

TO:
NAW Member Association Execs

FROM:
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As you know, the National Labor Relations Board issued final rules in August which would require virtually all businesses to post a “Notice of Employee Rights under the National Labor Relations Act.” Several lawsuits were filed (including one to which NAW is a party through the Coalition for a Democratic Workplace) challenging the Board’s notice posting rule. In response to those challenges the Board postponed the effective date for the required notice posting from last month to January 31, 2012. Oral arguments are scheduled in court on the legal challenges on December 19th, and it is anticipated that the court will hand down a decision in the case during the first two weeks of January, before the scheduled January 31st deadline for posting the notice.

Despite the lawsuits, the NLRB Office of the General Counsel – on **Saturday** – issued a Memorandum to the regional NLRB offices urging them to take action now to “carry out this important Agency initiative.” Among other things, the Board regional offices are asked to send a letter to all the business organizations and trade associations in their region explaining the notice posting rule, and asking those organizations to “consider informing your members of this new requirement through an email alert, a mention in a newsletter, or a link on your website.”

The letter the regional offices are asked to send states that employers “must post a notice of employee rights” – **and does not even mention the fact that the rule has been challenged in court and may never be enforced.**

If you should receive a request from your NLRB regional office asking you to contact your members with respect to the notice posting rule, please know that you are under no legal obligation whatsoever to take any steps in this regard in communicating with your member companies—at any time. Nor are your member companies obligated to take any steps with respect to the notice posting until – at the very earliest, January 31st – and only then if the court upholds the rule and the effective date is not again postponed.

To view the NLRB Memo to their Regional Directors, go to:
<http://www.naw.org/files/NLRBmemo.pdf>

For background and more information, see NAW’s Legal Advisory on this issue at:
<http://www.naw.org/govrelations/advisory.php?articleid=643>

Many thanks.