

8 Surprising Facts About Labor Law Posting Regulations



Presented by:
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Posting Compliance Overview

- All employers must post federal, state and local (if applicable) postings
- Mandatory federal posters include:
 - EEOC
 - OSHA
 - FMLA
 - USERRA
 - FLSA
 - EPPA
- Up to 15 additional state-specific posters
- Up to 10 additional posters for city/county compliance
- Additional posters for government contractors and certain industries

Posting Law Fact #1: Federal and State Agencies Aren't the Only Authorities That Issue Postings

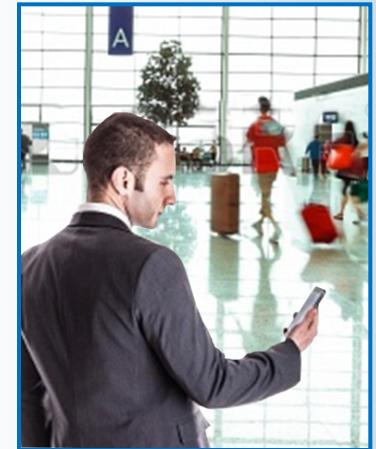
- New Trend: Cities and Counties Now Requiring Labor Law Postings
- For example:
 - AZ – Flagstaff, Tucson
 - CA – Belmont, Berkeley, Cupertino, El Cerrito, Emeryville, Los Altos, Los Angeles, Los Angeles County (Unincorporated Areas), Milpitas, Mountain View, Oakland, Palo Alto, Pasadena, Richmond, San Diego, San Francisco, San Jose, San Leandro, San Mateo, Santa Clara, Santa Cruz, Santa Monica, Sunnyvale
 - CO – Denver
 - FL – Broward County, Miami Beach, St. Petersburg
 - IL – Chicago, Cook County
 - MD – Montgomery County, Prince George's County
 - ME – Portland

Posting Law Fact #1: Federal and State Agencies Aren't the Only Authorities That Issue Postings (continued)

- MN – Minneapolis, St. Paul
 - NE – Fremont, Lincoln
 - NJ – Bloomfield, East Orange, Elizabeth, Irvington, Jersey City, Montclair, Morristown, Newark, New Brunswick, Passaic, Paterson, Plainfield, Trenton
 - NM – Albuquerque, Bernalillo County, Las Cruces, Santa Fe
 - NY – New York City
 - PA – Philadelphia
 - TX – Beaumont, Corpus Christi
 - WA – Seattle, Tacoma
- And the list is quickly growing...

Posting Law Fact #2: Posting Laws Affect Remote Workers

- By law, you must provide the mandatory labor law notices to all your employees
- For employees who report to your facility (with physical wall posters) fewer than 3-4 times per month, you must provide the postings in another format
- Electronic solution is ideal for employees who work from home, telecommuters, field salespeople and other remote workers provided with Internet access
- Best practice is to use a solution that pushes out mandatory updates via email alerts and tracks employee acknowledgments



Posting Law Fact #3: Posting in Foreign Languages Isn't Always Optional

- Certain postings must be displayed in Spanish regardless of your workforce demographics
 - 21 states require certain postings in Spanish for all employers
 - 47 state-issued postings must be posted in Spanish
 - A few states include multiple languages, from Russian to Japanese to Arabic
 - City/county postings have similar requirements
- All postings in Puerto Rico must be displayed in Spanish

Posting Law Fact #3: Posting in Foreign Languages Isn't Always Optional (continued)

- Mandatory foreign-language postings are required in:
 - Alabama
 - Arizona
 - California
 - Colorado
 - Connecticut
 - District of Columbia
 - Florida
 - Georgia
 - Kansas
 - Louisiana
 - Maine
 - Maryland
 - Mississippi
 - New Jersey
 - New Mexico
 - New York
 - North Carolina
 - Puerto Rico
 - South Carolina
 - Tennessee
 - Texas
 - Utah

Posting Law Fact #3: Posting in Foreign Languages Isn't Always Optional (continued)

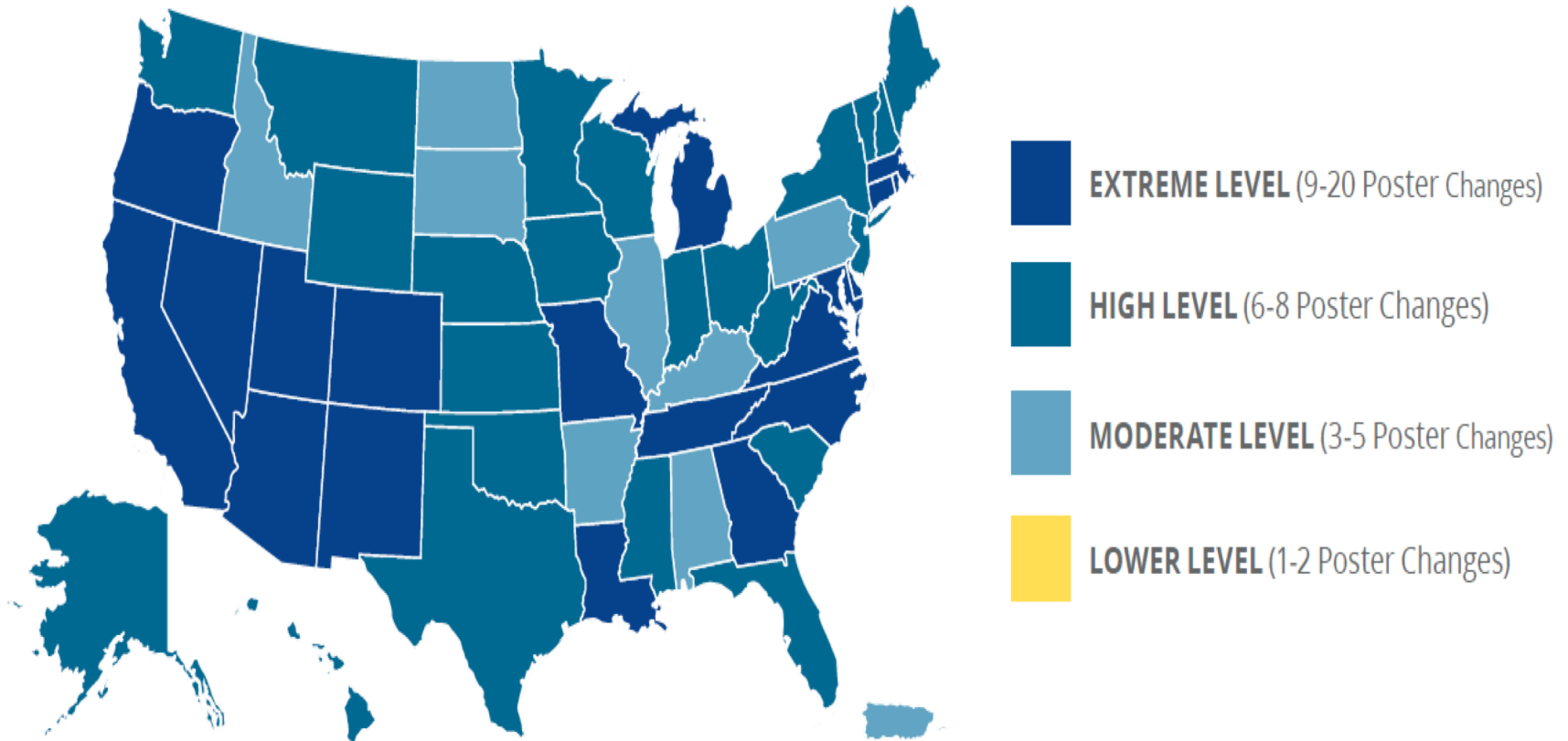
You may have *additional* obligations if you employ workers who do not speak English:

- *Federal:* If you have a significant number of Spanish-speaking employees who are not proficient in English, the Federal combination poster must be posted in English and Spanish
- *State:* For state postings, fully translated Spanish poster sets are a “best practice” to ensure proper communication in locations with a significant number of Spanish-speaking workers
- *Exception:* Pennsylvania employers “with Spanish-speaking employees” must post fully-translated posters in Spanish

Posting Law Fact #4: Posters May Need to Be Updated More than Once a Year

- There are approximately 150 state-specific poster changes per year (50% require immediate mandatory replacements)
- Government agencies do not notify you when changes occur
- Posting requirements change throughout the year, not just in January when many states increase their minimum wage rates
- Updating your posters only once a year puts you at risk of non-compliance

Mandatory Federal and State Poster Changes by State for 2014-2017



Posting Law Fact #5: Your Workers' Comp Provider Doesn't Provide Everything You Need For Complete Compliance

- There are 175 different agencies responsible for issuing more than 380 posters (federal and state)
- In a single state, up to 21 postings issued by 9 different agencies for federal/state compliance
- Approximately 22,000 local jurisdictions (city/county) have authority to issue their own posting requirements

And that doesn't include additional postings required if you are in certain industries or have government contracts

Total Postings and Different Issuing Agencies by State

| State | Total Federal & State Mandatory Posters | Total Number of Different Issuing Agencies (State and Federal) |
|---------------|---|--|
| Alabama | 11 | 5 |
| Alaska | 12 | 6 |
| Arizona | 18 | 9 |
| Arkansas | 10 | 7 |
| California | 21 | 7 |
| Colorado | 13 | 5 |
| Connecticut | 17 | 8 |
| Delaware | 14 | 4 |
| D.C. | 17 | 7 |
| Florida | 11 | 8 |
| Georgia | 15 | 7 |
| Hawaii | 15 | 5 |
| Idaho | 10 | 6 |
| Illinois | 12 | 8 |
| Indiana | 15 | 9 |
| Iowa | 11 | 5 |
| Kansas | 11 | 6 |
| Kentucky | 13 | 6 |
| Louisiana | 20 | 5 |
| Maine | 14 | 6 |
| Maryland | 17 | 7 |
| Massachusetts | 13 | 7 |
| Michigan | 15 | 7 |
| Minnesota | 12 | 6 |
| Mississippi | 11 | 6 |
| Missouri | 12 | 5 |

| State | Total Federal & State Mandatory Posters | Total Number of Different Issuing Agencies (State and Federal) |
|----------------|---|--|
| Montana | 11 | 5 |
| Nebraska | 10 | 5 |
| Nevada | 20 | 7 |
| New Hampshire | 15 | 6 |
| New Jersey | 20 | 6 |
| New Mexico | 13 | 7 |
| New York | 18 | 7 |
| North Carolina | 14 | 8 |
| North Dakota | 9 | 6 |
| Ohio | 11 | 7 |
| Oklahoma | 11 | 8 |
| Oregon | 15 | 8 |
| Pennsylvania | 14 | 6 |
| Puerto Rico | 11 | 4 |
| Rhode Island | 17 | 6 |
| South Carolina | 13 | 8 |
| South Dakota | 8 | 4 |
| Tennessee | 14 | 7 |
| Texas | 10 | 7 |
| Utah | 13 | 7 |
| Vermont | 18 | 4 |
| Virginia | 10 | 5 |
| Washington | 11 | 6 |
| West Virginia | 11 | 7 |
| Wisconsin | 16 | 5 |
| Wyoming | 10 | 4 |

Effective September 2018

Posting Law Fact #6: Posting Requirements Aren't the Same for All Types of Businesses

- Certain industries have additional employee-facing posting requirements under federal and state law
- Up to 17 additional postings per state
- Industries with the most requirements include:
 - Public Sector
 - Healthcare
 - Food Establishments



Federal Contractor Posting Requirements

- Regardless of your industry, if your business has federal government contracts you must post additional labor law notices
- In recent years, the number of businesses with government funding/contracts has grown, especially in industries such as construction, finance/banking, telecommunications, technology, transportation, and non-profit organizations
- Posting obligations depend on types of contracts you have and the value of the contracts

Federal Contractor Posting Requirements (continued)

- The most common postings required for federal contractors are:
 - ✓ Paid Sick Leave (New Jan. 2017)
 - ✓ Minimum Wage (Updated Jan. 2018)
 - ✓ “EEO is the Law” Supplement
 - ✓ Pay Transparency Statement
 - ✓ DOD Fraud Hotline
 - ✓ DOD Whistleblower
 - ✓ NLRA (required by EO 13496)
 - ✓ E-Verify/Right to Work (Updated twice in 2017)
 - ✓ Walsh-Healey Public/Service Contracts
 - ✓ ARRA Whistleblower Rights
 - ✓ DHS Fraud Hotline
 - ✓ Notice to Workers with Disabilities
 - ✓ Davis-Bacon Act
 - ✓ DOT Federal Highway Construction
- Federal contractor postings change frequently
 - ✓ More than 20 mandatory changes since 2009
- Penalties for non-compliance can be severe, including steep fines up to suspension or cancellation of federal contracts

Posting Law Fact #7: You May Need to Display More than One Set of Posters

- Postings must be displayed in “conspicuous locations” accessible to all employees throughout your business
- Most companies require multiple posting display sites to comply
- Specific posting locations depend on your facility size and layout
- Consider posting in breakrooms, in locker rooms, at employee entrances, in the HR department and in applicant areas

Applicant Area Postings

- Certain federal postings must be displayed to prospective employees during the application process:
 - EEOC
 - FMLA
 - USERRA
 - EPPA
- Recommended solutions:
 - Compact vinyl adhesive poster for applicant areas
 - Full-size posting display station for dedicated interview/testing rooms
 - Include link to posting images for on-line applicants



Posting Law Fact #8: Ignoring Posting Laws Carries Serious Risk

- Government posting fines
 - Federal fines recently increased from \$17,000 to \$34,000+
 - State and local fines typically range from \$100-\$1,000
- Employee lawsuits
 - Failure to post can extend “statute of limitations”
 - Evidence of bad faith
 - FMLA interference of rights
- Posting compliance is your first line of defense in any lawsuit or agency investigation

For more information,
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