



January 2012

Legal Alert: IMPORTANT UPDATES ON EMPLOYER NOTICE OBLIGATIONS

Nonprofits are reminded about their statutory obligation to provide annual notice to their employees under the New York State Wage Theft Prevention Act (“WTPA”). Nonprofits subject to the National Labor Relations Act are hereby advised that the National Labor Relations Board’s posting requirement has been postponed, once again.

New York State Wage Theft Prevention Act

The WPTA requires employers to provide written notice about compensation to new hires, whenever there is a change in compensation, and annually to each employee whether or not there has been any change in compensation during the prior year.

The Annual Notice must be provided BEFORE FEBRUARY 1. Because this requirement was enacted last spring, 2012 is the first year for which the annual notice is required. The Annual Notice must be given in both English and each employee’s Primary Language, if other than English, signed by the employee, and retained for six years.

The Annual Notice must contain the following information:

- (i) regular pay rate,
- (ii) for nonexempt employees, the overtime rate and
- (iii) scheduled payday.
- (iv) the basis (i.e. hourly, weekly, etc) for the rate of pay;
- (v) any allowances such as lodging or meal;
- (vi) the employer’s legal name as well as any “doing business as” names;
- (vii) the physical address of the employer’s main office and a mailing address if different;
and
- (viii) the employer’s telephone number.

Employers may use the form provided by the New York State Department of Labor on its website, www.labor.ny.gov, or any other form that provides the same information. *For more information on WTPA, see the March 2011 Legal Alert at www.lawyersalliance.org/news_legal_alerts.php#4.*

National Labor Relations Act Posting Postponed Again

The National Labor Relations Board (NLRB) has issued a final rule requiring private sector employers subject to the National Labor Relations Act (NLRA) to post an official government

notice informing employees of their legal rights under the NLRA.¹ The rule will become effective April 30, 2012, and the notice must be posted on that day. NOTE: The rule was originally scheduled to be effective on November 14, 2011, and has been postponed several times after business groups filed lawsuits challenging the NLRB's authority to make the rule. Unless those lawsuits are decided against the NLRB, covered employers should be ready to post the notice on April 30 of this year.

The NLRA was enacted in 1935 to protect the rights of employees and employers, encourage collective bargaining, and curtail certain harmful labor and management practices. The NLRA covers employers, including nonprofits, which exceed certain revenue thresholds regardless of whether the employer's workforce currently is presented by a union. *For more information about the NLRA and the proposed posting requirement, see the October 2011 Legal Alert at http://lawyersalliance.org/news_legal_alerts.php#4.*

This alert is meant to provide general information only, not legal advice. Please contact Judith Moldover at Lawyers Alliance for New York at (212) 219-1800 x 250 or visit our website www.lawyersalliance.org for further information.

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¹ See Press Release, National Labor Relations Board, *Board Issues Final Rule to Require Posting of NLRA Rights*, Aug. 30, 2011, <http://www.nlr.gov/news/board-issues-final-rule-require-posting-nlra-rights>; see also Fact Sheet, National Labor Relations Board, *Final Rule for Notification of Employee Rights*, <http://www.nlr.gov/news-media/fact-sheets/final-rule-notification-employee-rights>