

# ON YOUR SIDE

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*An informative presentation from your LegalShield  
District of Columbia/Maryland Provider*

## National Labor Relations Board - Final Rule for Notification of Employee Rights

### Notification of Employee Rights

Weinstock, Friedman & Friedman, P.A., your Maryland and District of Columbia LegalShield provider firm, wanted to share this important information with you. Whether you are a business owner, in management, or an employee looking to insure your rights are known and protected, this information is relevant to you.

We are writing to inform you of a recent announcement by the National Labor Relations Board (NLRB) that may affect you. The NLRB recently 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 of these rights in a conspicuous place the workplace. **This notice is required to be posted on or before November 14, 2011.**

Among other things, the poster is required to state that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, to bargain collectively with their employer, and to refrain from any of these activities. It provides examples of unlawful employer and union conduct and instructs employees how to contact the NLRB with questions or complaints, a description of basic procedures used to enforce NLRA rights, and information about filing a charge with the NLRB. The requirement is specific and on or before November 1, 2011, a pre-made notice of rights will be provided at no charge by the NLRB regional offices and may be downloaded from its website. These posters can also be purchased from a commercial vendor.

For your convenience, we have enclosed Question and Answers on the NLRB Poster. If you have additional questions concerning this new rule, please do not hesitate to contact Weinstock, Friedman & Friedman, P.A. using the toll free number and your LegalShield benefits.

### QUESTIONS & ANSWERS NATIONAL LABOR AND RELATIONS BOARD NOTIFICATION OF EMPLOYEE RIGHTS

#### Q: What is the Purpose of the Posting Requirement?

**A:** The National Labor Relations Board (“NLRB”) believes that many employees are unaware of their rights under the National Labor Relations Act (“NLRA”) and the posting requirement is intended to address this concern. Under the NLRA, “Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities[.]” (29 USC 157 (2007)). The posting will contain content reflecting these rights.

#### Q: Does my company have to post the notice?

**A:** The posting requirement applies to virtually all private-sector employers subject to the NLRA, which excludes agricultural, railroad and airline employers and certain very small employers whose annual volume of business is not large enough to have a more than slight effect on interstate commerce (more information on this is available at <http://www.nlrb.gov>). The NLRB has also exempted the United States Postal Service. Most small businesses are covered but certain smaller employers are excluded. If you have questions as to whether your company is included, please call us.

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**Q: There is no union in my workplace. Do I still have to post the notice?**

**A:** Yes. Because NLRA rights apply to union and non-union workplaces, all employers subject to the Board's jurisdiction will be required to post notice.

**Q: Is the notice required to be in a certain format?**

**A:** The notice is required to be printed on 11x17 inch paper or on two 8.5 x11 inch papers taped together. It may be printed in color or in black-and-white. Translated versions will also be available for employers where 20% of its workforce is not proficient in English. An employer is free to consolidate this notice with other required notices as long as it does not alter the size format, content or size and font of the original notice.

**Q: Where should an employer post notice?**

**A:** Employers must post and maintain the notice in conspicuous places, including all places where notices to employees are customarily posted. 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.

**Q: If employees do not work from my main office and/or work at remote sites and would not see the notice posted at the main office. What does the business have to do?**

**A:** An employer must also post at remote work sites where the employer is capable of posting the notice. Employers are not required to ask customers or clients to post the notice at their place of business where the employer's employees perform services. Employers are not required to distribute the notice via email, social media or other electronic means.

**Q: How will the Board enforce the rule?**

**A:** Failure to post the notice may be considered unfair labor practice under the NLRA and can result in an investigation. The Board investigates allegations of unfair labor practices made by employees, unions, employers, or other persons, but does not initiate enforcement on its own. The Board may also 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 Board does not have the authority to levy fines.

**Q: Does a business have to maintain records or submit reports under the new rule?**

**A:** No. The rule does not have any recordkeeping or reporting requirements.

The NLRB examines jurisdiction and enforcement issues on a case-by-case basis. Small Business owners who are unsure of whether they are under NLRB jurisdiction or how to comply with this notice rule should seek advice of legal counsel. If you have additional questions concerning this new rule, please contact Weinstock, Friedman & Friedman, P.A. using the toll free number and your LegalShield benefits.

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