

# Employment Practice Update

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## NLRB Issues Final Rule Requiring Employers to Post Notice of Employee Rights

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On August 25, 2011, the National Labor Relations Board (“NLRB” or “Board”) issued a final rule requiring employers to notify employees of their rights under the National Labor Relations Act (“NLRA”). The rule was published in the Federal Register on August 30, 2011, and becomes effective November 14, 2011.

The new Rule requires private-sector employers that are covered by the NLRA (which includes nearly all private-sector businesses) to display an 11-by-17 inch poster summarizing an employee’s rights under the NLRA. The notice must be posted in all places where notices to employees concerning personnel rules or policies are customarily posted. In addition to physically posting the notice, employers are required to display the notice on an internet or intranet site if the employer customarily communicates with its employees about personnel rules or policies by such means.

**Failure to post the notice may be treated as an unfair labor practice under the NLRA.**

The notice itself advises employees that they have the right to organize, form, join, or assist a union; to bargain collectively to improve wages and working conditions; to discuss terms and conditions of employment with fellow employees; to take action with those fellow employees to improve working conditions; and to strike and picket. The notice also offers examples of unlawful employer and union conduct and instructs employees how to con-

*This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.*

tact the NLRB with questions or complaints.

Beginning on or before November 1, 2011, each NLRB Regional Office will make copies of the notice available to employers free of charge upon request. Alternatively, employers may download the notice directly from the [NLRB website](#) and print it on one 11-by-17 inch poster or two 8½-by-11 papers that may be taped together. Translated versions will also be available and must be posted in workplaces where at least twenty percent of the workforce is not proficient in English and speaks another language.

Failure to post the notice may be treated as an unfair labor practice under the NLRA. If an employer fails to post the required notice, the Board may order the employer to post the notice, post a remedial notice, and may extend the six-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer. Additionally, 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.

For this reason, employers should take steps to obtain the notice beginning November 1, 2011 and should ensure that they are in compliance with this new posting requirement no later than November 14, 2011. The Final Rule (including the text of the employee notice itself) may be accessed [here](#). Although the law only requires a posting, employers should also consider educating managers on the topic in the event that employees pose questions or consider organizing. Unions are no doubt thrilled with the rule and may leverage the posting to expand union influence and participation. If you have any questions regarding the new Rule or its requirements, please contact our office at (850) 425-6654.



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