

Businesses Required to Notify Employees of Right to Organize, Join a Union

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New NLRB Rule Requires All Employers Subject to the National Labor Relations Act to Post a Notice by November 14, 2011

On August 30, 2011, the National Labor Relations Board (NLRB) published a **new rule** in the *Federal Register* requiring most private-sector employers to notify employees of their rights under the National Labor Relations Act (NLRA) by posting a notice in the workplace.

Which Employers Must Comply with the Posting Requirement?

The posting requirement applies to all employers that are subject to the NLRA, which excludes agricultural, railroad, airline and federal, state and local government employers, as well certain other employers, such as those over which the NLRB has not asserted jurisdiction or which are considered by the NLRB to be too small to impact interstate commerce under NLRB standards.

The posting requirement applies without regard to whether the employer's employees are represented by a union.

What Is Included in the Notice?

The Notice advises employees of such rights as:

- The right to organize a union to negotiate with their employer concerning wages, hours, and other terms and conditions of employment.
- The right to join or assist a union.
- The right to bargain collectively through representatives of the employees' choosing for a contract setting wages, benefits, hours, and other working conditions.
- The right to discuss wages and benefits and other terms and conditions of employment or union organizing with co-workers.
- The right to choose not to do any of these activities, including joining or remaining a member of a union.

The content of the notice will be similar to the notice that federal contractors are already required to post under U.S. Department of Labor regulations. A federal contractor will be regarded as complying with the NLRB's rule if it posts the Department of Labor notice.

The NLRB notice will be available on the NLRB's website by November 1, 2011. See notice [here](#).

When Must Employers Begin Posting the Notice?

Employers must begin posting the notice no later than November 14, 2011.

What Are the Posting Requirements?

- The notice must be posted in conspicuous places in the workplace, such as in the same location other employment posters are displayed.
- The notice must also be posted on an intranet or internet site if the employer customarily communicates with employees about personnel rules or policies by such means.
- Where 20 percent or more of an employer's workforce is not proficient in English and speaks a language other than English, the employer must post the notice in the language employees speak.

What Are the Penalties for Failing to Comply with the Posting Requirement?

- Failure to post the notice may result in a finding by the NLRB that the employer has committed an unfair labor practice under the NLRA.
- The NLRB also may extend the 6 month statute of limitations for filing an unfair labor practice charge involving other unfair labor practice allegations against the employer.

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