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**\*\*EMPLOYMENT LAW ALERT\*\***

National Labor Relations Act Notice of Rights

By: S. Whitney Rahman

The National Labor Relations Board (“NLRB”) has issued a proposed regulation requiring employers to notify employees of their rights under the National Labor Relations Act (“NLRA”). The regulation will apply to all employers subject to the NLRA.

The regulation will require employers to post a notice that is at least 11” x 17” in size and will be downloadable from the NLRB website. The notice will be required to be posted in all places where notices to employees customarily are posted. If a significant portion of the workforce speaks a language other than English, the notice must be provided in that language. In addition to manual posting, employers will be required to distribute the notice electronically, if the employer customarily communicates with its employees by that means.

The proposed language of the notice is as follows:

**EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR  
RELATIONS ACT**

“The National Labor Relations Act (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 (NLRB), 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 coworkers 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 co-workers 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 Web site:  
<http://www.nlr.gov>.

You can also contact the NLRB by calling toll-free: 1-866-667-NLRB (6572) or (TTY) 1-866-315-NLRB (1-866-315-6572) 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."

Failure to post the notice will be grounds for an unfair labor charge. Proposed sanctions include the issuance of cease and desist orders and tolling of the statute of limitations. Any employer that threatens or retaliates against an employee for filing charges or testifying at a hearing may be found to have committed an unfair labor practice.

The NLRB is seeking public comments on the proposed rule. Comments must be received by February 22, 2011 and may be filed electronically by accessing <http://www.regulations.gov>. To locate the proposed rule, search "documents open for comment" and use key words such as "National Labor Relations Board." All comments received will be publically posted as received, including any personal information contained in the comment.

If you have any questions about the proposed regulation or any other labor or employment law issues, contact S. Whitney Rahman or John W. Roland at 610-372-5588.