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Another COVID-19 Labor Law Change: Labor Board Updates Notice Posting Requirements

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**David J.
Przybylski**
Partner

We are more than two years into the COVID-19 pandemic and the virus continues to impact labor law. The latest is a ruling from the National Labor Relations Board (NLRB) related to notice postings employers must display in the workplace in connection with unfair labor practices.

According to an [NLRB press release](#): “[T]he National Labor Relations Board modified the timing of its electronic notice-posting requirement in circumstances where an employer has not yet reopened its facility due to COVID-19, or where a substantial complement of employees has not yet returned to work on site, and the employer is communicating with employees by electronic means. Under prior law, both physical and any electronic notice posting were deferred in either circumstance to within 14 days of the facility’s reopening and staffing by a substantial complement of employees, as prescribed in *Danbury Ambulance Service*, 369 NLRB No. 68 (2020). In today’s decision, a Board majority (Chairman McFerran and Members Wilcox and Prouty) held that any required electronic notice posting must occur within 14 days after service by the Region, while retaining the *Danbury* schedule as to physical posting of the notice. The majority found that advancing the timing of the electronic notice posting to more promptly notify employees of unfair labor practices committed against them, and the steps that would be taken to remedy those violations, would better effectuate the purposes of the Act.”

Companies found to have violated the National Labor Relations Act – or

when settling charges making such allegations – typically have to post a notice describing the alleged infractions for a 60-day period. The posting usually must be made on employee bulletin boards and/or other conspicuous areas. Obviously, the shutdowns and company closures stemming from COVID-19 affected how and when this could be done. This ruling significantly expands what historically has been required by mandating electronic notice – and its timing – if a site isn't fully reopened.

This is just the latest example of the NLRB's efforts to expand its remedial powers. Other recent examples include [regional offices requiring labor law training](#) in connection with board charges and [seeking consequential damages](#) in addition to back pay when employee discharges are at issue. There may be yet more to come on this front. Stay tuned.