

How to Meet Job Applicant Labor Law Posting Requirements

February 2022



What You'll Learn

- Posting obligations when it comes to job applicants
- Labor law posters required for applicant viewing
- State and local laws requiring applicant-facing postings
- Compliance requirements for online applicants vs. physical areas
- Recommended solution for compliance

POSTING COMPLIANCE OVERVIEW

Posting Compliance Overview

- All employers must post federal, state and local (if applicable) postings
- Mandatory employee-facing federal posters include:
 - EEOC
 - OSHA
 - FMLA
 - USERRA
 - FLSA
 - EPPA

Posting Compliance Overview

- Every state makes its own laws, and no two states have the same posting requirements
- Up to 19 additional state-specific posters
- Up to 11 additional posters for city/county compliance
- Additional posters for government contractors and certain industries

There's No “One-Stop Shop” for Free Government Posters

- There are 175 federal/state agencies responsible for issuing more than 400 posters (up to nine different agencies per state)
- In a single state, up to 25 postings issued by 9 different agencies for federal/state compliance
- Approximately 22,000 local jurisdictions have authority to issue their own posting requirements

Posting Changes Are on the Rise

- On average, there are typically 150 state law poster changes per year (50% require immediate mandatory replacements)
- In 2021, there were more than 200 mandatory changes across 33 states
- Government agencies do not notify you when changes occur
- Posting requirements (including size, font and color mandates, as well as foreign language requirements) and change notifications can be buried in statutes, regulations, case law and agency website pages

Risks of Non-Compliance

- Government posting fines
 - Federal fines recently increased to \$38,000+ per violation
 - State and local fines typically range from \$100-\$1,000 each
- Employee lawsuits
 - Failure to post can extend “statute of limitations”
 - Evidence of bad faith
- Posting compliance is your first line of defense in any lawsuit or agency investigation

POSTING REQUIREMENTS FOR JOB APPLICANTS

Job Applicant Posting Requirements

- Employers are required by law to make certain labor law posters available to applicants, including online applicants, during the application process
- Physical postings must be displayed for applicants that come into your office for pre-employment interviews, testing, or any part of the application process
- Online applicants applying for jobs through online job boards or company websites must have access electronically

Federal Job Applicant Posting Requirements

- By law, prospective employees must be provided access to these federal postings during the application process
 - **Equal Employment Opportunity Commission (EEOC):** Covers anti-discrimination provisions under federal law
 - **Uniformed Services Employment and Reemployment Rights Act (USERRA):** addresses re-employment after military leave, anti-discrimination provisions and health insurance issues (*Note: This one is recommended because the law applies to applicants and employees*)
 - **Employee Polygraph Protection Act (EPPA):** Describes restrictions on lie detector tests
 - **Family and Medical Leave Act (FMLA):** Explains employee leave eligibility and benefits, as well as employee responsibilities

E-Verify/Right-to-Work Posting

- The E-Verify/Right to Work posting is required for all E-Verify participants (even voluntary participants)
- Must be posted for applicants and employees
- Both postings must be posted in English and Spanish



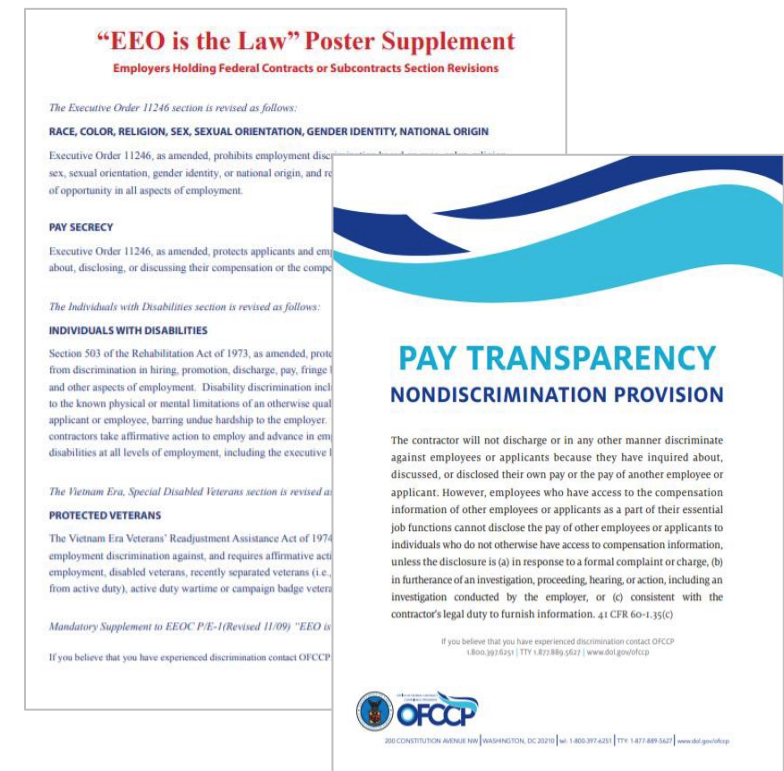
E-Verify/Right-to-Work Posting

- Several states and federal contractors are required to participate in E-Verify
- Required for employers who operate in Alabama, Arizona, Georgia, Louisiana*, Mississippi, North Carolina, South Carolina, Tennessee* and Utah

*Employers are allowed to use an alternative to E-Verify.

Additional Federal Contractor Job Applicant Posting Requirements

- Federal law requires federal contractors to display additional employee-facing postings
- Two of these must be posted in a manner accessible to employees and applicants (in addition to E-Verify/Right to Work)
 - EEO is the Law Supplement
 - Pay Transparency



EXAMPLES OF STATE/LOCAL JOB APPLICANT POSTINGS

Examples of State/Local Job Applicant Postings

- California: California Law Prohibits Workplace Discrimination and Harassment
- Must be displayed where both applicants and employees can see it
- Informs applicants and employees of California's anti-discrimination and harassment laws and explains the legal remedies and compliant process available through the California Department of Fair Employment and Housing



Examples of State/Local Job Applicant Postings

- California: Your Rights and Obligations as a Pregnant Employee
- Must be displayed where both applicants and employees can see it
- Informs applicants and employees that California law prohibits discrimination or harassment based on pregnancy or a pregnancy-related condition

YOUR RIGHTS AND OBLIGATIONS AS A PREGNANT EMPLOYEE



DFEH

YOUR EMPLOYER* HAS AN OBLIGATION TO:

- Reasonably accommodate your medical needs related to pregnancy, childbirth, or related conditions (such as temporarily modifying your work duties, providing you with a stool or chair, or allowing more frequent breaks);
- Transfer you to a less strenuous or hazardous position (if one is available) or duties if medically needed because of your pregnancy;
- Provide you with pregnancy disability leave (PDL) of up to four months (the working days you normally would work in one third of a year or 17 1/3 weeks) and return you to your same job when you are no longer disabled by your pregnancy or, in certain instances, to a comparable job. Taking PDL, however, does not protect you from non-leave related employment actions, such as a layoff;
- Provide a reasonable amount of break time and use of a rest or other location to close proximity to the employee's work area to express breast milk in private as set forth in the Labor Code; and
- Never discriminate, harass, or retaliate on the basis of pregnancy.

FOR PREGNANCY DISABILITY LEAVE:

- PDL is not for an automatic period of time, but for the period of time that you are disabled by pregnancy, childbirth, or related medical condition. Your health care provider determines how much time you will need.
- Once your employer has been informed that you need to take PDL, your employer must guarantee in writing that you can return to work in your same or a comparable position if you request a written guarantee. Your employer may require you to submit written medical certification from your health care provider substantiating the need for your leave.
- PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, and doctor-ordered bed rest, and covers conditions such as severe morning sickness, gestational diabetes, pregnancy-induced hypertension, pre-eclampsia, recovery from childbirth or loss or end of pregnancy, and/or post-partum depression.
- PDL does not need to be taken all at once but can be taken on an as-needed basis as required by your health care provider, including intermittent leave or a reduced work schedule.
- Your leave will be paid or unpaid depending on your employer's policy for other medical leaves. You may also be eligible for state disability insurance or Paid Family Leave (PFL), administered by the California Employment Development Department.
- If your disability, you can use any vacation or other paid time off during your PDL.
- Your employer may require or you may choose to use any available sick leave during your PDL.
- Your employer is required to continue your group health coverage during your PDL at the same level and under the same conditions that coverage would have been provided if you had continued in employment continuously for the duration of your leave.
- Taking PDL may impact certain of your benefits and your seniority date; please contact your employer for details.

NOTICE OBLIGATIONS AS AN EMPLOYEE:

- Give your employer reasonable notice. To receive reasonable accommodation, obtain a transfer, or take PDL, you must give your employer sufficient notice for your employer to make appropriate plans. Sufficient notice means 30 days advance notice if the need for the reasonable accommodation, transfer, or PDL is foreseeable, or as soon as practicable if the need is an emergency or unforeseeable.
- Provide a written medical certification from your health care provider. Except in a medical emergency where there is no time to obtain it, your employer may require you to supply a written medical certification from your health care provider of the medical need for your reasonable accommodation, transfer or PDL. If the need is an emergency or unforeseeable, you must provide this certification within the time frame your employer requests, unless it is not practicable for you to do so under the circumstances despite your diligent, good faith efforts. Your employer must provide at least 15 calendar days for you to submit the certification. See if your employer has a copy of a medical certification form to give to your health care provider to complete.
- Please note that if you fail to give your employer reasonable advance notice or, if your employer requires it, written medical certification of your medical need, your employer may be justified in delaying your reasonable accommodation, transfer, or PDL.

ADDITIONAL LEAVE UNDER THE CALIFORNIA FAMILY RIGHTS ACT (CFRA):

Under the California Family Rights Act (CFRA), if you have more than 12 months of service with an employer, and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, you may have a right to a family care or medical leave (CFRA leave). This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child** or for your own serious health condition or that of your child, parent***, spouse, domestic partner, grandparent, grandchild, or sibling. Employers may pay their employees while taking CFRA leave, but employers are not required to do so, unless the employee is taking accrued paid time-off while on CFRA leave. Employees taking CFRA leave may be eligible for California's Paid Family Leave (PFL) program, which is administered by the Employment Development Department (EDD).

If you have been subjected to discrimination, harassment, or retaliation of work, or have been improperly denied PDL or CFRA leave, file a complaint with DFEH.

TO FILE A COMPLAINT
Department of Fair Employment and Housing
dfeh.ca.gov
Toll Free: 800.884.1684
TTY: 800.700.2320

If you have a disability that requires a reasonable accommodation, DFEH can assist you with your complaint. Contact us through any method above or, for individuals who are deaf or hard of hearing or have speech disabilities, through the California Relay Service (711).

*PFL, CFRA leave, and anti-discrimination protections apply to employees of 5 or more employees. **"Child" means biological, adopted, or foster child, a stepchild, or a child of an employee or a person to whom the employee reports or reports to. ***"Parent" includes a biological, foster, or adoptive parent, a grandparent, a step-grandparent, or other person who stands in loco parentis to the employee when the employee was a child.

This guideline is for informational purposes only, does not constitute a poster, and does not constitute legal advice.

Examples of State/Local Job Applicant Postings

- California: Transgender Rights in the Workplace
- Must be displayed where both applicants and employees can see it
- Informs individuals that employers may not discriminate against someone because they identify as transgender or gender non-conforming



Examples of State/Local Job Applicant Postings


- San Francisco: Fair Chance Ordinance
- Must be displayed where both applicants and employees can see it
- Informs individuals about inquiries and use of arrest and conviction records in hiring decisions
- Must be displayed in English, Spanish and Chinese



Examples of State/Local Job Applicant Postings

- Los Angeles: Fair Chance Ordinance
- Must be displayed where applicants and employees can see it
- Informs individuals that employers cannot inquire or seek information about an applicant's criminal history until after a conditional offer of employment has been made

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

**NOTICE TO APPLICANTS & EMPLOYEES
FAIR CHANCE INITIATIVE FOR HIRING ORDINANCE**

This Employer is subject to the Fair Chance Initiative for Hiring Ordinance (FCIHO) (LAMC 189.00).

THESE ARE YOUR RIGHTS...

1. Employers cannot inquire about or seek information about an Applicant's Criminal History until after a Conditional Offer of Employment has been made to the Applicant.
 - ✓ This includes job solicitations and applications or during any conversations and interviews.
2. If an Employer decides to rescind an offer of employment based on information discovered during the criminal background check, the Employer is required to perform an Individualized Assessment.
 - ✓ Individualized Assessment - a written assessment that effectively links the specific aspects of the Applicant's Criminal History with risks inherent in the duties of the Employment position sought by the Applicant.
 - ✓ If the offer is rescinded, the Applicant must receive:
 - Written notification,
 - Copy of the Individualized Assessment, and
 - Copies of any documentation used in the Employer's decision.
3. The Applicant has the right to the Fair Chance Process.
 - ✓ The Applicant has the opportunity to provide information or documentation to an Employer regarding the accuracy of their Criminal History or Criminal History Report. Such evidence of rehabilitation or other mitigating factors should be considered in the Employer's assessment.
 - ✓ The Employer is required to hold the job open for at least five (5) business days from the notification date of the proposed adverse action to allow an Applicant to submit such documentation. The Employer is required to review any documentation to reassess their decision.

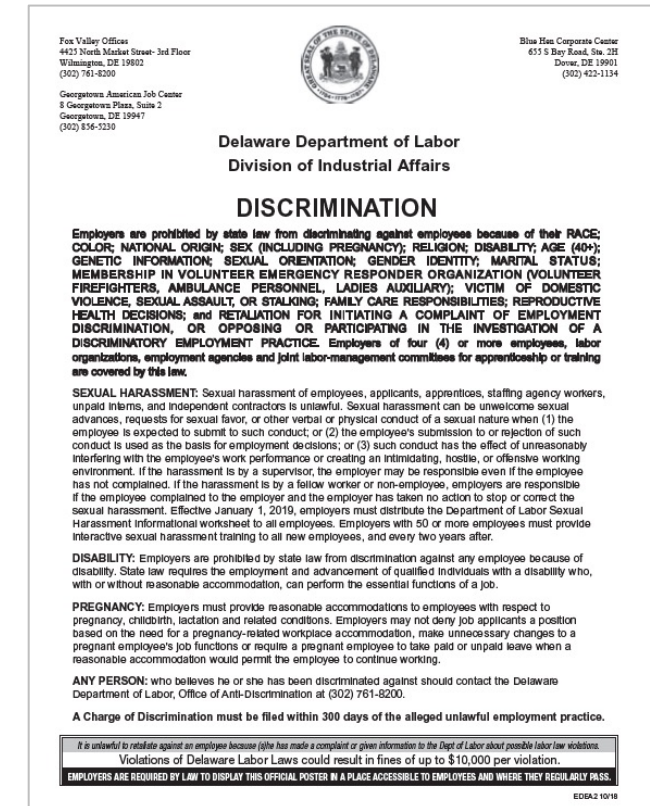
FOR ADDITIONAL INFORMATION OR ASSISTANCE, CALL:
City of Los Angeles
Department of Public Works
Office of Wage Standards
1149 S. Broadway, Suite 300
Los Angeles, CA 90015
Phone: (844) WagesLA - Email: WagesLA@lacity.org

*Note: Not all applicants/employees are covered under the FCIHO. Please see the ordinance (LAMC 189.00) for more details.

Form FCIHO, Rev. 05/18

Examples of State/Local Job Applicant Postings

- Delaware: Discrimination
- Must be displayed where applicants and employees can see it
- Informs employees and applicants of the state's anti-discrimination laws and prohibition against sexual harassment



Examples of State/Local Job Applicant Posting

- New York: Human Rights
- Must be displayed where applicants and employees can see it
- Explains New York State's human rights law that prohibits discrimination based on several protected categories including marital status, gender identity and sexual orientation



**Division of
Human Rights**

**1-888-392-3644
WWW.DHR.NY.GOV**

THIS ESTABLISHMENT IS SUBJECT TO THE NEW YORK STATE HUMAN RIGHTS LAW (EXECUTIVE LAW ARTICLE 15)

ESTE ESTABLECIMIENTO ESTÁ SUJETO A LA LEY DE DERECHOS HUMANOS DEL ESTADO DE NUEVA YORK (LEY EJECUTIVA, SECCIÓN 15)

DISCRIMINATION BASED UPON AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, MILITARY STATUS, SEX, PREGNANCY, GENDER IDENTITY, DISABILITY OR MARITAL STATUS IS PROHIBITED BY THE NEW YORK STATE HUMAN RIGHTS LAW. SEXUAL HARASSMENT OR HARASSMENT BASED UPON ANY OF THESE PROTECTED CLASSES ALSO IS PROHIBITED.

LA LEY DE DERECHOS HUMANOS DEL ESTADO DE NUEVA YORK PROHIBE LA DISCRIMINACIÓN POR EDADE, RAZA, CREDO, COLOR, ORIGEN NACIONAL, ORIENTACIÓN SEXUAL, ESTATUS MILITAR, SEXO, EMBARAZO, IDENTIDAD DE GÉNERO, DISCAPACIDAD O ESTADO CIVIL. TAMBIÉN ESTÁ PROHIBIDO EL ACOSO SEXUAL O EL ACOSO POR CUALQUIERA DE ESTAS CLASES PROTEGIDAS.

EMPLOYMENT, BY EMPLOYERS OF FOUR OR MORE PEOPLE, EMPLOYMENT AGENCIES, LABOR ORGANIZATIONS AND APPRENTICESHIP TRAINING PROGRAMS

EMPL. POR EMPLEADORES DE CUATRO O MÁS PERSONAS, AGENCIAS DE EMPLEO, ORGANIZACIONES DE TRABAJO Y PROGRAMAS DE CAPACITACIÓN DE APRENDICES

Also prohibited: discrimination in employment on the basis of Sabbath observance or religious practices; prior arrest or conviction record; predisposing genetic characteristics; familial status; pregnancy-related conditions; domestic violence victim status.

Además, está prohibida la discriminación en el empleo sobre la base de la observancia del Shabat o prácticas religiosas; arresto previo o antecedentes penales; las características genéticas predisponentes; el estado civil; las condiciones relacionadas con el embarazo.

Reasonable accommodations for persons with disabilities and pregnancy-related conditions may be required. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner.

Es posible que sea necesario hacer ajustes razonables para personas con discapacidades y condiciones relacionadas con el embarazo. Un arreglo razonable es una adaptación a un trabajo o entorno laboral que permita que una persona con discapacidad realice las tareas esenciales de un trabajo de manera razonable.

Also covered: Employers with fewer than four employees, in all cases of sex harassment and, for domestic workers, all cases of sex harassment or harassment based on gender, race, religion or national origin.

Empleadores con menos de cuatro empleados en casos de acoso sexual, para trabajadoras domésticas, casos de acoso sexual, o casos de acoso por género, raza, religión u origen nacional.

RENTAL, LEASE OR SALE OF HOUSING, LAND AND COMMERCIAL SPACE

ALQUILER, ARRENDAMIENTO O VENTA DE VIVIENDA, TERRENO O ESPACIO COMERCIAL

Does not apply to:

(1) rental of an apartment in an owner-occupied two-family house

(2) restrictions of all rooms in a housing accommodation to individuals of the same sex

(3) rental of a room by the occupant of a house or apartment

(4) sale, rental, or lease of accommodations of housing exclusively to persons 55 years of age or older, and the spouse of such persons

También se prohíbe la discriminación en vivienda sobre la base del estado civil (por ejemplo, familias con hijos).

Also prohibited: discrimination in housing on the basis of familial status (e.g. families with children)

También es posible que sea necesario realizar modificaciones y arreglos razonables para personas con discapacidades.

ACTIVITIES OF REAL ESTATE BROKERS AND SALES PEOPLE

ACTIVIDADES DE CORREDORES INMOBILIARIOS Y VENDEDORES

Also prohibited: commercial boycotts and picketing.

También se prohíbe el acoso inmobiliario y los boicots comerciales.

PLACES OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT SUCH AS RESTAURANTS, HOTELS, HOSPITALS, CLUBS AND MEDICAL OFFICES

LUGARES DE ALOJAMIENTO PÚBLICO, CENTRO TURÍSTICO O PARQUE DE DIVERSIONES COMO RESTAURANTES, HOTELES, HOSPITALES, CLUBS Y CONSULTORIOS MÉDICOS

Exception:

Age is not a covered classification relative to public accommodations.

La edad no es una clasificación cubierta respecto a los alojamientos públicos. Es posible que sea necesario realizar arreglos razonables para personas con discapacidades.

Reasonable accommodations for persons with disabilities may also be required.

PUBLICIDAD Y SOLICITUDES RELACIONADAS CON EL EMPLEO, LOS INMUEBLES, LOS LUGARES DE ALOJAMIENTO PÚBLICO Y LAS TRANSACCIONES CREDITICIAS

INSTITUCIONES EDUCATIVAS: NO SECTARIAS, EXENTAS DE IMPUESTOS, PRIVADAS

TODAS LAS TRANSACCIONES CREDITICIAS, INCLUIDO EL FINANCIAMIENTO PARA LA COMPRA, EL MANTENIMIENTO Y LA REPARACIÓN DE VIVIENDAS

ADVERTISING AND APPLICATIONS RELATING TO EMPLOYMENT, REAL ESTATE, PLACES OF PUBLIC ACCOMMODATION AND CREDIT TRANSACTIONS

EDUCATIONAL INSTITUTIONS: NON-SECTARIAN, TAX EXEMPT, PRIVATE

ALL CREDIT TRANSACTIONS INCLUDING FINANCING FOR PURCHASE, MAINTENANCE AND REPAIR OF HOUSING

If you wish to file a formal complaint with the Division of Human Rights, you must do so within one year after the discrimination occurred. The Division's services are provided free of charge.

If you wish to file a complaint in State Court, you may do so within three years of the discrimination. You may not file both with the Division and the State Court.

Si desea presentar una demanda formal ante la División de Derechos Humanos, debe hacerlo dentro de un año desde que ocurre la discriminación. Los servicios de la División se ofrecen sin cargo.

Si desea presentar una demanda ante el Tribunal Estatal, puede hacerlo dentro de los tres años desde que ocurre la discriminación. No puede presentar una demanda ante la División y ante el Tribunal Estatal.

Retaliation for filing a complaint or opposing discriminatory practices is prohibited. You may file a complaint with the Division if you have been retaliated against.

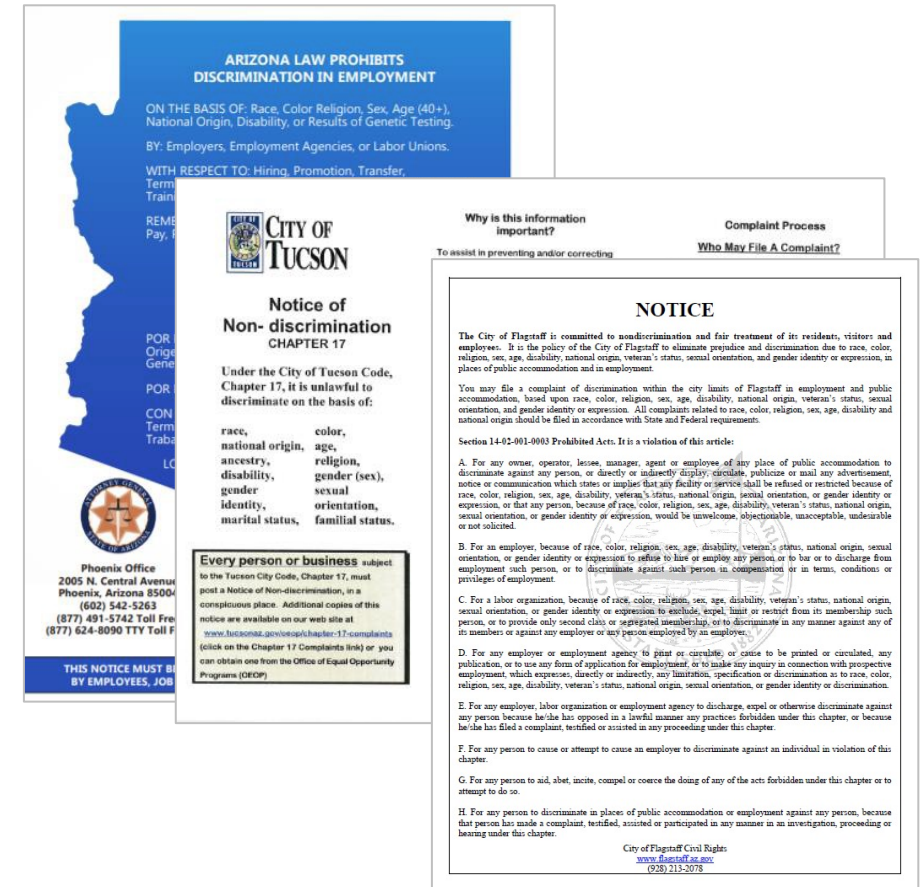
Se prohíben las represalias por presentar una demanda o oponerse a prácticas discriminatorias. Puede presentar una demanda ante la División si sufrió represalias.

FOR FURTHER INFORMATION, WRITE OR CALL THE DIVISION'S NEAREST OFFICE: HEADQUARTERS, ONE FORDHAM PLAZA, 4TH FLOOR, BRONX, NY 10458

PARA OBTENER MÁS INFORMACIÓN, ESCRIBA O LLAME A LA OFICINA MÁS CERCAÑA DE LA DIVISIÓN: OFICINA CENTRAL, ONE FORDHAM PLAZA, 4TH FLOOR, BRONX, NY 10458

Examples of State/Local Job Applicant Postings

- Arizona: Discrimination in Employment
- Flagstaff, AZ: Notice of Non-Discrimination
- Tucson, AZ: Notice of Non-Discrimination
- All apply to employers of all sizes, and must be displayed where both applicants and employees can see them



SOLUTIONS TO PROTECT YOUR BUSINESS

Online Applicant Poster Service

- Developed to help businesses comply with federal, state, city and county posting laws for online applicants
- Provides a link to all required postings with 24/7 accessibility through your applicant tracking site or company website



Online Applicant Poster Service

- Includes 365 days of monitoring by our in-house legal team, and automatic updates with every mandatory change
- City/county postings automatically included
- Available in English/Spanish for every state
- Federal contractor options also available



How It Works

1. To get started, let us know which postings you want to make available to your online applicants
2. We will send you an email with a custom link, which will provide your applicants with access to all the appropriate postings
3. Once you post the link, there is no further action required on your part — we host the images and update the postings behind the scenes to ensure accuracy
4. When your job applicants click on the link, it will direct them to a menu to select and view applicable postings

Learn more: [Online Applicant Poster Service](#)

THANK YOU

For more information please go to:

www.posterguard.com

Or call us at:

800-999-9111

