

Employment: NLRB Delays Union Rights Posting Rule

By Hope Eastman

Employers that have been gearing up to meet the January 31, deadline for posting an National Labor Relations Board (NLRB) poster notifying employees of their right to unionize, no longer need to rush. The NLRB has for the second time delayed the implementation deadline; posters need not go up before April 30, 2012.

The NLRB initially issued a Final Rule requiring most private-sector employers, both unionized and non-unionized, to post this poster in their workplaces by November 11, 2011. This controversial rule was challenged in federal court in suits brought by the U.S. Chamber of Commerce and the National Association of Manufacturers. As a result, the NLRB first postponed the date until January 31. Now, at the request of the judge in one of the cases, the NLRB has agreed to defer the posting requirement until April 30, 2012.

Assuming the rule goes into effect at that time, the notice has to be posted in a conspicuous place, in proximity to where other notifications of workplace rights and employer rules/policies are posted. Employers also should publish a link to the notice on an internal or external website if other personnel policies or workplace notices are posted there. The 11-by-17-inch notice is available at no cost from the NLRB website (www.nlr.gov/poster), which also provides additional information on posting requirements and NLRB jurisdiction.

This NLRB rule is part of a larger effort on the part of the Obama Administration to protect the rights of non-unionized employees to engage in concerted action with regard to their wages and terms of conditions. The Board has long taken the position that confidentiality rules preventing employees from sharing information about their compensation violate the National Labor Relations Act (NLRA). In the last six months, the NLRB has gone after social media policies (e.g., restrictions on employee postings to Facebook pages) that it believes violate this same provision of the NLRA. Stay tuned for further updates on this subject.