

New Jersey Employment Law Update: NLRB Posting Rule Delayed After Conflicting Court Rulings

by Ramon Rivera on May 23, 2012

The National Labor Relations Board recently announced that it has shelved its new posting requirement once again, after lawsuits challenging the new regulation have resulted in conflicting court rulings. It was scheduled to take effect on January 31, but has been delayed several times.

The controversial new regulation would require employers in New York and New Jersey to post notices informing employees of their rights under federal labor law. It would apply to the majority of all private sector employers, regardless of whether or not their workforces are unionized and regardless of whether they are federal contractors.

The National Federation of Independent Business and the National Association of Manufacturers sued the NLRB to block the rule. In March, the U.S. District Court for the District of Columbia upheld most of the provisions of the new rule, but invalidated an enforcement provision that made any failure to post the required notice an unfair labor practice under the National Labor Relations Act. (For a detailed discussion of the ruling, please see our previous post about the NLRB posting requirement.)

The U.S. Chamber of Commerce filed a similar lawsuit in South Carolina. Most recently, a district court in that state found the NLRB lacked authority to promulgate the rule in violation of the Administrative Procedure Act. In light of conflicting decisions at the district court level, the D.C. Circuit Court of Appeals has temporarily enjoined the rule.

According to a statement by the NLRB, regional offices will not implement the rule pending the resolution of the issues before the court. Oral argument in the case before the D.C. Circuit Court of Appeals is expected in September. So, stay tuned.

If you would like to know how the new posting requirement and other regulatory changes might impact your compliance obligations, it is advisable to consult with an experienced New York and New Jersey employment lawyer at the number above.