

Federal Appeals Court Rejects National Labor Relations Board (NLRB) Union Poster Rule

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The U.S. Court of Appeals for the D.C. Circuit recently held that the [National Labor Relations Board's \(Board\)](#) rule that required employers to post a new notice that promoted the right to unionize (sometimes referred to as the NLRB union poster rule) violated employers' free speech rights under Section 8 (c) of the [Act](#). Click [here](#) to read a copy of the decision.

The Board issued the highly controversial rule in August of 2011 that required employers to post the new notice. Employer groups soon challenged the rule, arguing that the rule exceeded the Board's authority to enforce the National Labor Relations Act.

The Court noted that Section 8(c) gives employers the right to communicate with employees about union representation as long no threats or promises of benefits are made. The right of free speech, the Court stated, also includes the right to be silent. The Board's notice posting rule forced employers to communicate with employees about union representation and made it an unfair labor practice if an employer did not comply, which the Board cannot do.

The Court also rejected the Board's rule because the Act's six-month statute of limitations on unfair labor practices would not apply to an employer's failure to post the notice. It remains to be seen what the Board will do in response to the Court's decision.

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