

IT IS TIME TO START THINKING ABOUT THOSE NEW YEAR'S RESOLUTIONS.

28. December 2010 By Steve Palazzolo

Yes, it is that time of year again. A time to start fresh; to think about all the possibilities. So how about some New Year's resolutions for your management team? And just in case you don't think you or your supervisors need to do anything differently, along comes the NLRB to give you something to think about. What am I talking about, you may ask? On December 22, the NLRB published a Notice of Proposed Rulemaking in the *Federal Register*. The proposed rule says all employers subject to the NLRA (and that is almost all private employers, regardless of whether your workforce is unionized) will be required to post a notice informing all employees about their rights under the NLRA.

Here is what the proposed poster will say:

"EMPLOYEE RIGHTS UNDER

THE NATIONAL LABOR RELATIONS ACT

The National Labor Relations Act (NLRA) guarantees the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity. Employees covered by the NLRA are protected from certain types of employer and union misconduct. This Notice gives you general information about your rights, and about the obligations of employers and unions under the NLRA. Contact the National Labor Relations Board (NLRB), the Federal agency that investigates and resolves complaints under the NLRA, using the contact information supplied below, if you have any questions about specific rights that may apply in your particular workplace.

Under the NLRA, you have the right to:

- Organize a union to negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.
- Form, join or assist a union.
- Bargain collectively through representatives of employees' own choosing for a contract with your employer setting your wages, benefits, hours, and other working conditions.
- Discuss your terms and conditions of employment or union organizing with your co-workers or a union.

- Take action with one or more co-workers to improve your working conditions by, among other means, raising work-related complaints directly with your employer or with a government agency, and seeking help from a union.
- Strike and picket, depending on the purpose or means of the strike or the picketing.
- Choose not to do any of these activities, including joining or remaining a member of a union.

Under the NLRA, it is illegal for your employer to:

- Prohibit you from soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms.
- Question you about your union support or activities in a manner that discourages you from engaging in that activity.
- Fire, demote, or transfer you, or reduce your hours or change your shift, or otherwise take adverse action against you, or threaten to take any of these actions, because you join or support a union, or because you engage in concerted activity for mutual aid and protection, or because you choose not to engage in any such activity.
- Threaten to close your workplace if workers choose a union to represent them.
- Promise or grant promotions, pay raises, or other benefits to discourage or encourage union support.
- Prohibit you from wearing union hats, buttons, t-shirts, and pins in the workplace except under special circumstances.
- Spy on or videotape peaceful union activities and gatherings or pretend to do so.

Under the NLRA, it is illegal for a union or for the union that represents you in bargaining with your employer to:

- Threaten you that you will lose your job unless you support the union.
- Refuse to process a grievance because you have criticized union officials or because you are not a member of the union.
- Use or maintain discriminatory standards or procedures in making job referrals from a hiring hall.
- Cause or attempt to cause an employer to discriminate against you because of your union-related activity.
- Take other adverse action against you based on whether you have joined or support the union.

If you and your co-workers select a union to act as your collective bargaining representative, your employer and the union are required to bargain in good faith in a genuine effort to reach a written, binding agreement setting your terms and conditions of employment. The union is required to fairly represent you in bargaining and enforcing the agreement.

Illegal conduct will not be permitted. If you believe your rights or the rights of others have been violated, you should contact the NLRB promptly to protect your rights, generally within six months of the unlawful activity. You may inquire about possible violations without your employer or anyone else being informed of the inquiry. Charges may be filed by any person and need not be filed by the employee directly affected by the violation. The NLRB may order an employer to rehire a worker fired in violation of the law and to pay lost wages and benefits, and may order an employer or union to cease violating the law. Employees should seek assistance from the nearest regional NLRB office, which can be found on the Agency's website:

www.nlr.gov. You can also contact the NLRB by calling toll-free: 1-866-667-NLRB (6572) or (TTY) 1-866-315-NLRB (1-866-315-6572) for hearing impaired.

The NLRA covers most private-sector employers.

Excluded from coverage under the NLRA are public-sector employees, agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors. (Although supervisors that have been discriminated against for refusing to violate the NLRA may be covered.)

This is an official Government Notice and must not be defaced by anyone.

You can see the whole thing at http://www.nlr.gov/about_us/news_room/Notice_for_Rulemaking/index.aspx

So, what do you do about this? You can submit comments regarding the proposed rule, but that probably won't change the fact that this rule will become final in one form or another (at least until some court rules that the NLRB does not have the statutory authority to make this rule in the first place), but you can at least have your voice heard.

Or you can make sure you have a workplace where the employees don't feel like they need a union. How do you do that? Start with your supervisors. Train them. Make sure they understand their role in keeping your employees engaged. Looking for some ideas on how to do this? Here is a couple of places you might consider

starting: <http://negotiumlex.wnj.com/?p=41> <http://negotiumlex.wnj.com/?p=80> <http://negotiumlex.wnj.com/?p=123> And so I don't look too self-absorbed, you can also find some great stuff from my colleagues here: <http://www.wnj.com/seminar/> and also here <http://www.wnj.com/publications/List.aspx?Practices=547da6d7-2128-4050-9325-39ab9f179d6d>

A Better Partnership®



Or give us a call. We can provide training, not just on the law but on conflict resolution, managing generational differences in the workplace, employee motivation and many other topics that will help make your supervisors better supervisors and hopefully keep your staff from seeking help from the outside.

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