



APRIL 2012

Prepare Now: National Labor Relations Act Notice Posting Requirement Goes into Effect April 30, 2012

Late last year, a reconstituted democratic National Labor Relations Board (NLRB) passed significant rules reducing the [union election time periods](#) and requiring employers to post notices designed to educate employees on their right to engage in, among other things, protected, concerted activity. These initiatives are scheduled for implementation on April 30, 2012. Barring any last minute developments by the NLRB or the courts, employers are confronting a closing window of opportunity in which to get their company policies and employee relations programs up to speed in preparation for the potential implications of these new rules, including an increase in employee discourse about unions.

A number of cases are pending before courts contesting these rules on varying levels. The first federal court to issue a decision upheld the NLRB's authority to require employers to post a notice informing employees of their rights under the National Labor Relations Act (NLRA). In [National Association of Manufacturers v. NLRB](#) (March 2, 2012), the court also ruled that the provision of the NLRB's rule that made a failure to post the notice a separate NLRA violation was invalid and struck down the provisions of the rule that tolled the six-month statute of limitations during the period the notice was not posted at a worksite. Unless there is an interim decision by the NLRB or another court, most private sector employers, whether unionized or not, are required to post the NLRA notice by the April 30 deadline.

A number of potential ramifications result from the posting requirement, which affects both unionized and nonunionized employers. Employers may want to consider the following immediate preventive strategies in response to the potential

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CONTACT US

Natale Di Natale
(860) 275-8329
ndinatale@rc.com

David J. Burke
(203) 462-7507
dburke@rc.com

Nicole Bernabo
(860) 275-8394
nbernabo@rc.com

impact of the new notice, including union questions by employees:

- Conduct refresher training with human resources and managerial and supervisory-level employees concerning how to handle questions that may arise from the NLRA notice in a lawful and effective manner and to ensure that supervisory staff are familiar with the National Labor Relations Act and the rights listed in the notice, such as the right to engage in protected, concerted activity.
- Develop a communication strategy to ensure that managerial employees are relaying a unified message to employees who inquire about unions and/or the notice language, including your organization's position regarding unions.
- Review employment policies that may be considered in violation of the NLRA because they are overbroad in a way that prohibits, discourages, or chills activity protected by the NLRA (for example, discussion of wages or working conditions, solicitation, distribution of literature, and use of e-mail).

Several key requirements of the notice-posting regulation were summarized in our [previous alert](#).

Our experienced labor attorneys are available to assist with preventive labor training strategies and counseling regarding the legal steps you need to consider in light of this new notice requirement.

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