board has ruled that employees have a Section 7 right to wear union insignia, including stickers, while at work and has never held that this right does not extend to employees displaying

---

[4] An incident that may have prompted the Employer to remove stickers from the vehicles involved a unit employee's complaint to the Employer that the employee had concerns about another unit employee's "Transformers" sticker on his truck, which could possibly indicate gang affiliation. The Employer began removing stickers from its trucks shortly afterward.

stickers or other insignia on employer property that is individually assigned to employees. The Region should argue that when an employer cedes its property by assigning it to individual employees for their own use, the right to display union insignia extends to that property, absent a showing of special circumstances. Therefore, since the Employer has not shown special circumstances here, it violated Section 8(a)(1). We also conclude that the Employer violated Section 8(a)(5) of the Act when it unilaterally changed the past practice of allowing employees to display pro-union messages on the cubicles, shelves, and trucks. As an established past practice, permitting employees to display these pro-union messages had become a term and condition of employment. Moreover, the change had a substantial, material, and significant impact on the employees' working conditions.

The Employer Violated Section 8(a)(1)

Section 7 of the Act protects the right of employees to wear attire and insignia, including stickers, addressing employment-related issues while at work.[5] This statutory right applies to employer-owned uniforms and hats worn at work.[6] An employer may only restrict employees from wearing Section 7-related messages at work by presenting substantial evidence of "special circumstances" sufficiently important to outweigh Section 7's guarantees.[7] The Board has struck a different balance regarding employees' rights to affix Section 7 messages to certain other employer property. In this regard, the Board has held, for example, that employees

---

[5] *Republic Aviation Corp. v. NLRB*, 324 U.S. 793, 801-03 (1945) (upholding right of employees to wear union buttons while on the job); *AT&T Connecticut*, 356 NLRB No. 118, slip op. at 1 (Mar. 24, 2011) (upholding right of employees who perform work inside customers' homes to express employment-related grievances by wearing "prisoner" T-shirts reading "Inmate #" and "Prisoner of AT$T [the employer]"), *enforcement denied,* 793 F.3d 93 (D.C. Cir. 2015).

[6] *Northeast Industrial Service Co., Inc.*, 320 NLRB 977, 979 (1996) (prohibiting placement of 1-3 inch stickers on company-issued hardhats unlawful); *Windemuller Electric*, 306 NLRB 664, 669-70 (1992) (requiring employees to remove union stickers from company-owned hardhats unlawful), *enforcement denied in relevant part,* 34 F.3d 384 (6th Cir. 1994); *Malta Construction Co.*, 276 NLRB 1494, 1494-95 (1985) (finding employees have statutory right to wear union insignia on company-issued hardhats), *enforced*, 806 F.2d 1009 (11th Cir. 1986).

[7] *See generally P.S.K. Supermarkets*, 349 NLRB 34, 35 (2007) (finding that grocery store, which required employees to wear company-provided uniforms, did not establish special circumstances warranting ban on union buttons).

have no statutory right to affix stickers to bulletin boards and walls.[8] Absent a statutory right to display insignia on employer property, a Section 8(a)(1) violation will only be found if an employer's restrictions are discriminatory, e.g., the employer precludes employees from affixing union stickers but allows employees to affix other types of materials.[9]

However, the Board has yet to squarely address whether the statutory right to display union insignia on employer-provided hardhats and uniforms also extends to other property that, unlike bulletin boards or walls, the employer has individually assigned to employees for their own use. In *J. C. Penney, Inc.*, the Board adopted an Administrative Law Judge's finding that an employer lawfully restricted employees from placing union stickers on their individually-assigned company-provided lockers because the employer had not discriminatorily enforced its policy against unapproved postings.[10] In that case, however, the issue of whether the employees had a statutory right to place union stickers on their lockers was not before the judge and was not addressed by the Board.

On the other hand, the Board's decision in *Sprint/United Management Co.* suggests that the Board would find a Section 7 right to affix union materials on employer property that has been assigned to individual employees for their own use.[11] There, the Board found that employees had a Section 7 right to *distribute* union

---

[8] *See, e.g., Honeywell, Inc.*, 262 NLRB 1402, 1402 (employees have no statutory right to use an employer's bulletin board), *enforced*, 722 F.2d 405 (8th Cir. 1983); *Cashway Lumber, Inc.*, 202 NLRB 380, 382 (1973) (employer lawfully told employees that they could place stickers on their own property but would be terminated if they place stickers on the employer's property; ALJ, adopted by the Board, held that employees' rights to engage in Section 7 activity at work did not include posting stickers on employer's adding machine, walls, and other property absent evidence of disparate enforcement).

[9] *See, e.g.*, *Mammoth Mountain Ski Area*, 342 NLRB 837, 841-42 (2004) (employer unlawfully prohibited employees from placing union stickers on their company-provided lockers when "hundreds" of other stickers were allowed on lockers).

[10] *J.C. Penney, Inc.*, 322 NLRB 238, 239 (1996), *enforced in relevant part*, 123 F.3d 988 (7th Cir. 1997). The Board also adopted the ALJ's finding that the employer violated Section 8(a)(1) by removing union stickers from an employee's company-supplied work cart because the employer regularly permitted employees to decorate their work carts with other materials without restriction. *Id.*

[11] *Sprint/United Management Co.*, 326 NLRB 397, 399 (1998).

materials by placing them in employer-owned lockers that were individually assigned to employees. The Board rejected the employer's contention that it could lawfully prohibit this distribution, which was based on the same principles underlying an employer's right to reserve its bulletin boards for its exclusive use, because the employer had "already ceded the locker space" to employees when it individually assigned the lockers.[12] Because the lockers were not in a work area and the employer provided no other legitimate justification for removing and confiscating union flyers from the lockers, the employer violated Section 8(a)(1).[13]

We conclude that the Region should argue, as in the *Sprint/United Management Co.* distribution case, that when an employer cedes control of its property by individually assigning it to employees for their own use, the employees have a Section 7 right to affix union materials to that property absent a showing of special circumstances. That principle should apply whether the employer property at issue is a hardhat, a uniform, a locker, or, as in the instant case, a storage unit or a truck. Once the employer has relinquished control of the property by individually assigning it to the employees, it has diminished the strength of its property interest so that it no longer retains the exclusive-use rights articulated in the Board's bulletin board cases. In other words, the employer's property interest does not outweigh the employees' Section 7 rights, and therefore the employer can only restrict the employees' Section 7 rights if it shows a substantial interference with its *management* interests, i.e., "special circumstances."[14]

---

[12] *Id.*

[13] *Id.* *See also AT & T*, 362 NLRB No. 105, slip op. at 25-27 (June 2, 2015), where the judge concluded that the Employer violated Section 8(a)(1) by prohibiting employees from placing union stickers on the Employer's vehicles, laptops, and lockers at two other facilities because the employees had a Section 7 right to place stickers on company property that was "issued to employees for their use." We note that, although the Board accepted the judge's ruling without exceptions being filed regarding this violation, the Board did not disagree with the judge's conclusion. Furthermore, in rejecting the judge's recommended nationwide remedy, the Board found that the remedy should apply only at the two locations where the judge found that the Employer had "unlawfully implemented and enforced" its rules to prohibit stickers on its vehicles, laptops, and lockers. *Id.*, slip op. at 1 n.3. This indicates that the Board is likely to agree that employees have a Section 7 right to affix Union stickers on personally-assigned Employer property, absent a showing of special circumstances.

[14] *See Purple Communications, Inc.*, 361 NLRB No. 126, slip op. at 12 (Dec. 11, 2014) (citing *Republic Aviation*, 324 U.S.793, 804 n.10 (1945)) (a restriction on oral

Applying these principles here, we conclude that the Employer unlawfully restricted employees' rights to affix Union stickers and other insignia on property that it assigned to employees on an individual basis, i.e., trucks used by splicing technicians, and personal cubicles and shelves. The splicing technicians are assigned their trucks on a long-term basis, the truck number is listed on the employee's time card, and the Employer uses the truck number to track down where splicing technicians are working. Splicing technicians load their equipment into the truck, use the truck during their shift, and park the truck at the Employer's facility at the end of the shift.[15] Likewise, the shelving units are assigned to individual employees, the employee's name is affixed to the compartment shelf, and the cubicles or modules are also assigned to individual employees. Thus, the evidence demonstrates that, like the employer in *Sprint/United Management Co.*, the Employer has ceded control of the above property by individually assigning the property to the employees.

Furthermore, the Employer has not presented substantial evidence of special circumstances sufficiently important to outweigh the employees' Section 7 rights to affix union stickers and other materials to the individually-assigned trucks or storage units. The Board has found special circumstances when displaying union insignia would likely jeopardize employee safety, damage machinery or products, exacerbate employee dissension, or unreasonably interfere with a public image that the employer has established as part of its business plan.[16] The Employer has not argued that special circumstances warranted its blanket ban, and any such argument would be undermined by the Employer's historic practice of allowing the employees to post pro-union stickers on its cubicles, shelves, and trucks over many years.

Therefore, the Employer violated Section 8(a)(1) of the Act when it removed or instructed employees to remove stickers, including pro-union stickers, from their personally-assigned trucks, cubicles, and shelves.

---

solicitation on nonworking time must be justified by "special circumstances" that make the restriction necessary in order to "maintain production or discipline").

[15] In contrast, the Employer does not assign the bucket trucks to its outside plant employees on a long-term basis, and the Region should not allege that employees have a statutory right to attach union stickers or other insignia to these vehicles.

[16] *P.S.K. Supermarkets*, 349 NLRB at 35.

The Employer Violated Section 8(a)(5)

An employer's practice becomes an established term and condition of employment if it occurs with enough regularity and frequency that employees would reasonably expect the practice to continue or reoccur on a regular and consistent basis.[17] As a term and condition of employment, an established past practice generally cannot be changed without offering the unit employees' collective-bargaining representative notice and an opportunity to bargain, absent a waiver of this right.[18] However, an employer only has a duty to bargain if the unilateral change it makes in an established past practice is "material, substantial, and significant,"[19] and the burden is on the General Counsel to prove that the changes meet this requirement.[20]

Applying these principles, we first conclude that the Employer had an established past practice of permitting the unit employees to affix Union stickers on its storage shelves and cubicles and on its trucks. For four to five years, the Employer had allowed employees to regularly and routinely affix stickers, including pro-Union stickers, to their individually-assigned storage spaces. Similarly, for eight to ten years, the Employer permitted unit employees to regularly affix stickers to their assigned trucks, and the Employer never disciplined employees or removed the stickers. The practice occurred with enough regularity that the employees could

---

[17] *Philadelphia Coca-Cola Bottling Co.*, 340 NLRB 349, 353-54 (2003) (finding that issuance of production-related bonuses and gifts was not an established past practice, because it did not occur on a regular and consistent basis, but rather occurred intermittently and at the employer's discretion), *enforced per curiam*, 112 F. App'x 65 (D.C. Cir. 2004); *Sunoco, Inc.*, 349 NLRB 240, 244 (2007) ("An employer's practices, even if not required by a collective-bargaining agreement, which are regular and long-standing, rather than random or intermittent, become terms and conditions of unit employees' employment, which cannot be altered without offering their collective-bargaining representative notice and an opportunity to bargain over the proposed change."); *Garden Grove Hospital & Medical Center*, 357 NLRB No. 63, slip op. at 6 (Aug. 26, 2011) (employer's mistakenly granted reserve sick leave benefit occurred with enough regularity and consistency without interruption—every pay period for nine months—that employees could reasonable expect it to continue).

[18] *J&J Snack Foods Handhelds Corp.*, 363 NLRB No. 21, slip op at 15 (Oct. 1, 2015); *Garden Grove Hospital & Medical Center,* 357 NLRB No. 63, slip op. at 6; *Sunoco, Inc.*, 349 NLRB at 244.

[19] *J&J Snack Foods Handhelds Corp.*, 363 NLRB No. 21, slip op at 15.

[20] *Id.* (citing *North Star Steel Co.*, 347 NLRB 1364, 1367 (2006)).

reasonably expect to have the right to place stickers and banners both on their company-issued trucks and in their assigned storage space. The Employer only asked that stickers be removed if an employee affixed a sticker considered problematic or obnoxious, for example, stickers that had foul or offensive language. Even then, a manager would request that the Union's (b) (6), (b) (7)(C) speak to the employee and request that the employee remove the sticker. Therefore, the Employer established a practice and, hence, a term and condition of employment, permitting this conduct.[21]

We further conclude that the Employer changed that practice in June and July of 2015. The evidence is clear, and the Employer does not deny, that after re-issuing its policies and putting employees on notice, the Employer began restricting employees from placing stickers on personal cubicles, shelves, and trucks. Thus, removing the stickers from the trucks and requesting that employees remove all stickers from the cubicles and shelves were unilateral changes. Finally, it is undisputed that the Employer instituted the changes without first giving the Union notice and an opportunity to bargain.[22]

Finally, we conclude that the changes were "material, substantial, and significant" because the Employer communicated that the changes were enforcing a work rule and a contract provision. The Board has held that if an employee's failure to comply with a unilaterally changed working condition would entail discipline, the changes are material, substantial, and significant.[23] At the Fresno facility, the

---

[21] Although the Employer denies that it historically allowed employees to affix stickers, other than company stickers, on their assigned trucks, shelves, or cubicles, this claim is directly contradicted by the Union's (b) (6), (b) (7)(C). Moreover, the fact that the Employer reissued the work rule regarding posting materials on trucks and reiterated the contractual provision regarding posting materials on other Employer property suggests, contrary to the Employer's claims, that it had not consistently been enforcing those restrictions beforehand.

[22] The Employer argues that Section 3.06 (Bulletin Boards) of the parties' collective-bargaining agreement was a waiver of employees' right to post stickers on storage shelves and cubicles, such that there was no obligation to bargain. Because the provision states that the "Union agrees not to post or distribute Union material" on the Employer's premises, other than on Union bulletin boards, and states nothing about *employee* postings, we conclude that this provision does not clearly and unmistakably waive the Union's right to bargain about *employees* affixing stickers to the Employer's property.

[23] *See, e.g., Flambeau Airmold Corp.*, 334 NLRB 165, 166 (2001) (unilateral change regarding sick leave material, substantial, and significant, in part, because "the evidence that the [employer] threatened to impose discipline on employees who

Employer told at least one employee that failure to remove stickers from (b) (6), (b) (7 truck would be considered "insubordination," which is universally considered adequate grounds for discipline. As a result, at least two employees complied by removing the stickers. Moreover, although there is no evidence as to what the employees at the Hanford facility were told, employees removed stickers and banners from their storage units. And, although the Employer did not openly threaten to discipline employees if they failed to stop placing stickers on its property, the Employer retains the right to enforce its work rules, and employees would reasonably believe that they would be disciplined for violating work rules.[24] Indeed, the (b) (6), (b) (7)(C) states that the Union would direct employees not to post stickers at the facilities for fear of the employees being disciplined. Therefore, the changes are material, substantial, and significant.

Based on the foregoing, the Region should issue complaint, absent settlement, alleging that the Employer violated Section 8(a)(1) and 8(a)(5).

/s/
B.J.K

ADV.32-CA-156076.Response.AT&T Pacific Bell. (b) (6), (b) (2)

---

breached the new policy is sufficient, ipso facto, to show that [it] considered the issue significant and that the unit employees would think likewise knowing that infractions of the new rule could place their employment status in jeopardy"); *Ferguson Enterprises, Inc.*, 349 NLRB 617, 618 (2007) (change is material and substantial where discipline results or is simply threatened); *Postal Service*, 341 NLRB 684, 687 (2004) (employer's contention that unilaterally implemented policy was not material was "belied by the threat of discipline" for violating the policy).

[24] *See International Business Machines Corp.,* 333 NLRB 215, 221 (2001) (finding that employees would "reasonably conclude" that they would be disciplined for continuing to display pro-union signs in employer's parking lot in contravention of employer rule barring large signs, even without a threat of disciplinary action, because employees were specifically told that their actions violated company policy), *enforced*, 31 F. App'x 744 (2d Cir. 2002).