

# Poster Compliance Audit:

Are You Up to Date with the Latest Requirements?

July 2020



Presented by:  
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HR & Tax Compliance Solutions Manager

# Today's Agenda

- Why labor law postings matter
- 10 steps you need to get into full posting compliance
- Latest posting changes due to COVID-19

# Welcome

Before we get started ...

- Use the chat box on the left to ask questions
- Audio for today's webinar will come through your computer speakers. Please be sure your speakers are turned on and you have the volume turned up
- If you are signed on more than once, please locate the duplicate log-in and close it. This will create a better audio experience
- All attendees will receive a link to the presentation and slides in a follow-up email

# Why Labor Law Postings?

- Compliance isn't optional
- Government posting fines
  - Federal fines recently increased from \$17,000 to \$35,000+
  - State and local fines typically range from \$100-\$1000 per violation
- Employee lawsuits are the real danger
  - 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

# Step #1

## Make Sure You Have All Required Postings

# Federal Postings

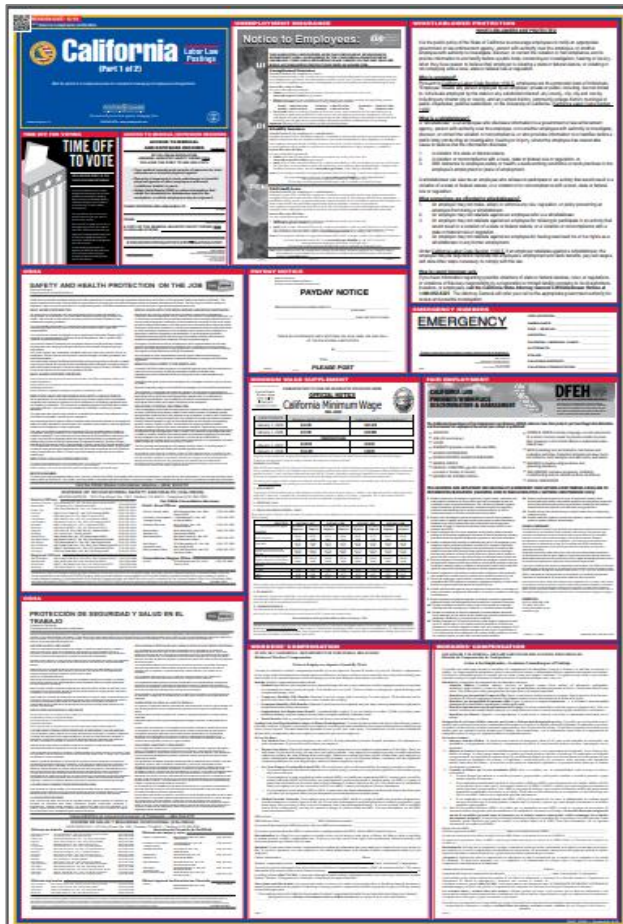
## Mandatory Federal Postings for U.S. Employers

- Equal Employment Opportunity Commission (EEOC)
- Occupational Safety and Health Act (OSHA)
- Family and Medical Leave Act (FMLA)
- Uniformed Services Employment and Reemployment Rights Act (USERRA)
- Fair Labor Standards Act (FLSA)
- Employee Polygraph Protection Act (EPPA)
- Families First Coronavirus Act (FFCRA)
  - New temporary poster for employees with fewer than 500 employees, and certain public sector employers

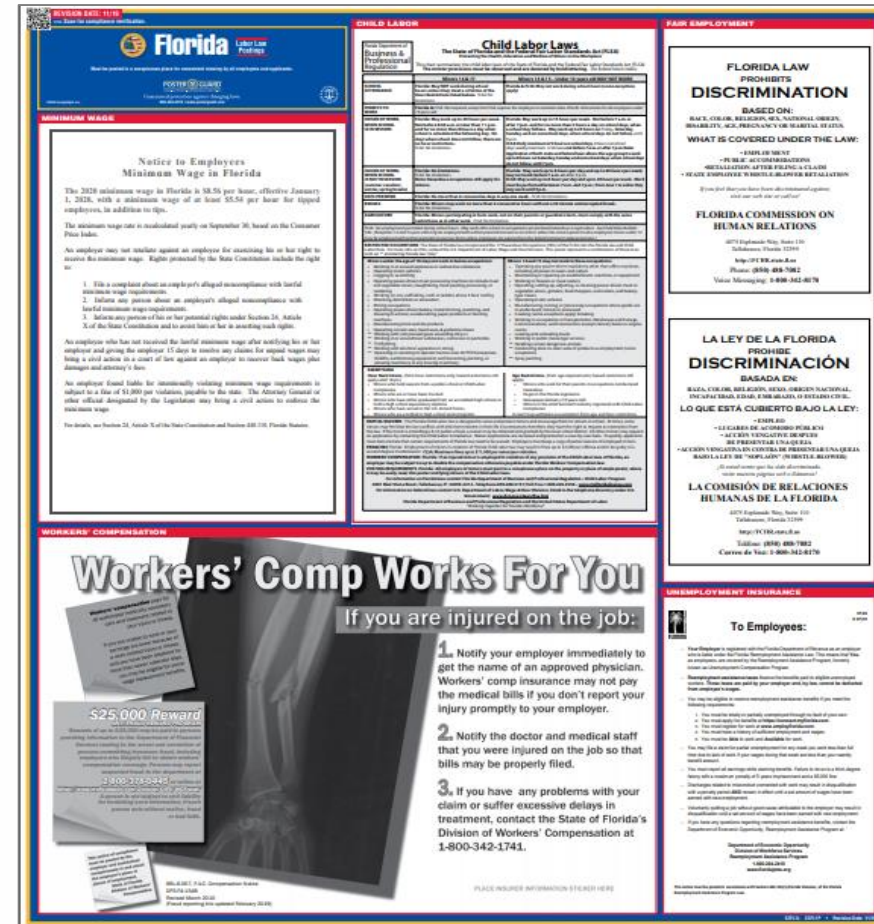
# State Postings

- Every state makes its own laws, and no two states have the same posting requirements
- Up to 16 state postings may be required, depending on the state
- No one-stop shop for free government posters
- A worker's comp poster by itself is **NEVER** sufficient

# State Postings — No Two Are the Same



This image shows a collection of California labor law posters. The top left poster is titled "California Labor Law Postings (Part 1 of 2)" and includes a "TIME OFF TO VOTE" section. Other visible posters include "Notice to Employees", "Minimum Wage in California", "Payday Notice", "Emergency", "Safety and Health Protection on the Job", "California Minimum Wage", "DFEH", "Workers' Compensation", and "Unemployment Insurance". The posters are arranged in a grid-like fashion, with some overlapping.



This image shows a collection of Florida labor law posters. The top left poster is titled "Florida Labor Law Postings" and includes a "Notice to Employees: Minimum Wage in Florida" section. Other visible posters include "Child Labor Laws", "Fair Employment", "FLORIDA LAW DISCRIMINATION", "LA LEY DE LA FLORIDA DISCRIMINACIÓN", "Workers' Compensation", and "Unemployment Insurance". The posters are arranged in a grid-like fashion, with some overlapping.



## Total Postings and Different Issuing Agencies by State

State	Total Federal & State Mandatory Posters	Total Number of Different Issuing Agencies (State and Federal)
Alabama	12	5
Alaska	15	5
Arizona	19	9
Arkansas	12	7
California	22	7
Colorado	14	5
Connecticut	18	8
Delaware	15	4
D.C.	20	7
Florida	12	8
Georgia	16	7
Hawaii	16	5
Idaho	11	6
Illinois	15	8
Indiana	16	9
Iowa	12	5
Kansas	12	6
Kentucky	14	6
Louisiana	21	5
Maine	15	6
Maryland	18	7
Massachusetts	15	7
Michigan	17	7
Minnesota	13	6
Mississippi	12	6
Missouri	13	5

State	Total Federal & State Mandatory Posters	Total Number of Different Issuing Agencies (State and Federal)
Montana	12	5
Nebraska	11	5
Nevada	23	7
New Hampshire	16	6
New Jersey	23	6
New Mexico	14	7
New York	20	7
North Carolina	15	8
North Dakota	10	6
Ohio	12	7
Oklahoma	12	8
Oregon	17	8
Pennsylvania	15	6
Puerto Rico	12	4
Rhode Island	18	6
South Carolina	14	8
South Dakota	9	4
Tennessee	15	7
Texas	11	6
Utah	14	7
Vermont	19	4
Virginia	11	5
Washington	14	6
West Virginia	12	7
Wisconsin	17	5
Wyoming	18	4

Effective July 2020

# City/Local Postings

- Additional posters are required in certain cities and counties. For example:
  - AZ — Flagstaff, Tucson
  - CA— Alameda, Belmont, Berkeley, Cupertino, Daly City, El Cerrito, Emeryville, Fremont, Los Altos, Los Angeles, Los Angeles County (Unincorporated Areas), Menlo Park, Milpitas, Mountain View, Novato, Oakland, Palo Alto, Pasadena, Petaluma, Redwood City, Richmond, Sacramento, San Diego, San Francisco, San Jose, San Leandro, San Mateo, Santa Clara, Santa Cruz, Santa Monica, Santa Rosa, Sonoma, South San Francisco, Sunnyvale
  - CO — Denver
  - FL — Broward County, Miami Beach, Pinellas County, St. Petersburg
  - IL — Chicago, Cook County
  - MD — Montgomery County, Prince George's County

# City/Local Postings (cont.)

- ME — Portland
  - MN — Duluth, Minneapolis, St. Paul
  - NE — Fremont, Lincoln
  - NM — Albuquerque, Bernalillo County, Las Cruces, Santa Fe
  - NY — New York City, Westchester County
  - PA — Philadelphia, Pittsburgh
  - TX — Beaumont, Corpus Christi
  - WA — Seattle, Tacoma
- 
- And the list is quickly growing ...

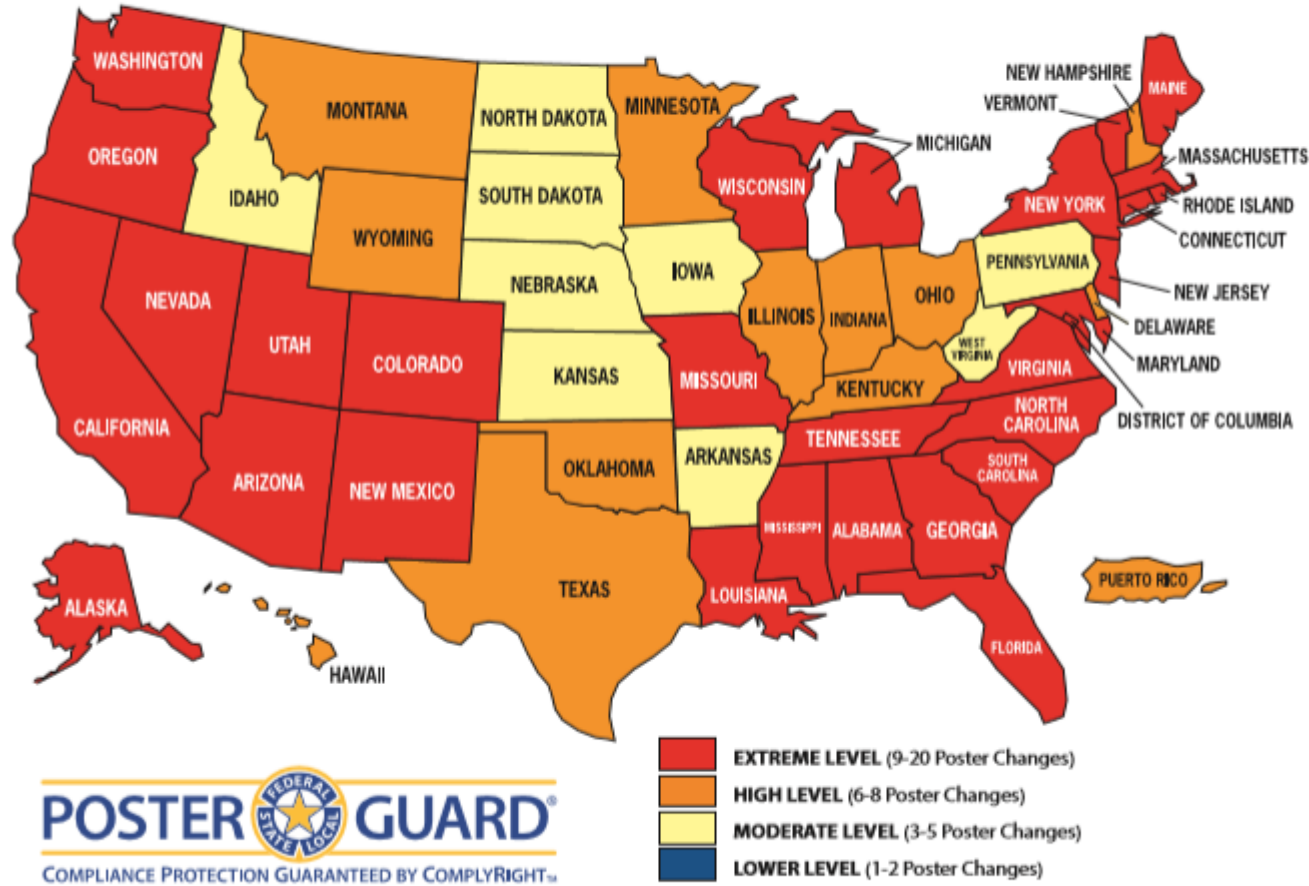
## Step #2

**Make Sure Your Postings  
Are Current**

# Posting Changes

- Posting changes are on the rise
- There are approximately 150 state-specific poster changes per year
  - 50% require immediate mandatory replacements
  - This number has increased significantly over the past two years
- Government agencies do not notify you when changes occur; it's your responsibility to keep up
- Each time a mandatory change occurs, you must update your poster

## Mandatory Federal and State Poster Changes by State for 2016-2019



## Step #3

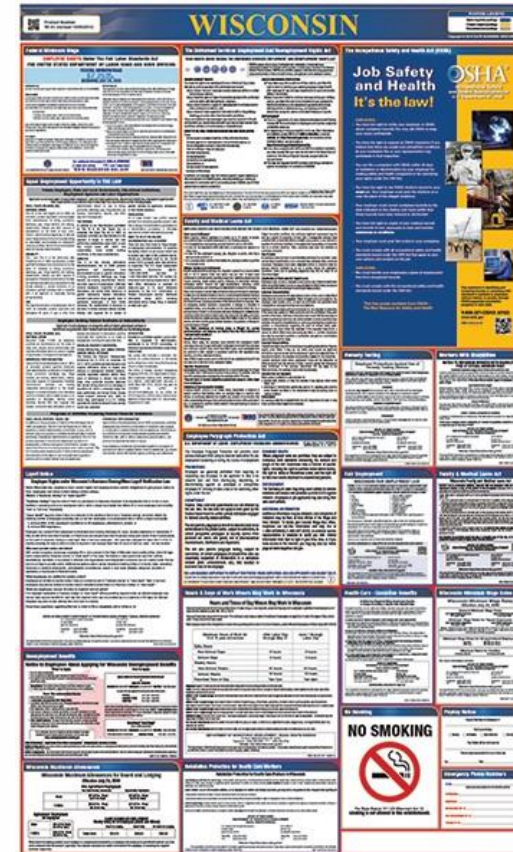
**Make Sure Your Postings  
Are Compliant**

# Poster Format

- Posters must meet minimum size and font requirements
- Shrinking the posters or font size compromises compliance
- Many postings have strict color and/or layout requirements that cannot be altered
- Cutting corners by shrinking postings or not printing in color can put your company at risk for noncompliance



# The Problem with the “All-in-One” Federal/State Option



## Step #4

**Make Sure You're Posting  
All Required Languages**

# Foreign Language Posting Requirements

- Certain postings must be displayed in Spanish regardless of languages spoken by your employees
- 20 states requires *certain* Spanish postings for all employees
  - Alabama, Arizona, California, Connecticut, Florida, Georgia, Kansas, Louisiana, Maine, Maryland, Mississippi, New Jersey, New Mexico, New York, North Carolina, Puerto Rico, South Carolina, Tennessee, Texas, Utah and the District of Columbia

# Foreign Language Posting Requirements (cont.)

- 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/Local:** Certain state and local posters must be displayed in foreign languages to ensure proper communication in locations with a certain percentage of employees who are not proficient in English

# Step #5

**Make Sure You  
Consider E-Verify**

# E-Verify Posting Requirements

- E-Verify is an internet-based system operated by the U.S. Department of Homeland Security that allows employers to verify the employment eligibility of new employees
- E-Verify performs an electronic check of each employee's I-9 information against government records
- Employers who participate in E-Verify have mandatory posting requirements

# E-Verify Posting Requirements (cont.)


- Who is required to participate in E-Verify?
  - Employers who operate in AL, AZ, GA, LA\*, MS, NC, SC, TN\*, UT\*
  - Employers with federal government contracts
  - All federal agencies
  - Public sector (government) employers in FL, ID, IN, MO, NE, OK, VA
- Employers who voluntarily participate also must comply with E-Verify posting requirements

# E-Verify Posting Requirements (cont.)

- Two posters are required for compliance
  - E-Verify Participation
  - Right to Work (also known as the E-Verify Discrimination Poster)
- Both posters must be displayed in English and Spanish
- Must be posted where applicants and employees can easily view them



# E-Verify Posting Requirements (cont.)



# IF YOU HAVE THE RIGHT TO WORK DON'T LET ANYONE TAKE IT AWAY

**Si usted tiene el derecho de trabajar, no permita que nadie se lo quite.** El E-Verify es un programa de verificación en línea que le permite a usted y a su empleador confirmar si usted es elegible para trabajar en los Estados Unidos. Este programa es voluntario y no tiene costo. Si usted es elegible para trabajar en los Estados Unidos, puede utilizar E-Verify para confirmar su elegibilidad. Si usted no es elegible para trabajar en los Estados Unidos, E-Verify le avisará y usted tendrá la oportunidad de corregir la información. Si usted es elegible para trabajar en los Estados Unidos, E-Verify le avisará y usted tendrá la oportunidad de corregir la información. Si usted es elegible para trabajar en los Estados Unidos, E-Verify le avisará y usted tendrá la oportunidad de corregir la información.

**El proceso de verificación en línea es rápido y seguro.** El E-Verify es un programa de verificación en línea que le permite a usted y a su empleador confirmar si usted es elegible para trabajar en los Estados Unidos. Este programa es voluntario y no tiene costo. Si usted es elegible para trabajar en los Estados Unidos, puede utilizar E-Verify para confirmar su elegibilidad. Si usted no es elegible para trabajar en los Estados Unidos, E-Verify le avisará y usted tendrá la oportunidad de corregir la información. Si usted es elegible para trabajar en los Estados Unidos, E-Verify le avisará y usted tendrá la oportunidad de corregir la información.

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## SI USTED TIENE DERECHO A TRABAJAR NO DEJE QUE NADIE SE LO quite


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### This Organization Participates in E-Verify

### Esta Organización Participa en E-Verify



This employer participates in E-Verify and will provide the federal government with your Form I-9 information to confirm that you are authorized to work in the U.S.

Este empleador participa en E-Verify y proporcionará a la gobierno federal la información de su Formulario I-9 para confirmar que usted está autorizado para trabajar en los EE. UU.

If E-Verify cannot confirm that you are authorized to work, this employer is required to give you written instructions and the opportunity to contact Department of Homeland Security (DHS) or Social Security Administration (SSA) so you can begin to resolve the issue before the employer can take any action against you, including terminating your employment.

Si E-Verify no puede confirmar que usted es autorizado para trabajar, este empleador está requerido a darle instrucciones por escrito y una oportunidad de contactar al Departamento de Seguridad Nacional (DHS) o a la Administración del Seguro Social (SSA) para que pueda empezar a resolver el problema antes de que el empleador pueda tomar cualquier acción en su contra, incluyendo la terminación de su empleo.

Employers can only use E-Verify once you have accepted a job offer and completed the Form I-9.

Los empleadores sólo pueden utilizar E-Verify una vez que usted haya aceptado una oferta de trabajo y completado el Formulario I-9.


### E-Verify Works for Everyone


For more information on E-Verify, or if you believe that your employer has violated the E-Verify requirements, please contact DHS.

### E-Verify Funciona Para Todos

Para más información sobre E-Verify, o si usted cree que su empleador ha violado sus responsabilidades de E-Verify, por favor contacte a DHS.

**888-897-7781**  
**dhs.gov/e-verify**





## Step #6

**Make Sure to Properly  
Display Individual Postings**

# Individual Postings

- Don't overlook posters that must be displayed apart from your main employee posting stations
- No-smoking posters, for example, are mandatory employee notices in over 33 states (and many cities/counties)
- These postings typically must be displayed near an entrance
- Often there are strict size, font and color requirements

## Step #7

**Make Sure You Include  
Industry Postings**

# Industry-Specific Postings

- Certain industries have additional labor law posting requirements under federal and state law
- Examples include restaurant, healthcare and public sector
- Every state has different industry-specific requirements — up to 18 additional postings

## Step #8

# Make Sure You Remember Federal Contractor Requirements

# Federal Contractor Postings

- Regardless of your industry, if your business has federal government contracts, you must post additional 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-profits
- Posting obligations depend on types and values of contracts

# Federal Contractor Postings (cont.)

- The most common postings for federal contractors:
  1. Paid Sick Leave
  2. Minimum Wage (**Updated Jan. 2020**)
  3. “EEO is the Law” Supplement
  4. Pay Transparency Policy Statement
  5. DOD Hotline (**Updated Dec. 2019**)
  6. NLRA (**Updated June 2019**)
  7. E-Verify/Right to Work (**Updated March 2019**)
  8. Walsh-Healey Public/Service Contracts
  9. DHS Hotline
  10. Notice to Workers with Disabilities



# Federal Contractor Postings (cont.)

- For employers with federal construction work, there are two more:
  - Davis-Bacon Act
  - DOT Federal Highway Construction
- Federal contractor postings change frequently
- Penalties for non-compliance can be severe, including steep fines up to suspension or cancellation of federal contracts

## Step #9

# Make Sure You Have Enough Posting Stations

# Posting Stations

- 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

# Posting Stations (cont.)

- Consider posting in breakrooms, locker rooms, employee entrances, HR department and in applicant areas
- Four of the six mandatory federal postings must be displayed to prospective employees during the application process
  - EEOC
  - USERRA (best practice to include because the law protects applicants and employees)
  - EPPA
  - FMLA
- Certain state and local postings must also be visible to applicants

# Step #10

## Make Sure You Cover Your Remote Workers

# Remote Worker and Telecommuters

- By law, you must provide the mandatory federal and state 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 acknowledgment

# Solutions to Protect Your Business



For more information, contact:

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[pkettwig@hrdirect.com](mailto:pkettwig@hrdirect.com)

# Questions



*Reminder: All attendees will receive a link to the presentation and slides in a follow-up email.*