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Employers Must Notify Employees of Their Labor Rights

Most employers are aware that labor rights exist for their employees even in a union-free workplace – and as of November 2011, they will have to ensure that their employees are also aware. In a 3 to 1 vote, the National Labor Relations Board (Board) voted to adopt a rule requiring that employers conspicuously post a notice that advises their employees of their rights under the National Labor Relations Act (Act). As the mandatory notice states, employers must inform employees of their right “to organize and bargain collectively with their employers, and to engage in other protected concerted activity or to refrain from engaging in any of the above activity.” The rationale for adopting this rule was a perceived “knowledge gap” that arguably renders most non-union employees unaware of their various rights under the Act. The rule-approving Board members agreed that “[f]or employees to exercise their NLRA rights...they must know that those rights exist.”

The rule is set to take effect on or around November 12, 2011 (75 days after its scheduled August 30 publication in the *Federal Register*). Excepting the postal service and employers in the railway and aviation industries, the rule will apply to virtually every employer in the United States, including, as the Board noted, a “great majority” of small businesses. Employers must post an 11-by-17-inch notice in areas in which they customarily place notices concerning personnel rules or policies. Such areas must include an Internet or intranet site if an employer uses such a forum to communicate rules and policies to its employees.

The rule also requires posting notices in other languages in certain cases. Where 20 percent of its workers are not proficient in English and speak another language, an employer must provide the notice in the language those employees speak. If among that percentage there is more than one language spoken, the employer must either post notices in all applicable languages, or post it in the majority language of that group and provide copies of the notice in the other language(s).

Failure to post the required notice may subject an employer to unfair labor practice charges and penalties under the Act.

While compliance with the rule is fairly simple, it will likely mean that non-union employers face a greater risk of union organizing efforts. Employers concerned about this possibility may wish to consider seeking counsel.

FOR MORE INFORMATION

For more information, please contact any member of our [Labor & Employment](#) practice group.



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