



HUMAN RESOURCES UPDATE

OCTOBER 2011

NEW REQUIRED POSTING FROM NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board (NLRB) has issued a new posting that will be required effective November 14, 2011. For those of you who believe the NLRB is only for unionized companies, please note that not only is that *not* the case, but this Notice is required of essentially all private businesses (there are a few exceptions, based upon annual revenue and railroad, agriculture, airline, and the USPS don't have to post).

You may have heard that there is a recently filed lawsuit challenging this new requirement, however the NLRB has advised that failure to post the Notice may constitute an independent unfair labor practice and may be considered evidence of unlawful motive in certain NLRB proceedings. A failure to post may extend the time in which unions or employees can file unfair labor practice charges against the employer.

The required Notice advises employees of their legal rights under the National Labor Relations Act (NLRA), including the right to unionize and/or engage in strikes, picketing, and other protected concerted activity. The Notice also provides instructions to employees on how they can file charges against an employer and offers contact information for the NLRB. Employers must post the new notice where other required postings are placed, as well as on a company "intranet or internet site if the employer customarily communicates with its employees about personnel rules or policies by such means."

As the employer, you need to:

- print out the Notice – available on the NLRB's website at <http://www.nlr.gov/poster>
- post the Notice, as required, by November 14, 2011
- develop and communicate a lawful employee relations policy
- train your managers and supervisors on how to lawfully respond to inquiries from their employees
- review existing policies and your Employee Handbook for policies that could result in unfair labor practice charges, such as:
 - o harassment policies that are too broad and generic that could be "reasonably interpreted" as improperly prohibiting employees from partaking in union organizing
 - o blanket prohibitions against your employees speaking to the media

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ARE DUE 9/30 FOR
APPLICABLE
COMPANIES.**

continued from page 1

- broad social media policies that prohibit employees from disparaging an employer on such sites
- confidentiality policies that prohibit employees from discussing their wages with co-workers or outsiders (note that the new NLRB posting expressly advises employees that they have the right to discuss their wages with co-workers and unions)

The NLRB site will also have translations of the Notice available in a number of languages. If 20% or more of your workforce is not proficient in English, then you must post the Notice in that language.

HR BITS AND PIECES

Seattle just became the 3rd city (behind San Francisco and DC) in the country to require employers to provide paid sick leave for employees. This applies to businesses with more than 5 employees who have been in business more than 2 years. By the way, Connecticut service industry employers with 50 or more employees also have to provide paid sick leave. Other states and cities may not be far behind.

Updated guidance from the IRS says that employers no longer need to include any use of a company-provided cell phone in an employee's wages, as long as the phone was provided for "noncompensatory business reasons."

2011 VETS-100/100A reporting is delayed by the DOL until October 1, 2011. It had planned to begin accepting electronic submissions of VETS 100/VETS-100A forms on August 1, 2011. However, there are currently technical problems preventing contractors from carrying out these submissions.

The feds have now expanded the E-Verify Self Check Tool to include a Spanish site and 16 additional states to the original list of 5 and D.C. This is the site where employees can confirm their eligibility to work in the U.S. by entering the same data they'll report on an I-9 Form.

Keep an eye on President Obama's American Jobs Act. In this proposed Act, discriminating against the unemployed when recruiting will be against the law.

Employers will not have to report the total value of the employee's health insurance coverage on each employee's Form W-2 until 2012 (therefore the W-2s you will issue in January 2013). This requirement, enacted as part of the Affordable Health Care Act, was scheduled to start for Forms W-2 issued for 2011.

And this one is included because, although we thought we had seen it all, we haven't. A woman in Utah recently filed a harassment suit against her boss (and company-owner) for requiring her to wear mini-skirts sans panties on Mondays and go bra-less on Thursdays. This was on top of alleged inappropriate touching, making repeated remarks about her breasts and asking her to show them to him, and stating he was installing a shower in the office so they could shower together. He must not have seen all the memos and information on what constitutes harassment

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