



DLSE Publishes Voluntary Template for Required Employer AB 450 Notice

Insights

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Last year Governor Jerry Brown signed Assembly Bill 450 – the “Immigrant Worker Protection Act” – to prohibit employers from voluntarily consenting to federal immigration agency access to worksites without a judicial warrant, or to specified employee records without a subpoena. As we discussed recently, an uptick in federal immigration enforcement activity may force California employers to deal with the new law’s requirements sooner than anticipated.

This new law went into effect on January 1, 2018. Our longer summary can be found here, and some “frequently asked questions” and best practices for compliance may be found here.

AB 450 also requires employers to provide certain notices to employees (and their collective bargaining representative) in the event of certain workplace immigration enforcement activity.

The Division of Labor Standards Enforcement (DLSE) recently published a template that California employers may use to comply with one of these notice requirements contained in the new law.

Law Requires Notice of Inspection Activity Within 72 Hours

Under the new law, employers are required to provide notice of any inspections of I-9 Employment Eligibility Verification forms or other employment records within 72 hours of receiving notice of the inspection.

The notice is required to be posted in the language the employer normally uses to communicate employment-related information to the employee, and the posted notice must contain the following information:

- The name of the immigration agency conducting the inspection.
- The date that the employer received notice of the inspection.
- The nature of the inspection to the extent known.
- A copy of the Notice of Inspection (NOI).

The notice must also be provided within 72 hours to the employee’s collective bargaining representative, if any. In addition, an employer is required to provide an affected employee with a

copy of the Notice of Inspection of I-9 Employment Eligibility Verification forms upon reasonable request.

DLSE Template May Now be Used by California Employers

AB 450 required DLSE to develop a template that employers may use to comply with this requirement by July 1, 2018. However, DLSE acted quickly and recently published a [template](#), which is available on the DLSE website and may now be used by California employers.

There is no requirement that employers use the template provided by DLSE. Some employers (or their employment attorneys) have already drafted and been utilizing their own notices that comply with AB 450 and reflect the unique nature of their operations. However, the DLSE template may represent a convenient option for some employers to utilize.

Law Requires Separate Notice of Results

Please keep in mind that AB 450 requires a separate notice to be provided to each current affected employee (and their representative) within 72 hours of the receipt of results of the inspection. You must also provide any written notice of the obligations of the employer and the affected employee arising from the action. The notice shall relate to the employee only, and shall be delivered by hand at the workplace if possible. If hand delivery is not possible, the notice should be delivered by mail and email. This notice must describe any and all deficiencies or other items identified in the inspection results that relate to the affected employee, state the time period for correcting any potential deficiencies, state the time and date of any meeting with employer to correct any identified deficiencies, and inform the employee of their right to representation during any meeting scheduled with you.

The template published by DLSE only pertains to the pre-inspection notice described above, *not* to the additional post-inspection notice of results. Employers must remember to provide this additional notice to affected employees when the results of the inspection are provided. DLSE has not provided a sample template for this post-inspection notice, and AB 450 does not require it to do so.

Conclusion

Some California employers may wish to utilize this DLSE template as a convenient way to comply with one of the notice requirements of AB 450. Employers are not required to use the DLSE template as long as the notice they do provide complies with the requirements of the law.

As always, we suggest you contact any member of the Fisher Phillips [Global Immigration Practice Group](#), or your regular Fisher Phillips attorney, to assist with compliance efforts.

Related People





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