

### New Posting Requirement for Federal Contractors (and Most Other Employers Too)

If your company is a federal contractor or subcontractor or has 15 or more employees, it is time to update your Equal Employment Opportunity (EEO) posters. The Equal Employment Opportunity Commission (EEOC) has issued an updated “Know Your Rights” poster, revised as of October 20, 2022, and the Office of Federal Contract Compliance Programs (OFCCP) has updated its website with the same new poster. The new “Know Your Rights” poster replaces two posters: the 2009 “EEO is the Law” poster and the 2015 “EEO is the Law” supplement poster.

This new poster can be accessed through the EEOC website and through the OFCCP’s website. Covered employers must utilize this new poster now.

The new “Know Your Rights Poster” contains the following changes:

- The poster expressly states that harassment is a prohibited form of discrimination;
- The poster clarifies that sex discrimination includes:
  - i. • discrimination based on pregnancy and related conditions,
  - ii. • sexual orientation discrimination, and
  - iii. • gender identity discrimination;
- The poster contains a QR code for digital access to the EEOC’s “how to file a charge of employment discrimination” webpage; and
- The poster includes language protecting applicants and employees of federal contractors and subcontractors “from discrimination based on inquiring about, disclosing, or discussing their compensation or the compensation of other applicants or employees.”

The EEOC requires employers to physically post the new poster in a conspicuous location where notices to applicants and employees are customarily posted. The agency also encourages employers to post the notice electronically. The EEOC has stated that electronic posting suffices only where the employer does not have a physical location and where employees work remotely and do not regularly visit the employer’s physical location. The OFCCP has announced that “applicants and employees must have a way to access the poster, *either* electronically or physically.” Both agencies require the poster to be accessible to applicants and employees with disabilities.

Covered employers are subject to fines by the EEOC for failing to post the “Know Your Rights” poster (the current maximum fine for the prior “EEO is the Law” poster was \$612 per offense). Federal contractors and subcontractors face the possibility of the OFCCP requiring the employer to enter into a conciliation agreement to remedy the violation or, in extreme cases (typically coupled with other, more severe violations), cancellation, suspension, or termination of contracts, debarment, and/or other sanctions.

In announcing the new “Know Your Rights Poster,” the OFCCP has also reminded federal contractors and subcontractors of their ongoing requirement to post the “Pay Transparency Nondiscrimination Provision” poster, which can be accessed [here](#).



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