

EMPLOYEE RIGHTS POSTER

STATUS

The National Labor Relations Board (NLRB) has issued the final rule requiring employers to display a poster explaining to employees their labor relations' rights. The final rule takes effect on January 31, 2012. (The NLRB had originally set a November 14, 2011 effective date but postponed it to provide more time to educate employers.)

THE RULE

The posting requirement applies to all private-sector employers (including labor unions) subject to the National Labor Relations Act (NLRA), which excludes agricultural, railroad and airline employers. Even if there is no union in your workplace you still have to post the notice. The NLRB has a long standing policy that it "chooses" not to assert its jurisdiction over very small employers whose annual volume of business is not large enough to have a more than a slight effect on interstate commerce. The NLRB's general jurisdictional standards are summarized in the rule and some of them are industry specific. The two most notable "size exemptions" are:

- The retail standard which applies to employers in retail businesses, including home construction. As the NLRB expresses it, the NLRB will not "take" jurisdiction over any such employer that has a gross annual volume of business of less than \$500,000.
- The nonretail standard which applies to most other employers. It is based either on the amount of goods sold or services provided by the employer out of state (called "outflow") or goods or services purchased by the employer from out of state (called "inflow"). The NLRB will not "take" jurisdiction over any employer with an annual inflow or outflow of at less than \$50,000. Outflow can be either direct -- to out-of-state purchasers -- or indirect -- to purchasers that meet other jurisdictional standards. Inflow can also be direct -- purchased directly from out of state -- or indirect -- purchased from sellers within the state that purchased them from out-of-state sellers.

Among those industries with a specific "size exemption" from NLRB jurisdiction are: Amusement industry; Apartment houses, condominiums, cooperatives; Architects; Art museums, cultural centers, libraries; Bandleaders; Cemeteries; Colleges, universities, other private schools; Communications (radio, TV, cable, telephone, telegraph); Credit unions; Day care centers; Gaming industry; Health care institutions such as nursing homes, visiting nurses associations, hospitals, blood banks, other health care facilities (including doctors' and dentists' offices); Hotels and motels; Instrumentalities of interstate commerce; Labor organizations (as employers); Law firms, legal service organizations; Newspapers (with interstate contacts); Nonprofit charitable institutions (depending on the entity's substantive purpose); Office buildings, shopping centers; Private clubs; Public utilities; Restaurants; Social services organizations; Symphony orchestras; Taxicabs; and Transit systems.

The NLRB will provide copies of the notice on request at no cost to the employer. These can be obtained by contacting the NLRB at its headquarters or its regional, sub-regional, or resident offices. Employers will also be able to download the notice from the NLRB's website and print it out in color or black-and-white on a minimum size of one 11-by-17-inch paper or two 8-by-11-inch papers in landscape format taped together. Employers can also satisfy the rule by purchasing and posting a set of workplace posters from a commercial supplier.

In addition to the physical posting, the rule requires every covered employer to post the notice on an internet or intranet site if personnel rules and policies are customarily posted there. Employers are not required to distribute the posting by email, Twitter or other electronic means.

The notice must be posted in English and in another language if at least 20 percent of employees are not proficient in English and speak the other language. The NLRB will provide translations of the notice, and of the required link to the NLRB's website, in the appropriate languages.

The rule has no record-keeping or reporting requirements. Failure to post the notice may be treated as an unfair labor practice under the NLRA. The NLRB investigates allegations of unfair labor practices made by employees, unions, employers, or other persons, but does not initiate enforcement action on its own. The NLRB has said "it expects that, in most cases, employers who fail to post the notice are unaware of the rule and will comply when requested by a NLRB agent. In such cases, the unfair labor practice case will typically be closed without further action. The NLRB also may extend the 6-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer. If an employer knowingly and willfully fails to post the notice, the failure may be considered evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA." The NLRB does not have the authority to levy fines.

POSTER TEXT

SEE BELOW

EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT

The National Labor Relations Act (NLRA) guarantees the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity or to refrain from engaging in any of the above activity. Employees covered by the NLRA* are protected from certain types of employer and union misconduct. This Notice gives you general information about your rights, and about the obligations of employers and unions under the NLRA. Contact the National Labor Relations Board (NLRB), the Federal agency that investigates and resolves complaints under the NLRA, using the contact information supplied below, if you have any questions about specific rights that may apply in your particular workplace.

Under the NLRA, you have the right to:

- Organize a union to negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.
- Form, join or assist a union.
- Bargain collectively through representatives of employees' own choosing for a contract with your employer setting your wages, benefits, hours, and other working conditions.
- Discuss your wages and benefits and other terms and conditions of employment or union organizing with your co-workers or a union.
- Take action with one or more co-workers to improve your working conditions by, among other means, raising work-related complaints directly with your employer or with a government agency, and seeking help from a union.
- Strike and picket, depending on the purpose or means of the strike or the picketing.
- Choose not to do any of these activities, including joining or remaining a member of a union.

Under the NLRA, it is illegal for your employer to:

- Prohibit you from talking about or soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms.
- Question you about your union support or activities in a manner that discourages you from engaging in that activity.
- Fire, demote, or transfer you, or reduce your hours or change your shift, or otherwise take adverse action against you, or threaten to take any of these actions, because you join or support a union, or because you engage in concerted activity for mutual aid and protection, or because you choose not to engage in any such activity.
- Threaten to close your workplace if workers choose a union to represent them.
- Promise or grant promotions, pay raises, or other benefits to discourage or encourage union support.
- Prohibit you from wearing union hats, buttons, t-shirts, and pins in the workplace except under special circumstances.

- Spy on or videotape peaceful union activities and gatherings or pretend to do so.

Under the NLRA, it is illegal for a union or for the union that represents you in bargaining with your employer to:

- Threaten or coerce you in order to gain your support for the union.
- Refuse to process a grievance because you have criticized union officials or because you are not a member of the union.
- Use or maintain discriminatory standards or procedures in making job referrals from a hiring hall.
- Cause or attempt to cause an employer to discriminate against you because of your union-related activity.
- Take adverse action against you because you have not joined or do not support the union.

If you and your co-workers select a union to act as your collective bargaining representative, your employer and the union are required to bargain in good faith in a genuine effort to reach a written, binding agreement setting your terms and conditions of employment. The union is required to fairly represent you in bargaining and enforcing the agreement.

Illegal conduct will not be permitted. If you believe your rights or the rights of others have been violated, you should contact the NLRB promptly to protect your rights, generally within six months of the unlawful activity. You may inquire about possible violations without your employer or anyone else being informed of the inquiry. Charges may be filed by any person and need not be filed by the employee directly affected by the violation. The NLRB may order an employer to rehire a worker fired in violation of the law and to pay lost wages and benefits, and may order an employer or union to cease violating the law. Employees should seek assistance from the nearest regional NLRB office, which can be found on the Agency's Web site: <http://www.nlr.gov>.

You can also contact the NLRB by calling toll-free: 1-866-667-NLRB (6572) or (TTY) 1-866-315-NLRB (1-866-315-6572) for hearing impaired.

If you do not speak or understand English well, you may obtain a translation of this notice from the NLRB's Web site or by calling the toll-free numbers listed above.

*The National Labor Relations Act covers most private-sector employers. Excluded from coverage under the NLRA are public-sector employees, agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors (although supervisors that have been discriminated against for refusing to violate the NLRA may be covered).

This is an official Government Notice and must not be defaced by anyone