

Labor and Employment Law Alert

NLRB Mandates Workplace and Electronic Posting of Union Organizing Rights

By Linda McGill | August 31, 2011

On August 25, 2011, the National Labor Relations Board issued a final rule entitled “Notification of Employee Rights Under the National Labor Relations Act.” The rule is effective on November 14, 2011. It requires all employers covered by the National Labor Relations Act to post a notice that informs employees of their rights to engage in union activities and describes conduct by an employer that may be illegal under the NLRA. The new poster must be displayed in a physical location in the workplace and must also be posted on an employer’s Intranet or Internet site if personnel rules or policies are customarily posted or accessed there. Failure to post the notice is an unfair labor practice and may be considered as evidence of unlawful motive in certain proceedings before the NLRB. Failure to post properly may also toll the statute of limitations for unfair labor practices allegedly committed during the period in which an employer fails to post the notice.

The poster will be provided by the NLRB and may be downloaded from its website starting November 1, 2011.

The rule affects most private-sector employers, including and obviously aimed at those that are currently union-free or partly unionized. The NLRA applies to all private employers that have an impact on interstate commerce. Very small or local businesses, agricultural businesses and businesses subject to the Railway Labor Act are not subject to the NLRA.

While the NLRA poster becomes another one of numerous “rights” posters that employers are required to display, this is the first time that the right to organize a union has been the subject of a mandatory posting. As intended, the new poster will heighten awareness of the union option among employees.

Affected employers can’t make a choice about whether to comply with the new posting mandate. But employers *can* take the opportunity to review their union-free strategies, communications plan and supervisor training so that they are ready to act legally and affirmatively if union activity occurs. Employers should also train supervisors in how to deal with employee questions that may be generated by the NLRA poster.

Learn more about the rule at NLRB.gov.

For questions about the new posting rule and assistance with preventing and countering union activity in your workplace, please contact Linda McGill, lmcgill@bernsteinshur.com, or Glenn Israel, gisrael@bernsteinshur.com in Portland, or Terry Shumaker, tshumaker@bernsteinshur.com, in Manchester.