



Virginia Workplace Law

THE NLRB POSTER Much Ado About Nothing or a Sea Change in Employee Relations?

By: **Mike DeCamps**. *Thursday, October 6th, 2011*

As has been widely reported, The National Labor Relations Board (NLRB) issued a final rule on August 25, 2011 requiring all employers subject to the NLRB jurisdictional standards to post an 11 x 17 notice form describing employee rights under the National Labor Relations Act. **The new poster** became available on October 1, 2011.



Image via Wikipedia

The NLRB's rule was initially scheduled to take effect on November 14, 2011 but has now been postponed to January 31, 2012. The NLRB's decision to postpone the rule cites uncertainty about which businesses are subject to the rule. However the rule also remains subject to court challenges and possible Congressional action to overturn it. While the future implementation of the rule remains in some doubt, employers would be wise to understand and address the requirements of the rule and plan for it to take effect.

The posting requirement applies to all private sector employers (including labor unions) subject to the National Labor Relations Act. It includes employers regardless of the number of employees, but excludes agriculture, railroad and airline employers. In addition to the physical posting, the final rule requires every covered employer to post the notice on an Internet or Intranet site if personnel rules and policies are customarily posted there.

The NLRB has posted **frequently asked questions (FAQs) about the rule**.

While some HR consultants see the new posting rule as a tempest in a teapot, others share concerns that the posters will prompt questions and unwanted discussions by employees and could lead to further repercussions. Failure to post the notices as required can be considered an unfair labor practice in itself and anyone, including employees and possibly union organizers, can file charges with the NLRB against employers within six (6) months of alleged violations of the notice requirement. Whether or not the poster is

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successful in bringing the union conversation into the workplace, many commentators see a need for management to strategically consider how management should talk with employees about union issues.

The rollout of the new NLRB rule should not be used as an opportunity to attack an employee's decision to consider a union or even to bash unions or criticize the wisdom of the poster. It is, however, an opportunity for management to enlighten employees on management's position regarding unions. Clearly, if you are not familiar with your employees' rights under the National Labor Relations Act in the non-union, or union, workplace, now is the time to think about those issues before the January 31 deadline requires posting. This is a potential mine field for all employers.

If you need assistance with these issues, Sands Anderson's **Virginia employment attorneys** are available to help you work through your strategies.

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