

NLRB mandates

posting notice of employee rights

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Practice Area: Employment
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Aug. 25, 2011

In a final rule released this morning, Aug. 25, 2011, all employers covered by the National Labor Relations Act (NLRA), which includes most private sector employers, must post a notice informing employees of their rights under the NLRA. The posting requirement is effective on Nov. 14, 2011, and covers both union and non-union employers.

Content of notice

The notice, which will be available from the NLRB website, includes information about the NLRA and (in order, as listed on the notice) the rights of employees to:

- organize a union;
- form, join or assist a union;
- bargain collectively;
- discuss wages, benefits and other terms and conditions of employment;
- raise complaints;
- strike or picket; and

- choose not to do any of these activities.

The notice also sets out actions that are illegal under the NLRA and the means by which employees may file a complaint, including contact information for the NLRB.

Posting of notice

The notice must be at least 11"x17" and in the type and style prepared by the Board. The notice must be posted in "conspicuous places where they are readily seen by employees, including all places where notices to employees concerning personnel rules or policies are customarily posted." If the employer customarily communicates with employees about policies and procedures on an Internet or intranet site, the notice must also (in addition to the physical posting) be displayed prominently—as with all other similar notices—on that site.

Translation for non-English speaking employees

In addition, where 20 percent or more of the employees speak a language other than English, the notice must be posted in the language spoken by the employees. Employers may request translated copies of the notice from the Board and will not

be liable for posting until the translated notice is available.

Penalties for non-compliance

Employers who fail to post the notice will be subject to an unfair labor practice charge through the administrative processes of the NLRB. The Board may order the employer to post the notice and other possible (undefined) remedies. These could include—based on prior Board decisions—emailing the notice to employees, if that is how the employer communicates. In addition, failure to post the notice could result in tolling of limitations periods for unfair labor practices, meaning that employees would have longer than six months to file a charge, and the failure could be used as evidence of unlawful motive (such as hostility against unions) in other NLRB cases where motive is relevant.

If you have questions regarding the notice or the NLRA, please contact Paul Bittner at 614.462.2228 or pbittner@szd.com, Aaron Granger at 614.462.2312 or agranger@szd.com, Pete Wade at 614.462.2276 or fwade@szd.com, Bob Weisman at 614.462.2239 or rweisman@szd.com or any member of SZD's Labor and Employment Practice Group.

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