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NLRB Extends Employer Notice Posting Deadline to 2012

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On August 25, 2011, the National Labor Relations Board (“NLRB”) adopted a final rule to require all employers to post a notice of employee rights under the National Labor Relations Act (“NLRA”). The required posting provides information to employees about the right to organize a union, bargain collectively, and engage in protected concerted activity – as well as the right to refrain from such activity. Significantly, this posting requirement is required for all hospitality employers – large and small -- regardless of whether your operations are unionized or not.

Now, the NLRB has postponed the deadline to post the notice from November 14, 2011 to **January 31, 2012**. The NLRB stated the extension was “in order to allow for enhanced education and outreach to employers, particularly those who operate small and medium sized businesses.” A copy of the notice is now available on the [NLRB’s website](#).

Failing to post the required notice after January 31, 2012 could lead to an unfair labor practice. The NLRB may extend the 6-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer as a result of the failure to post the notice. A willful failure to post the notice may also be considered evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA.

Hospitality employers should communicate now with all their managers and supervisors about the do’s and don’ts of union organizing and what they can and cannot say to employees who have questions in light of the NLRB’s poster. Many clients have asked whether they should post their own “notice” next to the NLRB’s poster. For several reasons, such a posting could cause more harm than good. First, it could draw unnecessary attention to the NLRB posting and raise more questions from employees. But more importantly, the NLRB is increasingly aggressive in ferreting out potential unfair labor practices, especially those that indicate union animus, regardless of the unionized status of the workplace. The NLRB could use the employer’s poster as evidence of union animus, similar to its practice of using an employer’s handbook policies as evidence of union animus, against employers. Rather than posting a competing notice, a training and communication message to employees is essential. Through strategic verbal communication strategies, employers can effectively defend against union interference and business interruption.