

Posting Compliance and Lawsuits – Why You Should Care



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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 9 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 about 175 different agencies responsible for issuing more than 370 posters (federal and state)
- In a single state, up to 21 postings issued by up to 9 different agencies for federal/state compliance
- Approximately 22,000 local jurisdictions 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

Posting changes are on the rise

- Approximately 150 state-specific poster changes per year (50% require immediate mandatory replacements)
- 2017 was a record year, with more than 80 mandatory state poster changes and 60+ mandatory city/county changes
- 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 from \$17,000 to \$34,000+
 - State and local fines typically range from \$100-\$1,000
- Enforcement by federal agencies
 - Occupational Safety and Health Administration
 - U.S. Department of Labor
 - U.S. Equal Employment Opportunity Commission
- “Poster sweeps” by state and local agencies

Risks of Non-Compliance

(continued)

- Employee lawsuits are the real danger
- Failure to post extends “statute of limitations”
 - Forces employers to unnecessarily defend old claims that should have been dismissed as time-barred
 - Expands potential damages for back pay or lost wages by extending recovery period and the number of affected plaintiffs
 - Inflates damage awards – especially in FLSA class actions

Risks of Non-Compliance

(continued)

- Evidence of bad faith
 - Various legal standards impose additional punitive damages for bad faith, or reduce/excuse violations where there is a showing of good faith
 - Posting compliance is a factor taken into consideration
- FMLA interference of rights
 - Failure to post gives rise to a private cause of action in civil court if it causes harm
- Posting compliance is your first line of defense in any lawsuit or agency investigation

Poster Guard Compliance Protection Federal/State/Local Service: The Basics

- To start, each of your locations will receive a complete federal, state and local (if applicable) poster set, which includes every required labor law posting for compliance with general-industry posting requirements
- Our Legal Team then continually monitors all federal, state and local legislation and regulatory activity to identify and interpret any potential posting changes
- Whenever a new mandatory posting is issued, your affected locations will be notified and automatically shipped completely new or updated posters
- Backed by our 100% Compliance Guarantee against government posting fines (no caps)



Compliance Essentials: #1

Foreign Language Posting Requirements

- Certain postings must be displayed in Spanish regardless of your workforce demographics
 - 22 states require certain postings in Spanish for all employers
 - 47 state-issued postings in the U.S. must be posted in Spanish
 - Some states and local jurisdictions require postings in multiple languages, from Russian to Japanese to Arabic
- All postings in Puerto Rico must be displayed in Spanish

Compliance Essentials: #1

Foreign Language Posting Requirements

(Continued)

- Mandatory foreign-language postings are required in:

| | | |
|--|--|---|
| <ul style="list-style-type: none"> ▪ Alabama ▪ Arizona ▪ California ▪ Colorado ▪ Connecticut ▪ District of Columbia ▪ Florida | <ul style="list-style-type: none"> ▪ Georgia ▪ Kansas ▪ Louisiana ▪ Maine ▪ Maryland ▪ Mississippi ▪ New Jersey ▪ New Mexico | <ul style="list-style-type: none"> ▪ New York ▪ North Carolina ▪ Puerto Rico ▪ South Carolina ▪ Tennessee ▪ Texas ▪ Utah ▪ Virginia |
|--|--|---|
- The Good News: Poster Guard English service already includes foreign-language posters if they are required for all employers regardless of languages spoken at the worksite

Compliance Essentials: #1

Foreign Language Posting Requirements

(Continued)

You may have *additional* obligations if you employ workers who are not proficient in English

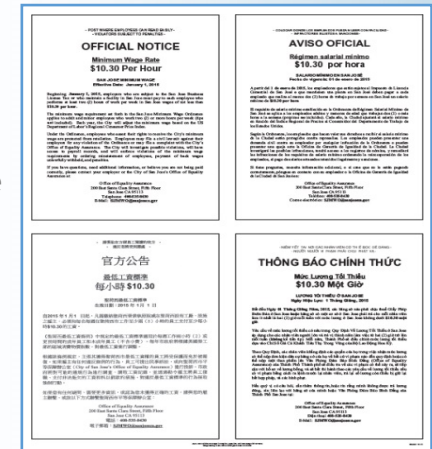
- **Federal:** If you have a significant number of Spanish-speaking employees who are not proficient in English, the Federal combination poster must be posted in English and Spanish
- **State:** For state postings, fully translated Spanish poster sets are a “best practice” for locations with a significant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

Compliance Essentials: #2

City and County Posting Requirements

- New Trend: Cities and Counties Now Requiring Labor Law Postings

- AZ – Flagstaff, Tucson
- CA – 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 Monica, Sunnyvale
- CO – Denver
- FL – Broward County, Miami Beach, St. Petersburg
- IL – Chicago, Cook County
- MD – Montgomery County, Prince George's County
- ME – Portland
- MN – Minneapolis, St. Paul
- MO – St. Louis
- 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, Spokane, Tacoma



Compliance Essentials: #3

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

Compliance Essentials: #3

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
 - 20 mandatory changes since 2009; three updates in 2017
- Penalties for non-compliance can be severe, including steep fines up to suspension or cancellation of federal contracts

Compliance Essentials: #4

Remote Workers and Telecommuters

- By law, you must provide the mandatory labor law notices to all of your employees, including those who work off-site
- We've developed Poster Guard® E-Service for Remote Workers to help you comply
- Ideal for employees who work from home, telecommuters, field salespeople and other remote workers provided with Internet access (those who report to a physical facility with wall posters less frequently than 3-4 times a month)

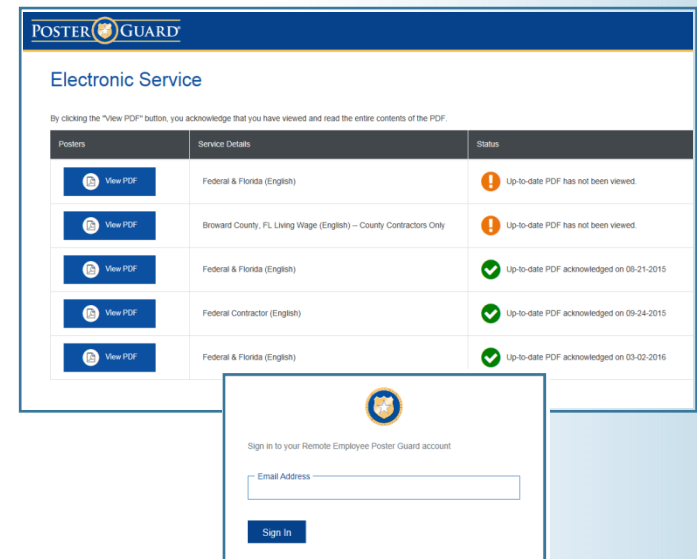


Compliance Essentials: #4

Remote Workers and Telecommuters






(Continued)


- Poster Guard® E-Service for Remote Workers
 - The off-site employee receives a welcome email with simple instructions
 - Employees are prompted to download, view and acknowledge receipt of all required postings at the time of enrollment and whenever there is a mandatory posting change
 - Poster Guard tracks your employee acknowledgments and maintains complete records of the date and time when each employee viewed the electronic images



Electronic Service

By clicking the "View PDF" button, you acknowledge that you have viewed and read the entire contents of the PDF.

| Posters | Service Details | Status |
|--|--|---|
|  View PDF | Federal & Florida (English) | ⚠ Up-to-date PDF has not been viewed. |
|  View PDF | Broward County, FL Living Wage (English) – County Contractors Only | ⚠ Up-to-date PDF has not been viewed. |
|  View PDF | Federal & Florida (English) | ✅ Up-to-date PDF acknowledged on 09-21-2015 |
|  View PDF | Federal Contractor (English) | ✅ Up-to-date PDF acknowledged on 09-24-2015 |
|  View PDF | Federal & Florida (English) | ✅ Up-to-date PDF acknowledged on 03-02-2016 |



Sign in to your Remote Employee Poster Guard account

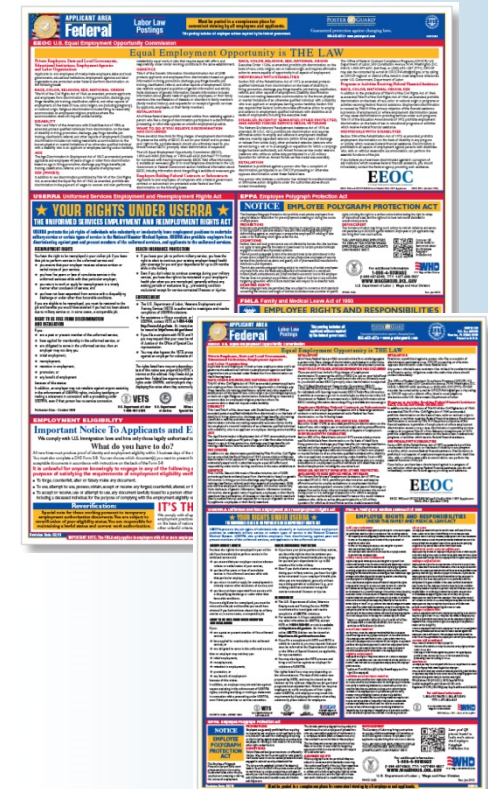
Email Address

Sign In

Compliance Essentials: #5

Applicant Area Posting Requirements

- Four of the six mandatory federal postings must be displayed to prospective employees during the application process: EEOC, FMLA, USERRA and EPPA
- Poster Guard offers options to help you comply:
 - *Applicant Area Vinyl Adhesive Sticker* – a compact sheet with the 4 required postings, reduced to 8.5" x 14" (size is fully compliant), perfect for applicant kiosks and other small areas
 - *Applicant Area Poster* – laminated for durability, includes two additional notices notifying applicants of immigration requirements and your status as a drug-free workplace (16" x 20")
- Both options available in English and Spanish
- Available electronically for on-line applicants



For more information, contact:



**Complete Posting
Compliance:
Federal/State/Local
Coverage Guaranteed.**

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