

Compliance Poster Updates 2010

Our partners at Compliance Poster Company advise as follows on compliance poster updates for January 2010:

1. Post the 2010 All-On-One: It includes the new federal GINA and ADA laws.
2. Update your IIPP to include the new Emergency Preparations requirement.
3. Recommended: Post the new Flu Prevention Program: Use the poster, **Healthy Habits**, to train and remind employees which steps need to be taken to prevent transmission of illnesses in the workplace.

What if I find out an employee is not authorized to work in the US?

Once you have found out one of your employees is illegal, you now are knowingly employing an illegal alien, which is not good. The first step generally is to allow the affected employee to supply you with new documentation. As when filling out an I-9, you cannot request any particular documentation. You must provide the employee a reasonable amount of time to provide you with this information.

The reasonable amount of time is considered about ten days to two weeks. This number is fairly arbitrary, but it should not extend beyond 45 days. The employee may present a receipt for an application for a replacement document, but must provide the actual document within 90 days or face termination. If the employee does not provide you with appropriate documentation within the specified period of time, you must terminate that employee.

A word of caution, if you have found out that one of your employees is illegal because his/her social security number was found to be invalid, your chances of being flagged by the INS for an audit is greater. Making sure your I-9s are valid and that you have not kept any known unauthorized aliens is important at any stage, but particularly after being advised that the social security numbers used were invalid.

Legal Guidance

Guidance On Religious Bias

The United States Equal Employment Opportunity Commission (EEOC) has issued an updated guidance on religious discrimination in the workplace. According to the EEOC, religious bias claims have increased 100% over the last fifteen years, prompting the agency to draft and release the new guidance. The guidance seeks to clarify, rather than change the existing law.

Some of its highlights include: (1) employers should allow religious expression in the workplace but can restrict it when it becomes disruptive or harassing; (2) supervisors should be trained on the issue of religious accommodation; (3) employers should help deal with the problems of religious stereotyping; (4) employers should refrain from intentionally or unintentionally coercing employees to participate in religious matters; and (5) employer anti-harassment policies should expressly address religious bias issues.

Guidance On Employment Verification

The United States Department of Justice also has issued a new guidance, this one on how to avoid citizenship discrimination during the employment verification process. Although an employee must have a legal right to work in the United States, once that right exists, an employer cannot discriminate on the basis of citizenship. This particular guidance may be very useful as the federal government increases the pressure on employers to not hire undocumented workers. Some of the highlights: (1) employers must try to first resolve issues re: Social Security Number (SSN) mismatch letters, but ultimately may discharge employees if such problems are not resolved within a reasonable time period; (2) persons should not be treated differently based on citizenship; and (3) employers should follow the Department of Homeland

Security's safe harbor provisions regarding SSN mismatch issues. You can read the guidance at: [Non Match](#)

OSHA Log 300 Mandatory Posting

All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.

Employers must post the OSHA log 300 Summary page only (OSHA Form 300A) --not the Log (OSHA Form 300) by February 1 of

These articles should not be construed as legal advice or as pertaining to specific situations. Consult with your legal counsel for further information.

Coming in 2010 – Educational Seminars

We have a variety of educational seminars planned for 2010. Most will be held at the office of our partner in Campbell:

Leavitt Pacific Insurance Brokers
695 Campbell Technology Parkway, Ste 250
Campbell, CA 95008

Legal Update for 2010 with Jennifer Donnellan of Segdwick, Detert, Moran & Allen

Join us on January 28th at 10:00 am at the Law Offices of SDMA in Downtown San Francisco for a Labor Law update with Jennifer Donnellan. Sign up at [Labor Law Update](#). The agenda includes the following:

- **Dealing with a Pandemic** - EEOC guidance, Cal-OSHA provisions and our recommendations
- **Recent Supreme Court Decisions** - Ricci, Gross, and Crawford, and what they mean for employers
- **CA Wage & Hour Law** - Labor Commissioner Opinion Letter on reducing salaries and work schedules of exempt employees, amendments to the alternative work schedule rules, Fair Pay Act and the Rutti decision
- Employee Privacy - **GINA, the Hillside decision**

the year following the year covered by the form and keep it posted until April 30 of that year.

Employers are not required to keep OSHA injury and illness records for any establishment classified in certain Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS.

- Unfair Competition - **Decisions regarding trade secrets and covenants not to compete**
- Anticipated Decisions & Changes for 2010 - **Meal period and rest break rules, the Google "stray remarks" case, personal liability for unpaid wages, and legislation likely to be introduced (or re-introduced)**

OHR's Quarterly Harassment Prevention Training for Managers

As a service to your business we have a quarterly Harassment Prevention Training. Those sessions occur each quarter on the last Thursday of the month at 1:00 PM. Mark your calendars for March, June, September and December. We also do individual sessions for your offices, including Managers and Supervisors and non supervisory employees. The next OHR Harassment Prevention Training for Managers session is scheduled for March 25th at 1:00 pm in Campbell, CA. To register [Harassment Prevention Training](#)

MyOHR provides key Human Resources consulting and support for small, emerging and mid-size companies. Focusing on Human Resource Legal Compliance, MyOHR assists business in achieving operational efficiency by providing the infrastructure necessary to manage the workforce in compliance with State and Federal requirements. MyOHR is cost effective for companies that have not budgeted for a full-time HR position. Contact Jaime Orendac, SPHR-CA at Jaimeo@MyOHR.com