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NLRA – New Poster

Employers who have union-represented employees and are subject to collective bargaining agreements are familiar with the National Labor Relations Board (NLRB), the federal agency that enforces the National Labor Relations Act (NLRA). Employers that do not deal with unions often incorrectly believe that the NLRA does not apply to them.

However, the NLRA guarantees the right of non-union employees to engage in protected concerted activity. “Protected concerted activity” is defined as activity engaged in by two or more employees or on behalf of two or more employees, generally related to improving the wages, hours and working conditions of employees whether or not related to union activity.

If an employer interferes with the employees’ right to engage in such conduct (such as terminating the employee) the employer can be found to have committed an unfair labor practice and is subject to remedies such as reinstatement and back pay.

The NLRB has implemented a “Final Rule” that will require most private-sector employers to post a Notice informing employees of their rights under the NLRA. Failure to post the Notice may be deemed to be an unfair labor practice.

It is anticipated that the initial posting of this Notice may result in increased actions by employees with regard to wages, hours and working conditions, along with possible union activity in non-unionized workplaces. You need to be prepared to respond to questions from employers regarding this Notice.

The new National Labor Relations Act (NLRA) poster is now available on the NLRB’s website at www.nlr.gov/poster.

The poster is 11” X 17” but can also be posted as two 8 ½” x 11” sheets put together. Both formats are available on the website. Additionally, employers who “customarily” communicate personnel policies on an internet or intranet site must electronically post the notice there.

Only the English version is currently available, but employers with workplaces where 20% or more of the employees are not proficient in English will be required to post a translated version as well. Translated versions will also be posted on the NLRB website as they are available.

Meanwhile the National Association of Manufacturers (NAM) has filed a lawsuit claiming that the action taken by the NLRB requiring the poster is outside the authority of the Board and two bills have been introduced in Congress to repeal the new rule. We will keep you apprised of any developments which may affect employers’ obligation to post the notice.

For now, the NLRB has postponed the implementation date for the new NLRA notice to be posted by all employers within the jurisdiction of the NLRB (most private employers).

The new effective date for posting the notice is January 31, 2012.

Since this notice will in all likelihood be included in the “all-in-one” poster available from various vendors, most employers can just order a new “all-in-one” poster for 2012 and this requirement will be met.

Particularly since there are lawsuits and legislation pending with regard to the rule requiring the posting of this notice (see above), it is recommended that you wait until January before posting it.

For more information or assistance with the implementation of these new requirements contact Jeanne Flaherty at Employer’s Legal Advisor, Inc.



Jeanne Flaherty is the President and Managing Attorney of Employer's Legal Advisor, Inc., which represents and advises employers on all employment matters. The firm specializes in conducting employment practices compliance reviews and advising employers on day-to-day legal issues in the workplace.