

## NLRB Proposes Rule Requiring Employers to Post Notice on Unionization

**For more information regarding this or any other employment-related issue, please contact your Vorys attorney or a member of the Vorys Labor and Employment Group by calling 614.464.6400.**

The National Labor Relations Board (“NLRB”) has proposed a rule that would require employers to post notices informing workers of their right to unionize. The NLRB rarely uses its rulemaking authority, and the proposed rule is the first time the NLRB has invoked that authority since 2004.

Under the proposed rule, all employers subject to the National Labor Relations Act (“NLRA”) would have to post an 11-by-17 inch poster educating employees of their rights under the NLRA. The notice would have to be posted where the employer posts other workplace notices, such as safety, wage and hour, and antidiscrimination posters. Employers that primarily communicate with employees via email or other electronic means would have to also post the notice electronically. If an employer failed to post the notice, it could be penalized.

The proposed rule represents a notable departure from the NLRB’s typical practice of requiring employers to post notices only as a remedy for noncompliance with the NLRA or a few days in advance of an NLRB-conducted election. According to the explanation accompanying the NLRB’s proposal, the NLRB’s broad enforcement of a posting requirement is rooted in its belief that employees are “unaware of their rights under the statute.” Indeed, the NLRB’s press release says that the purpose of the proposed rule is to “increase knowledge of the NLRA among employees, to better enable their exercise of rights under the statute, and to promote statutory compliance by employers and unions.”

To that end, the proposed notice will state that employees have the right to:

- act together to improve wages and other terms and conditions;
- form, join, or assist unions;
- bargain with their employer;
- discuss union organizing with co-workers or a union;
- raise work-related complaints with their employer, a governmental agency, or a union;
- strike and picket; and
- choose not to engage in any of these activities.

The notice will also provide examples of unlawful employer and union conduct, as well as instruct employees how to contact the NLRB with questions or complaints. The complete text of the proposed employee rights notice and the proposed penalties for failing to post the notice are set forth in the Proposed Rule, which may be accessed at [http://www.nlr.gov/About\\_Us/news\\_room/Notice\\_for\\_Rulemaking/](http://www.nlr.gov/About_Us/news_room/Notice_for_Rulemaking/). There is a 60 day period for public comment on the proposed rules.

Because the NLRB’s action is, at least for now, just a proposal, no immediate action is required by any employer. Employers who may want to comment on the rule should note the deadline for receipt of those comments. In the meantime, however, Vorys will continue to monitor NLRB actions in this area. Should you have any questions on this matter, please contact your Vorys attorney.

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