

New York Employers Must Provide Digital Copies of Workplace Notices To Their Employees

On December 16, 2022, New York State Governor Hochul signed into law an amendment to Section 201 of the New York Labor Law (“N.Y. Labor Law”), requiring employers to either post digital copies of certain workplace notices on their websites or circulate those notices to all employees via email.

Background

The prior version of Section 201 provided that the Commissioner of Labor for the State of New York would furnish notices of provisions under the N.Y. Labor Law and other related statutes governing the terms of employment for mechanics, workingmen, or laborers working for hire within New York State. Under this Section, employers hiring such employees are required to display physical copies of such notices at conspicuous places on every floor of the workplace. For example, every employer is mandated to provide a [notice](#) to employees of their statutory rights under Section 740 of the N.Y. Labor Law against retaliation by the employer. Similarly, all employers are mandated to display a [notice](#) by the New York State Division of Human Rights informing employees of their rights against discrimination on the basis of race, age, sexual orientation, national origin, gender identity, etc. The content of these notices may vary depending on the size and industry of the employer.

Digital Notices

Following the December 2022 amendment, Section 201 creates additional duties for employers to circulate workplace notices to employees. The amended Section mandates employers to provide their employees with digital copies of workplace notices furnished by the New York Commissioner of Labor on the employers’ websites or via email. The amendment also requires that every workplace notice that is mandated under federal or state law must be posted on the employer’s website or provided to the employees via email. In addition, employers must notify their employees that electronic copies are available of the physical notices posted in the workplace.

Justification for the Amendment

[Senate Bill S6805](#) introduced the amendment to Section 201 in the New York Senate, explaining that its purpose was to ensure greater accessibility of important workplace notices. The Bill notes that although physical notices are posted at conspicuous places at the workplace, such notices are often difficult to read because their contents are detailed and presented in small print. The Bill also notes the special challenges that the COVID-19 pandemic created for ensuring the circulation of those notices to all relevant employees. The substantial increase in remote work often meant that remote workers were unable to access the physical copies of the mandated notices posted at the workplace. The Bill observes that requiring employers to post these notices digitally ensures that employees have access to the important information set out in the notices at any time.

The amendment to Section 201 follows the general guidance set out in the [Field Assistance Bulletin](#) (“FAB”) issued by the U.S. Department of Labor on December 23, 2020. The FAB provides that employers could satisfy notice requirements under the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the Employee Polygraph Protection Act (EPPA), and the Service Contract Act (SCA) by providing electronic copies of the mandated notices to their employees. The FAB notes that electronic or digital copies of such notices merely supplemented, and did not replace, the statutory and regulatory requirements for posting physical notices at the workplace.

Next Steps

The amended Section 201 went into effect immediately on December 16, 2022. To comply with this provision, employers must ensure that the notices under the relevant provisions of federal and state law are displayed in physical form at conspicuous places at the workplace as well as circulated to employees in digital form on their websites or via email. Employers must also inform their employees that the physical notices posted in the workplace are available in electronic form.

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