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National Labor Relations Board Issues Final Rule Mandating Posting of Employee Notice of NLRA Rights

Today, the NLRB issued a final rule that requires most private-sector employers to notify employees of their rights under the National Labor Relations Act (NLRA) by posting a notice. The new rule was placed on public inspection at the office of the Federal Register today, is scheduled to be posted in the Federal Register on August 30, 2011, and will take effect 75 days later, on November 14, 2011.

This controversial new Notice, along with other pro-union actions by the current NLRB majority, was the subject of numerous critical comments by business groups, but the NLRB went forward with its plans to educate American workers about their right to organize for representation by labor unions. Some modifications from the original proposed poster were made by the NLRB. The poster, like the one that federal contractors already been required to post since last year, is heavily weighted towards advising employees about their right to unionize and about employer unfair labor practices, as opposed to advising them of their rights to be union free.

The rule applies to all employers subject to the jurisdiction of the NLRA, which will include most private sector employers. Federal contractors already posting the notice required to be posted will be deemed to be in compliance with the new rule. In addition to the physical posting on employee bulletin boards or locations where other employee notices are posted, 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. However, employers are not required to distribute the posting by e-mail, Twitter or other electronic means.

No fines will be imposed on covered employers who fail to post the poster, but failure to post will be considered an unfair labor practice under the NLRA, and could be argued to be

evidence of unlawful motive in unfair labor practice proceedings involving other alleged violations of the NLRA.

A Fact Sheet on the new rule is available on the NLRB's website at www.nlr.gov.

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