

New NLRB Pro-Union Posting Requirements for Private Sector Employers

09.23.11

The National Labor Relations Board (“NLRB”) has [issued a Final Rule](#) requiring most private-sector employers to notify employees of their rights under the National Labor Relations Act (“NLRA”) by posting a notice. This new posting requirement, which may be described as “pro-union,” will advise employees of their right to organize a union, join or assist a union, and bargain collectively.

What Employers Are Affected by the New Rule?

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 new rule also does not apply to the United States Postal Service. Even employers that are not unionized will be required to display the new poster.

What Are the Posting Requirements?

Starting November 14, 2011, employers will be required to place the poster that is a single poster 11” x 17” (or two 8.5” x 11” papers taped together) notifying employees of their rights under the NLRA. The content of the notice will be similar to the notice that federal contractors are already required to post under U.S. Department of Labor regulations.

Also, employers who customarily post notices to employees regarding personnel rules or policies on an internet or intranet site will be required to post the Board’s notice on those sites.

If 20% or more of an employer’s workforce is not proficient in English but speaks another language, a foreign-language poster must be displayed.

What Are the Penalties for Failing to Comply with the New Rule?

Failure to post the notice may result in a finding by the NLRB that the employer has committed an unfair labor practice under the NLRA. The NLRB expects that, in most cases, employers who fail to post the notice are unaware of the rule and will comply when requested by a Board agent. In such cases, the unfair labor practice case will typically be closed without further action. Perhaps more importantly, the Board also may extend the 6-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer who fails to post the required notice. 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.

Where Can Employers Obtain a New Poster?

Copies of the poster are available for free at NLRB regional and via download, [here](#). The NLRB said it will also provide translated versions of the poster upon request.

Contacts:

Thomas E. Reddin | 214.745.5650 | treddin@winstead.com
John D. Smart | 214.745.5495 | jsmart@winstead.com
Marcus D. Brown | 214.745.5178 | mbrown@winstead.com
Stephen W. Schueler | 713.650.2764 | sschueler@winstead.com
Lacey L. Gourley | 512.370.2835 | lgourley@winstead.com
Peyton N. Smith | 512.370.2809 | psmith@winstead.com

Disclaimer: *Content contained within this news alert provides information on general legal issues and is not intended to provide advice on any specific legal matter or factual situation. This information is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. Readers should not act upon this information without seeking professional counsel.*