

# Final Rule Issued Requiring Employers to Post Workplace Notice of NLRA Rights

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Last month, the National Labor Relations Board (NLRB) issued a Final Rule requiring all employers under the NLRB's jurisdiction to notify employees of their rights under the National Labor Relations Act (NLRA) with a workplace posting. The Final Rule is effective November 14, 2011.

As a practical matter, almost every private-sector employer in the USA falls under the NLRB's jurisdiction, regardless of whether its employees are unionized. Exceptions include agricultural, railroad and airline employers. In addition, the NLRB has indicated it will not apply the Final Rule to some very small employers.

The workplace poster required by the Final Rule notifies employees they have the right to act together to:

- Improve wages and working conditions
- Organize, form, join, and assist a union
- Bargain collectively with their employer
- Discuss wages, benefits and other terms and conditions of employment
- Strike and picket

- Refrain from any of these activities

The required poster also informs employees that their employer is prohibited from interfering with the exercise of these rights or discriminating against them because they engage in or refuse to engage in union activity. In addition, the poster lists examples of unlawful employer and union conduct and instructs employees on how to contact the NLRB with questions or file a complaint alleging a violation.

Effective November 14, 2011, all employers subject to the Final Rule are required to post this new workplace notice on an 11-by-17 inch poster where the employer posts other government notices, such as FLSA and Title VII notices, as well as “wherever notices to employees regarding personnel rules and policies are customarily posted and are readily seen by employees.” For example, if an employer posts personnel rules and policies on the internet or on a company intranet, the new notice must also be posted there.

Beginning November 1, 2011, copies of the 11-by-17 inch workplace notice required by the Final Rule can be downloaded and printed from the NLRB’s website at [www.nlr.gov](http://www.nlr.gov) or obtained from NLRB regional offices. A [fact sheet](#) regarding the new required notice is available now on the NLRB’s website.

The Final Rule also requires that employers post a translated version of the required notice if 20 percent or more of its workforce communicate in a language other than English and have trouble understanding written English. Employers can obtain translated versions of the new poster from the NLRB.

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The required workplace notice is similar to one that is currently required by the U.S. Department of Labor (DOL) for federal contractors. Federal contractors that are also subject to the NLRB's jurisdiction may continue to use the DOL's version and will not be required to post a second poster.

Possible sanctions against employers for failure to post the new required workplace notice, after a warning from the NLRB, include finding the employer's failure to be an unfair labor practice, extending the 6-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer, and treating a willful refusal to post the notice as evidence of unlawful motive for other acts alleged to be unfair labor practices.

Proposed legislation has been introduced in Congress to rescind the Final Rule and prohibit the NLRB from promulgating or enforcing any rule that requires employers to post notices relating to the NLRA. In addition, the National Association of Manufacturers has sued the NLRB to block the Final Rule on grounds that it exceeds the NLRB's rulemaking authority. Employers subject to the Final Rule should watch for further news on its status.

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