

# PUBLICATION

---

## NLRB Rule of Notice Posting

September 01, 2011

**On August 26, 2011, the National Labor Relations Board (NLRB) published its final rule requiring almost all private-sector employers to post a notice informing employees of their rights under the National Labor Relations Act (NLRA). The 11-by-17-inch notice is similar in content and design to the notice of NLRA rights that must be posted by federal contractors pursuant to Department of Labor requirements.**

The posting requirement applies to nearly all private-sector employers subject to the NLRA, which excludes agricultural, railroad and airline employers. Because NLRA rights apply to union and non-union workplaces, all employers subject to the Board's jurisdiction (aside from the United States Postal Service) will be required to post the notice. Retailers with a gross annual volume of business less than \$500,000, and nonretail entities that sell or purchase fewer than \$50,000 in annual goods or services are exempt from this rule.

Covered employers must post notices informing employees of their NLRA rights, NLRB contact information, and information concerning basic enforcement procedures in a conspicuous place. Among other provisions, the notice expressly informs employees of their rights to:

- Organize a union to negotiate wages, hours, and other terms and conditions of employment;
- Bargain collectively for a contract through representatives chosen by employees;
- Discuss the terms and conditions of their employment or union organizing efforts with co-workers or union representatives;
- Take immediate action to improve their working conditions by raising work-related complaints directly with their employer, a government agency, or a union;
- Strike and picket under certain circumstances; and
- Choose to opt-out of joining or remaining a union member.

The notice continues, listing several examples of unlawful behavior under the NLRA, and providing employees with instructions on how to contact the NLRB with questions or complaints,

Failure to post the notice may result in the NLRB finding that the employer has committed an unfair labor practice under Section 8(a)(1) of the NLRA. The NLRB also asserts that failure to post the notice may lead to the tolling of the six-month statute of limitations for unfair labor practice charges,

Similar to postings required by the Department of Labor, the NLRB notice must be posted in conspicuous places where they are readily seen by employees, including all places where notices to employees concerning personnel rules or policies are customarily posted. However, the NLRB is also requiring employers to post the notice electronically "on an intranet or internet site if the employer customarily communicates with its employees about personnel rules or policies by such means." Translated versions of the notice must be posted at workplaces where at least 20% of the employees are not proficient in English.

A copy of the notice will be available at <http://nlrb.gov/forms>. Employers have until November 14, 2011 to post the notice. Federal contractors who already post the notice required by Executive Order 13496 will be deemed to be in compliance with the new Rule.

