



National Labor Relations Board Issues Final Ruling

By Arthur Yermash, Esq.

The National Labor Relations Board has issued a Final Rule requiring most private-sector employers to notify employees of their rights under the National Labor Relations Act by posting a notice. Employers should begin posting the notice on January 31, 2012. The notice, in English and other applicable languages, can be found online at <https://www.nlr.gov/poster>.

Private-sector union and nonunion employers are required to post this government notice informing employees of their legal rights under the NLRA. The notice states that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, to bargain collectively with their employer, and to refrain from any of these activities if they wish.

The notice of rights will be provided at no charge by NLRB regional offices or can be downloaded from the Board website and printed in color or black-and-white. Translated versions will be available, and must be posted at workplaces where *at least 20% of employees are not proficient in English*. The posting requirement applies to all private-sector employers (including labor unions) subject to the National Labor Relations Act, which excludes agricultural, railroad and airline employers.

The final rule takes effect 75 days after it is posted in the Federal Register, or on January 31, 2012.

Board will provide copies of the notice on request at no cost to the employer. They can be obtained by contacting the NLRB at its headquarters or its regional, sub-regional, or resident offices. Employers can also download the notice from the Board's website and print it out in color or black-and-white on one 11-by-17-inch paper or two 8-by-11-inch papers taped together.

In addition to the physical posting, the rule requires every covered employer to post the notice on an internet or intranet site if personnel rules and policies are customarily posted there. Employers are not required to distribute the posting by email, Twitter or other electronic means.

Failure to post the notice may be treated as an unfair labor practice under the National Labor Relations Act. The Board investigates allegations of unfair labor practices made by employees, unions, employers, or other persons, but does not initiate enforcement action on its own. The Board also may extend the 6-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer.

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If an employer knowingly and willfully fails to post the notice, the failure may be considered evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA.

The NLRB recommends that employers review certain HR policies to determine if any of their policies inadvertently violate the NLRA. Some policies that may need review include the following: policies regarding speaking with the media, social media policies, and confidentiality policies. We recommend clients review their current HR Policies for NLRA compliance, determine an appropriate compliance plan, including indentifying where and how the notices should be posted and whether the law requires internet or intranet posting and train supervisors on how to lawfully and appropriately respond to employee questions about the Notice before the November 14 required posting date.



Clients who have any further questions or concerns about the information contained in this Advisory should not hesitate to contact us.

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