

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

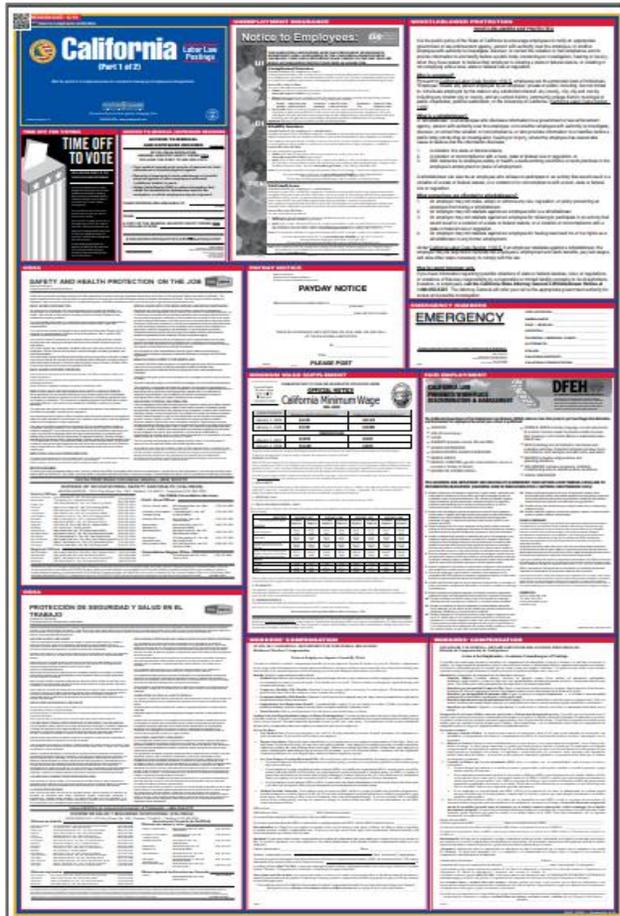
Mandatory Federal Postings for U.S. Employers

- 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

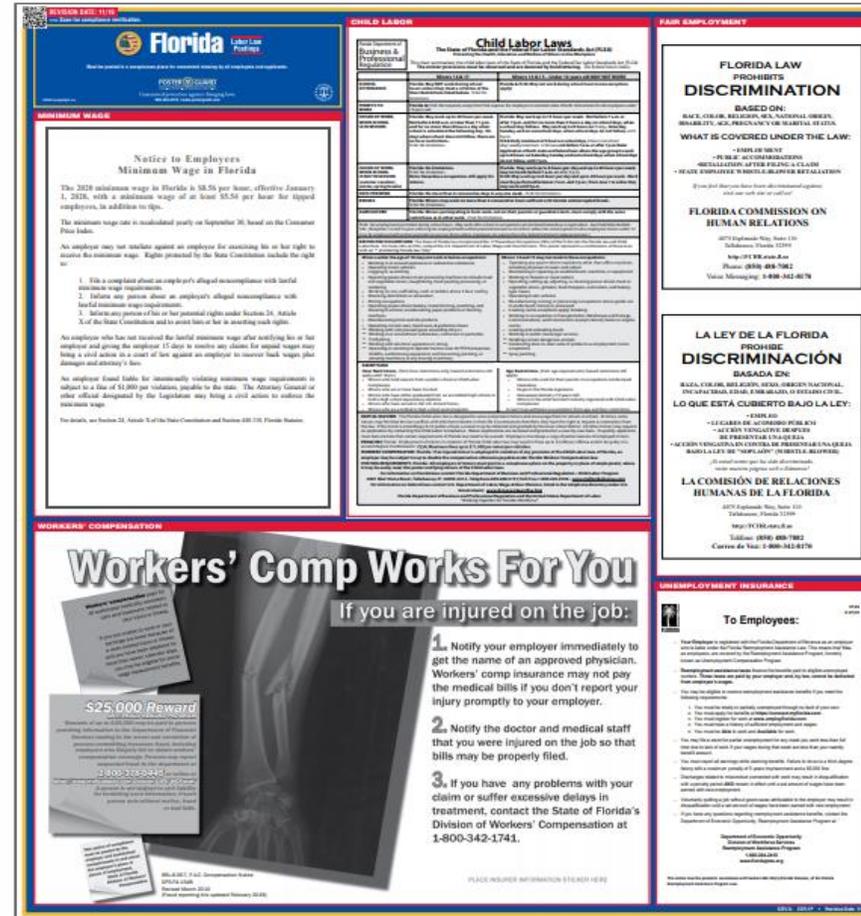
State Postings

- 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 most prominent is the 'California Labor Law Postings (Part 1 of 2)' which includes sections for 'Notice to Employees', 'Minimum Wage in Florida', 'Child Labor Laws', and 'Fair Employment'. Other visible posters include 'TIME OFF TO VOTE', 'SAFETY AND HEALTH PROTECTION ON THE JOB', 'PAYDAY NOTICE', 'EMERGENCY', 'California Minimum Wage', 'DFEH', and 'PROTECCION DE SEGURIDAD Y SALUD EN EL TRABAJO'.



This image shows a collection of Florida labor law posters. The most prominent is the 'Florida Labor Law Postings' which includes sections for 'Minimum Wage', 'Child Labor Laws', 'Fair Employment', and 'Workers' Compensation'. Other visible posters include 'FLORIDA LAW PROHIBITS DISCRIMINATION', 'LA LEY DE LA FLORIDA DISCRIMINACIÓN', and 'UNEMPLOYMENT INSURANCE'.

Total Postings and Different Issuing Agencies by State

State	Total Federal & State Mandatory Posters	Total Number of Different Issuing Agencies (State and Federal)	State	Total Federal & State Mandatory Posters	Total Number of Different Issuing Agencies (State and Federal)
Alabama	12	5	Montana	12	5
Alaska	15	5	Nebraska	11	5
Arizona	19	9	Nevada	23	7
Arkansas	12	7	New Hampshire	16	6
California	22	7	New Jersey	23	6
Colorado	14	5	New Mexico	14	7
Connecticut	18	8	New York	20	7
Delaware	15	4	North Carolina	15	8
D.C.	20	7	North Dakota	10	6
Florida	12	8	Ohio	12	7
Georgia	16	7	Oklahoma	12	8
Hawaii	16	5	Oregon	17	8
Idaho	11	6	Pennsylvania	15	6
Illinois	15	8	Puerto Rico	12	4
Indiana	16	9	Rhode Island	18	6
Iowa	12	5	South Carolina	14	8
Kansas	12	6	South Dakota	9	4
Kentucky	14	6	Tennessee	15	7
Louisiana	21	5	Texas	11	6
Maine	15	6	Utah	14	7
Maryland	18	7	Vermont	19	4
Massachusetts	15	7	Virginia	11	5
Michigan	17	7	Washington	14	6
Minnesota	13	6	West Virginia	12	7
Mississippi	12	6	Wisconsin	17	5
Missouri	13	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

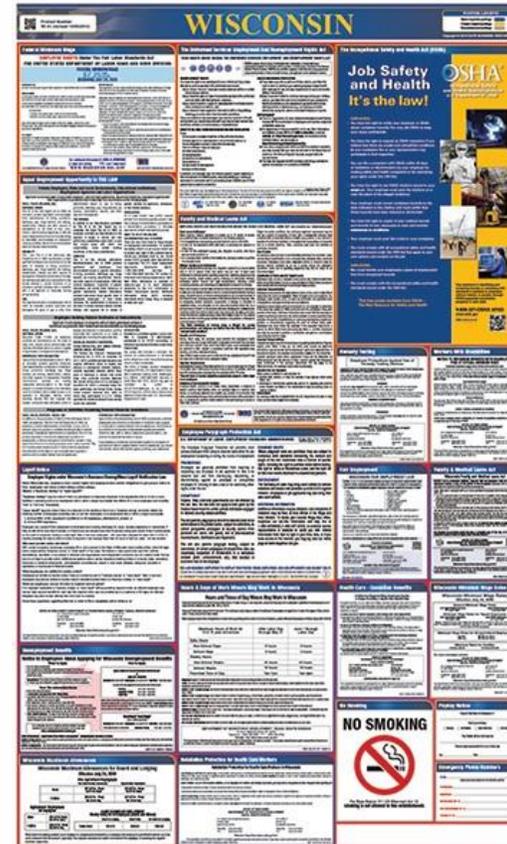
Step #3

**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

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

This Organization Participates in E-Verify / **Esta Organización Participa en E-Verify**

E-Verify Works for Everyone / **E-Verify Funciona Para Todos**

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

U.S. Department of Homeland Security

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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Questions



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