



# Employers Required to Post Employee Labor Rights

August 29, 2011

Effective November 14, 2011, employers (unionized, and non-union alike) will be required to display a new poster informing employees of their rights under the National Labor Relations Act (NLRA), according to new regulations recently issued by the National Labor Relations Board (NLRB).

## **Who Is Affected**

The notice requirement applies to every employer under the NLRB's jurisdiction, which includes nearly every U.S. employer, although the NLRB has indicated that it will not apply the rule to some very small employers. Most private-sector employers, including labor organizations, fall under the NLRA *regardless of whether their employees are unionized*.

## **What the Notice Covers**

The notice employers will be required to post will be similar to one currently required by the Department of Labor for federal contractors, which states (among other things) that employees have the right to:

- Improve wages and working conditions;
- Form, join and assist a union;
- Bargain collectively with their employer; and
- Refrain from any of these activities.

It also provides examples of unlawful employer and union conduct and instructs employees how to contact the NLRB with questions or to file complaints.



## What Employers Should Do

By November 14, 2011, employers must physically post the 11" x 17" poster in "conspicuous places where they are readily seen by employees, including all places where other workplace notices customarily are posted." If the employer customarily communicates with its employees on an internet or intranet site, then the employer must **also** post the required notice electronically there. Hard copies of the notice are complimentary and will be available from the NLRB regional offices, and electronic copies will be available for download from the NLRB website, by November 1, 2011. Federal contractors, who are already required to post a very similar (although not identical) poster issued by the Department of Labor (DOL), need not change their postings. The NLRB regulations state that compliance with the DOL posting will satisfy the NLRB's new requirements. (To date, DOL has not published a reciprocal statement accepting the NLRA poster for DOL purposes.)

Employers will not be required to distribute the notice via e-mail, voice mail, text messaging or related electronic communications even if they customarily communicate with their employees in that manner. Employers may post notices in black and white as well as in color. The final rule further clarifies requirements for posting in foreign languages.

Failure to follow the posting requirement could result in an unfair labor practice charge before the NLRB. In addition, if the employer does not post the notice, employees may be able to file unfair labor practice charges outside of the applicable six-month statute of limitations, unless the employee had actual or constructive notice that the conduct complained of is unlawful.

Employers should take this opportunity to review their posted notices to ensure they are compliant with the various posting requirements of state and federal law. Employers - especially those without experience with the NLRA - should review the requirements of the Act and make their supervisors and managers aware of the restrictions it places upon them.

If you have any questions about the NLRA or these new regulations, please contact your Lathrop Gage attorney, the author of this alert, Tammy Somogye, or any of the attorneys listed above.