

## News from our Employment & Labor and Government Contracts Groups

### Department of Labor Publishes Poster to be Used by Federal Government Contractors to Notify Employees of Their Rights Under the National Labor Relations Act and Issues Final Rule

Federal Government Contractors are required to post a new poster notifying employees that the National Labor Relations Act (“NLRA”):

- ▶ guarantees the right of employees to organize and bargain collectively with their employers;
- ▶ guarantees the right of employees to engage in other protected concerted activity and to refrain from union or other concerted activity; and
- ▶ protects employees from certain types of employer and union misconduct.

Included at the end of this *Alert!* is a copy of the new poster. A copy of the poster in English and in languages other than English may be downloaded from the Office of Labor-Management Standards website at [www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17\\_Final.pdf](http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf). The poster is designed to be printed on one sheet of 11-inch by 17-inch paper or two sheets of standard 8½-inch by 11-inch paper.

The poster must be posted “conspicuously” meaning that it is prominent and can readily be seen by employees. Contractors that customarily post notices to employees electronically must also post the required notice electronically by displaying it prominently on any website customarily used for notices to employees about terms and conditions of employment, or providing a link to the Department of Labor’s (“DOL”) website that contains the full text of the poster.

The link to DOL’s website must read, “Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers.” This information must be provided in the language employees speak if a significant portion of the contractor’s workforce is not proficient in English.

The postings and notice requirements apply to Federal Government Contractors and to their subcontractors at any tier. These requirements do not apply to:

- ▶ prime contracts below \$100,000;
- ▶ contracts resulting from solicitations issued before the effective date of the rule (30 days after May 20, 2010 publication in the *Federal Register*);
- ▶ contracts and subcontracts for work performed exclusively outside the territorial United States;
- ▶ subcontracts that do not exceed \$10,000;
- ▶ contractors that are covered by the Railway Labor Act (RLA);
- ▶ contractors who are not covered by the NLRA; or
- ▶ collective bargaining agreements.

The poster is issued under a final rule published in the Federal Register on May 20, 2010, implementing Executive Order 13496: *Notification of Employee Rights Under Federal Labor Laws*. The Executive Order mandates that all government contracting departments and agencies include a provision in covered government contracts stipulating that the contractor inform

employees of their rights under the NLRA by posting a notice “in all places where notices to employees are customarily posted both physically and electronically.” This Executive Order revokes an earlier Executive Order issued by former President Bush which required federal contractors to post a notice to their employees informing them that they were not required to join or maintain membership in a labor union, and, where non-members of a union were nonetheless required to pay union dues, they could object to paying a portion of those dues or fees to support activities not

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related to collective bargaining, grievance adjudication or contract administration. The new poster includes a provision stating that an employee has the right to not join or not remain a member of a union that represents the employee's bargaining unit but no further discussion of individual rights.

In addition to specifying the notice content and to whom the requirement applies, the final rule provides for a complaint procedure, penalties, evaluations and enforcement of the notice requirement.

While the regulations require that a contracting agency include the posting requirement or a reference to the regulation (29 CFR Part 471, Appendix A to Subpart A) a best practice for covered contractors is to post the poster once they are awarded contracts based on solicitations issued on or after June 19, 2010. ■

## Download your copy of the new National Labor Relations Act Poster at

[www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17\\_Final.pdf](http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf)

# EMPLOYEE RIGHTS

## UNDER THE NATIONAL LABOR RELATIONS ACT

The NLRA guarantees the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity. Employees covered by the NLRA are protected from certain types of employer and union misconduct. This Notice gives you general information about your rights, and about the obligations of employers and unions under the NLRA. Contact the National Labor Relations Board, the Federal agency that investigates and resolves complaints under the NLRA, using the contact information supplied below, if you have any questions about specific rights that may apply in your particular workplace.

### Under the NLRA, you have the right to:

- Organize a union to negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.
- Form, join or assist a union.
- Bargain collectively through representatives of employees' own choosing for a contract with your employer setting your wages, benefits, hours, and other working conditions.
- Discuss your terms and conditions of employment or union organizing with your co-workers or a union.
- Take action with one or more co-workers to improve your working conditions by, among other means, raising work-related complaints directly with your employer or with a government agency, and seeking help from a union.
- Strike and picket, depending on the purpose or means of the strike or the picketing.
- Choose not to do any of these activities, including joining or remaining a member of a union.

### Under the NLRA, it is illegal for your employer to:

- Prohibit you from soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms.
- Question you about your union support or activities in a manner that discourages you from engaging in that activity.
- Fire, demote, or transfer you, or reduce your hours or change your shift, or otherwise take adverse action against you, or threaten to take any of these actions, because you join or support a union, or because you engage in concerted activity for mutual aid and protection, or because you choose not to engage in any such activity.
- Threaten to close your workplace if workers choose a union to represent them.
- Promise or grant promotions, pay raises, or other benefits to discourage or encourage union support.
- Prohibit you from wearing union hats, buttons, t-shirts, and pins in the workplace except under special circumstances.
- Spy on or videotape peaceful union activities and gatherings or pretend to do so.

### Under the NLRA, it is illegal for a union or for the union that represents you in bargaining with your employer to:

- Threaten you that you will lose your job unless you support the union.
- Refuse to process a grievance because you have criticized union officials or because you are not a member of the union.
- Use or maintain discriminatory standards or procedures in making job referrals from a hiring hall.
- Cause or attempt to cause an employer to discriminate against you because of your union-related activity.
- Take other adverse action against you based on whether you have joined or support the union.

If you and your coworkers select a union to act as your collective bargaining representative, your employer and the union are required to bargain in good faith in a genuine effort to reach a written, binding agreement setting your terms and conditions of employment. The union is required to fairly represent you in bargaining and enforcing the agreement.

**Illegal conduct will not be permitted.** If you believe your rights or the rights of others have been violated, you should contact the NLRB promptly to protect your rights, generally within six months of the unlawful activity. You may inquire about possible violations without your employer or anyone else being informed of the inquiry. Charges may be filed by any person and need not be filed by the employee directly affected by the violation. The NLRB may order an employer to rehire a worker fired in violation of the law and to pay lost wages and benefits, and may order an employer or union to cease violating the law. Employees should seek assistance from the nearest regional NLRB office, which can be found on the Agency's website: [www.nlr.gov](http://www.nlr.gov).

Click on the NLRB's page titled "About Us," which contains a link, "Locating Our Offices." You can also contact the NLRB by calling toll-free: 1-866-667-NLRB (6572) or (TTY) 1-866-315-NLRB (6572) for hearing impaired.

**The National Labor Relations Act covers most private-sector employers.** Excluded from coverage under the NLRA are public-sector employees, agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors (although supervisors that have been discriminated against for refusing to violate the NLRA may be covered).



This is an official Government Notice and must not be defaced by anyone.

U.S. Department of Labor