

The Legal Strategist

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TEXAS ESOTERIC FACTS

In the continuing effort of the Biden administration to hamper businesses, the EEOC has raised the penalties for non-compliance of posting federal notices in the workplace. The last time the EEOC adjusted the penalty, other than for annual inflation, was on March 19, 2014.

Employers are required to post notice of certain employee rights. Failure to post these signs could result in penalties, and the EEOC just raised the penalties for failing to post the proper notices required under Title VII, the ADA and GINA.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC: **FEDERAL EMPLOYEE POSTING FINES**

In 2014 the small town of Decatur voted to reschedule Halloween to October 30 because the October 31 date would have conflicted with the local high school's Friday night football game.

The Equal Employment Opportunity Commission (EEOC) has announced an increase in the maximum fine for violating anti-discrimination posting requirements. The maximum penalty will increase to \$576 under a final rule published in the *Federal Register* on May 26, 2021. Posting a notice of employee rights is required under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and the Genetic Information Non-Discrimination Act (GINA). The EEOC summarizes information about employee rights under these laws on the Equal Employment Opportunity is the Law posting. Failure to post the required signage can cost an employer up to \$36,070.

Employers with 15 or more employees need to display this poster in prominent and accessible places.

EEO is the Law: The “EEO Is the Law” poster, prepared by the EEOC, summarizes these laws and explains how an employee or applicant can file a complaint with the EEOC if they believe they have been the victim of discrimination. The poster is available in English, Arabic, Chinese, and Spanish. Employers should place the poster in a conspicuous location in the workplace where notices to applicants and employees are customarily posted. In addition to posting physically, employers with electronic information systems should also post the electronic notice on their systems. Keep in mind that, aside from full remote work situations, electronic posting supplements physical posting but does not itself fulfill the employer’s basic obligation to physically post the required information in its workplaces. In some situations (e.g., for employees who telework and do not visit the employer’s workplace on a regular basis), electronic posting may be required in addition to physical posting in order to ensure that all employees have access to the poster.

Reducing risk: It would be extremely rare for an employer to be assessed the maximum posting fine, as it’s not often that an employer receives a fine simply for failure to properly display an employment law poster. The EEOC notes that it issues fewer than 60 posting fines each year. The fact that federal agencies adjusted the maximum penalties for the first time in 7 years shows that the agencies take posting compliance seriously. In addition, the failure to display required labor law posters can increase an employer’s risk of being sued by an employee. Failure to properly display posters deprives employees of vital information, and may give them additional time to file a lawsuit if they believe their rights have been violated. Courts have held that if posters are not displayed, the deadline to sue an employer may be extended.

In addition to penalties for the failure to post, in the event of litigation, additional time to sue may be granted to employees whose employers failed to comply with posting requirements. Employers can stay in compliance and reduce their risk by conspicuously displaying up-to-date labor law posters in areas where employees are likely to view them.

Employers can download the posting at no cost at <https://www.eeoc.gov/employers/eo-law-poster>.

If you would like more information on this or any other topic relating to your workforce and the posting requirements, please contact [Scott Barrett](#) to set up a consultation.