

**National Labor Relations Board**

**§ 104.204**

available, the requesting employer will not be liable for non-compliance with the rule until the notice becomes available in that language.

**§ 104.203 Are Federal contractors covered under this part?**

Yes, Federal contractors are covered. However, contractors may comply with the provisions of this part by posting the notices to employees required under the Department of Labor’s notice-posting rule, 29 CFR part 471.

**§ 104.204 What entities are not subject to this part?**

(a) The following entities are excluded from the definition of “employer” under the National Labor Relations Act and are not subject to the requirements of this part:

- (1) The United States or any wholly owned Government corporation;
- (2) Any Federal Reserve Bank;
- (3) Any State or political subdivision thereof;
- (4) Any person subject to the Railway Labor Act;
- (5) Any labor organization (other than when acting as an employer); or
- (6) Anyone acting in the capacity of officer or agent of such labor organization.

(b) In addition, employers employing exclusively workers who are excluded from the definition of “employee” under §104.201 are not covered by the requirements of this part.

(c) This part does not apply to entities over which the Board has been found not to have jurisdiction, or over

which the Board has chosen through regulation or adjudication not to assert jurisdiction.

(d)(1) This part does not apply to entities whose impact on interstate commerce, although more than de minimis, is so slight that they do not meet the Board’s discretionary jurisdiction standards. The most commonly applicable standards are:

(i) The retail standard, which applies to employers in retail businesses, including home construction. The Board will take jurisdiction over any such employer that has a gross annual volume of business of \$500,000 or more.

(ii) The nonretail standard, which applies to most other employers. It is based either on the amount of goods sold or services provided by the employer out of state (called “outflow”) or goods or services purchased by the employer from out of state (called “inflow”). The Board will take jurisdiction over any employer with an annual inflow or outflow of at least \$50,000. Outflow can be either direct—to out-of-state purchasers—or indirect—to purchasers that meet other jurisdictional standards. Inflow can also be direct—purchased directly from out of state—or indirect—purchased from sellers within the state that purchased them from out-of-state sellers.

(2) There are other standards for miscellaneous categories of employers. These standards are based on the employer’s gross annual volume of business unless stated otherwise. These standards are listed in the Table to this section.

TABLE TO § 104.204

Employer category	Jurisdictional standard
Amusement industry .....	\$500,000.
Apartment houses, condominiums, cooperatives .....	\$500,000.
Architects .....	Nonretail standard.
Art museums, cultural centers, libraries .....	\$1 million.
Bandleaders .....	Retail/nonretail (depends on customer).
Cemeteries .....	\$500,000.
Colleges, universities, other private schools .....	\$1 million.
Communications (radio, TV, cable, telephone, telegraph) .....	\$100,000.
Credit unions .....	Either retail or nonretail standard.
Day care centers .....	\$250,000.
Gaming industry .....	\$500,000.
Health care institutions:	
Nursing homes, visiting nurses associations .....	\$100,000.
Hospitals, blood banks, other health care facilities (including doctors’ and dentists’ offices).	\$250,000.
Hotels and motels .....	\$500,000.
Instrumentalities of interstate commerce .....	\$50,000.
Labor organizations (as employers) .....	Nonretail standard.

TABLE TO § 104.204—Continued

Employer category	Jurisdictional standard
Law firms; legal service organizations .....	\$250,000.
Newspapers (with interstate contacts) .....	\$200,000.
Nonprofit charitable institutions .....	Depends on the entity's substantive purpose.
Office buildings; shopping centers .....	\$100,000.
Private clubs .....	\$500,000.
Public utilities .....	\$250,000 or nonretail standard.
Restaurants .....	\$500,000.
Social services organizations .....	\$250,000.
Symphony orchestras .....	\$1 million.
Taxicabs .....	\$500,000.
Transit systems .....	\$250,000.

(3) If an employer can be classified under more than one category, the Board will assert jurisdiction if the employer meets the jurisdictional standard of any of those categories.

(4) There are a few employer categories without specific jurisdictional standards:

(i) Enterprises whose operations have a substantial effect on national defense or that receive large amounts of Federal funds

(ii) Enterprises in the District of Columbia

(iii) Financial information organizations and accounting firms

(iv) Professional sports

(v) Stock brokerage firms

(vi) U. S. Postal Service

(5) A more complete discussion of the Board's jurisdictional standards may be found in *An Outline of Law and Procedure in Representation Cases*, Chapter 1, found on the Board's Web site, <http://www.nlr.gov>.

(e) This part does not apply to the United States Postal Service.

APPENDIX TO SUBPART A—TEXT OF  
EMPLOYEE NOTICE

“EMPLOYEE RIGHTS UNDER THE  
NATIONAL LABOR RELATIONS ACT

The National Labor Relations Act (NLRA) guarantees the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity or to refrain from engaging in any of the above activity. Employees covered by the NLRA\* are protected from certain types of employer and union misconduct. This Notice gives you general information about your rights, and about the obligations of employers and unions under the NLRA. Contact the National Labor Relations Board (NLRB), the Federal agency that investigates and resolves complaints under

the NLRA, using the contact information supplied below, if you have any questions about specific rights that may apply in your particular workplace.

“Under the NLRA, you have the right to:

- Organize a union to negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.

- Form, join or assist a union.

- Bargain collectively through representatives of employees' own choosing for a contract with your employer setting your wages, benefits, hours, and other working conditions.

- Discuss your wages and benefits and other terms and conditions of employment or union organizing with your co-workers or a union.

- Take action with one or more co-workers to improve your working conditions by, among other means, raising work-related complaints directly with your employer or with a government agency, and seeking help from a union.

- Strike and picket, depending on the purpose or means of the strike or the picketing.

- Choose not to do any of these activities, including joining or remaining a member of a union.

“Under the NLRA, it is illegal for your employer to:

- Prohibit you from talking about or soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms.

- Question you about your union support or activities in a manner that discourages you from engaging in that activity.

- Fire, demote, or transfer you, or reduce your hours or change your shift, or otherwise take adverse action against you, or threaten to take any of these actions, because you join or support a union, or because you engage in concerted activity for mutual aid and protection, or because you choose not to engage in any such activity.

- Threaten to close your workplace if workers choose a union to represent them.