



Time To Update Your Workplace Posters

Insights

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Employers returning from their summer vacations might have a rude awakening when they realize that new workplace posters are now required as of August 1, 2016. While you and your workers might have been busy hitting the beach or your favorite vacation spot, the U.S. Department of Labor (USDOL) was busy updating two mandatory posters and announcing that the revised versions need to be posted at once.

Fair Labor Standards Act (FLSA) Poster

On July 27, the USDOL issued regulations requiring employers to post two revised workplace posters. The first is the “Employee Rights Under The Fair Labor Standards Act” poster, which now contains updated information about a number of topics. First and foremost, the new version of the poster adds a section describing the rights of nursing mothers under the FLSA.

The revised poster informs working mothers who are eligible for overtime that the federal statute permits them to take reasonable breaks to express milk for a period of one year following the birth of their child. The new poster also instructs them that employers must provide them with a workplace location shielded from view and free from intrusion so that they can take these breaks, and that it cannot be a bathroom.

The revised poster also adds a section advising workers about independent contractor misclassification, informing them that it is important to know the difference between being an employee and being a contractor “because employees (unless exempt) are entitled to the FLSA’s minimum wage and overtime pay protections.” Also, the revised poster adds information in the “tip credit” section, instructing that employers of tipped employees who meet certain conditions may claim a partial wage credit based on tips received by their employees.

The final substantive change: instead of promoting the agency’s phone number as the primary means of contacting the USDOL, the bottom of the poster now contains a large QR code that can be scanned with a smartphone. Scanning the code will take your employees to the agency’s Compliance Assistance web page, which includes instructions on how to file a complaint along with other compliance information.

You’ll find versions of the poster in 10 different languages on the agency’s website.

Employee Polygraph Protection Act (EPPA) Poster

The second new poster is the revised “[Employee Rights – Employee Polygraph Protection Act](#)” poster, also mandatory as of August 1. This updated poster contains no substantive changes from its former version other than simply removing a prior reference to the amount of the penalty that violators could face. It also revises the agency contact information (including a much more prominent QR code directing visitors to the [agency’s web page on the EPPA](#)).

This poster is available in either English or Spanish on the [agency’s website](#).

Other Posters

Some employers might also be unaware that the USDOL released a [revised Family and Medical Leave Act \(FMLA\) poster](#) in April 2016. If you haven’t yet updated this poster, you should do so now. The new version is completely revised and reordered, presenting content in a simpler and easier to read format. It replaces two solid columns of dense single-spaced text with a clean format containing six categories of condensed information.

Aside from adopting a more modern look, the revised poster contains substantive revisions as well. It eliminates much of the legalese in the leave entitlement section, and removes the long definition of “serious health condition” altogether (assuming that employees can look up more information on qualifying conditions on their own). It also clarifies the section regarding employer notification requirements, and describes the notice of rights that must be provided to eligible employees.

There is one downside to the new poster, however. In the section informing workers that they may take intermittent FMLA leave, the revised poster eliminates the language from the previous edition that directed them to make reasonable efforts to schedule planned leave so as to not unduly disrupt employers’ operations. While the underlying law remains the same and this requirement still exists, the poster no longer highlights this employee responsibility.

As with the other new posters, the FMLA poster now contains a QR code directing readers to [the USDOL website](#), and also provides the agency website address and phone number in a very pronounced font size. The poster is [available in English and Spanish](#).

Remember that there are several other mandatory posters required by the federal government regarding job safety, equal employment, military leave and discrimination, and other topics depending on the type of your business, and the failure to display some may lead to citations and penalties. Also, many states have their own compulsory poster requirements. Check with your legal counsel for a full listing of what you must post for your organization.

If you have any questions about this development, or how it may affect your business, please contact your Fisher Phillips attorney.

This Legal Alert provides an overview of specific new regulatory requirements. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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