

Remote Workforce or Not, New Jersey Employers Must Ensure Notices and Posters Remain Up to Date

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The year 2020 brought significant changes nationwide to how and where employees work and expanded the legal landscape. The expectations of employer compliance with employment law, however, remained unchanged. In New Jersey, for example, 2020 brought a package of legislation aimed at independent contractor misclassification, amendments to the Family Leave Act (“NJFLA”), the Earned Sick Leave Law (“ESLL”), and the New Jersey Millville Dallas Airmotive Plant Job Loss Notification Act, commonly referred to as the New Jersey WARN Act (“NJ WARN Act”). Further, the New Jersey Supreme Court ruled that the state’s Law Against Discrimination (“NJLAD”) entitles medical marijuana patients to reasonable accommodation in the workplace. This is not to mention all the COVID-19 guidance and executive orders changing by the week.

Several of these new laws have resulted in changes to employer notice and posting requirements or updates to the official posters. Therefore, we recommend that New Jersey employers review the following summary and ensure that their workplace posters and employee notices remain in compliance.

By way of highlight and summary, New Jersey’s 2020 employment-related measures include:

- an amendment expanding the NJFLA to provide job-protected leave to care for a family member who requires in-home care or must quarantine during a public health emergency, such as the ongoing COVID-19 pandemic (see our previous [blog post](#));
- an amendment revising the advance notice period and methodology for determining whether there is a qualifying event under the NJ WARN Act, in addition to mandatory severance pay for all employees who lose their job in such a triggering event, though subsequent legislation placed this amendment on hold because of COVID-19 (see our previous [Act Now Advisory](#) and [Workforce Bulletin](#));

- new regulations implementing the New Jersey ESLL, which requires employers to provide up to 40 hours of paid sick leave per benefit year for an employee’s or their family member’s mental or physical illness, and other various reasons (see our previous [Act Now Advisory](#));
- new [law](#) and regulations prohibiting employers from taking any adverse employment action against employees who, during the COVID-19-related Public Health Emergency and State of Emergency declared by Governor Phil Murphy, take or request time off due to an infectious disease that could affect others at work based on a written recommendation of a New Jersey licensed medical professional (see our previous blog posts [here](#) and [here](#));
- a package of six laws addressing worker misclassification, one of which requires employers to post a new notice in each workplace (see our previous [Act Now Advisory](#));
- an optional but recommended “[One Jersey Pledge](#)” program to address workplace safety during the COVID-19 pandemic; and
- legislation (Bill [S21](#) and A21) legalizing personal cannabis use that, when signed into law (which is expected shortly), will prohibit employers from refusing to hire or take any adverse action against individuals simply because they test positive for cannabis.

Satisfying Notice and Posting Requirements

New Jersey mandates that employers display a variety of official posters informing employees of the law relating to employee rights and employer responsibilities. Failure to comply with these requirements may result in monetary fines and other penalties. Generally, to ensure compliance, an employer must post the most recent version of the mandated posters in a conspicuous location, i.e., in locations accessible and easily visible to all employees and applicants for employment, such as in a lunchroom, breakroom, or human resources office. Employers operating in New Jersey must also distribute certain notices to employees. In addition, for some laws, employers must post and/or distribute the notice in English, Spanish, and the language spoken by at least 10 percent of the employer’s workforce.

Of course, COVID-19 has added a new wrinkle to federal and state notice and posting requirements. With many workforces partially or entirely operating remotely, a physical poster in the breakroom is unlikely to satisfy an employer’s duty to post the notice “conspicuously” or in a “prominent and accessible place” where they can be “readily seen” by employees.

Acknowledging these concerns, the U.S. Department of Labor (“USDOL”) recently issued [new guidance](#) to address electronic posting of federally required notices in circumstances where there is no traditional workplace. The guidance warns that while employers may

satisfy one-time notice requirements by email delivery if the employee customarily receives emails from the employer, *continuous*-posting obligations (e.g., under the Fair Labor Standards Act) cannot be satisfied using electronic-only means, unless the employer and its workforce meet certain requirements.

Although the USDOL guidance applies only to federal notice and posting requirements, we recommend it as a best practice for state-mandated notices.

Downloading Mandatory Notices and Posters

The New Jersey Department of Labor and Workforce Development (“NJDOLE”) provides employers with poster packets containing the required notices, which are available for downloading [here](#).

Posters required by the New Jersey Division on Civil Rights are available for downloading [here](#).

Note that, although some of the regulations specify that the notices must be on legal size paper (8½ x 14 inches), the posters from the state’s website printout are letter size (8½ x 11 inches) and are considered compliant.

In 2021, New Jersey requires employers to display the following posters:

Statute	Description/Specifications
Conscientious Employee Protection Act (“CEPA”)	Employers must post a notice advising employees of their rights under CEPA, New Jersey’s “whistleblower” law, along with the name, address, and telephone number of the employer’s designated contact person responsible for receiving written notification of CEPA complaints. Employers with 10 or more employees (including employees who work outside New Jersey) must also distribute a copy of the notice to their employees annually . A copy of the poster, in both English and Spanish, is available for downloading here .
Gender-Equality Notice	Every employer in New Jersey with 50 or more employees (including employees who work outside New Jersey) must post a notice advising employees of their right to be free from gender inequity or bias in pay, compensation, benefits, or other terms or conditions of employment under the NJLAD and other state and federal antidiscrimination statutes. Employers are also required to distribute a copy of the notice: (i) in English, Spanish, and any other language spoken by 10 percent of the workforce, provided that a notice has been issued in that language by the NJDOLE; (ii) at the time of hire; (iii) upon request; and (iv) to all employees annually before December

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	<p>31 of each year. The notice may be transmitted electronically to employees via e-mail or a website, so long as it is accessible and the employer notifies its employees that the notice has been posted electronically. Employers must obtain written acknowledgement of receipt. (The poster is available in English and Spanish.)</p> <p>Of note, the 2018 Diane B. Allen Equal Pay Act, which mandates pay equity and prohibits discrimination in pay because of membership in a protected class, does not include notice or posting requirements.</p>
Law Against Discrimination	<p>Employees must post a notice advising employees of their rights under the NJLAD. Although not required, many employers distribute their company’s nondiscrimination and anti-harassment policy to employees annually and/or at anti-harassment training sessions.</p> <p>(The poster is available in English and Spanish.)</p>
New Jersey Family Leave Insurance Law (“NJFLI”)	<p>An employer must both post the NJFLI notice and provide personal notice to employees (i) at the time of hire, (ii) upon request, and (iii) whenever an employee provides notice to the employer that the employee will be taking family leave. A copy of the poster is available for downloading here.</p>
New Jersey Family Leave Act	<p>Employers with 30 or more employees (including employees who work outside New Jersey) must display the official NJFLA poster. A copy of the poster is available for downloading here.</p>
New Jersey Security and Financial Empowerment (“SAFE”) Act	<p>New Jersey employers with 25 or more employees (including employees who work outside New Jersey) must post the SAFE Act notice. The SAFE Act provides job-protected leave for victims (and for family members of victims) of domestic violence or sexual assault. A copy of the notice is available for downloading here.</p>
New Jersey Wage Payment	<p>Employers must advise employees of the law relating to the payment of wages, minimum hourly rates, overtime rates, acceptable deductions from wages, employee rights, and employer penalties. A copy of the poster is available for downloading here.</p>
New Jersey Wage, Benefit, and Tax Laws	<p>Employers must post a notice informing employees of reporting and recordkeeping requirements of eight New Jersey statutes. Additionally, employers must provide all employees hired before November 7, 2011, with a written copy of the notification and give a copy to each new employee at the time of hire. A copy of the poster is available for downloading here.</p>

Statute	Description/Specifications
Unemployment and Temporary Disability Benefits	Covered employers must post a notice informing employees of benefits available to qualifying employees under disability insurance and unemployment compensation. A copy of the poster is available for downloading here .
Workers' Compensation Law	New Jersey law requires every employer to post and maintain, in a conspicuous place or places in and about the worksite, a form prescribed by the Commissioner of the Department of Banking and Insurance ("DBI"), stating that the employer has secured workers' compensation insurance coverage or has qualified with the DBI as a self-insured employer. For insured employers, the notice must include the name of the insurance carrier and other items required by the DBI. Insured employers should obtain copies of the required notice from their insurer.
New Jersey Smoke-Free Air Act	A person (including a business) that has control over an indoor public or workspace must prominently post, at every entrance, a sign stating that smoking is prohibited. The lettering or nonsmoking symbol must be in a contrasting color from the sign's background, and the sign must advise that violators will be subject to a fine. The New Jersey Department of Health and Senior Services provides compliant notices, which are available for downloading here .
New Jersey Child Labor Laws	Employers that employ individuals under the age of 18 must post a printed abstract of the New Jersey Child Labor Laws and a list of prohibited occupations as well as a schedule of hours containing the following information: (i) the names of minors under 18, (ii) the schedule of hours, (iii) the maximum daily and weekly hours, (iv) the daily time record, and (v) daily meal times. A copy of the poster is available here .
New Jersey Right-to-Know Law	The law's posting requirement applies to public employers whose workers may be exposed to hazardous chemicals. Private—as well as public—employers, however, must label containers with their chemical contents and complete an annual chemical inventory survey.
New Jersey Earned Sick Leave Law	The NJDOL has created notices in 12 languages for employers to use to advise employees about the ESLL. Employers must post the notification in a conspicuous place that is accessible to all employees in each of the employer's workplaces, upon hire and upon request by an employee. Employers must also provide employees with a written copy of the notification within 30 days of its issuance. A copy of the earned sick leave poster is available for downloading here .

Statute	Description/Specifications
<i>New Jersey “Wage Theft Act”</i>	The 2019 “Wage Theft Act” requires employers to provide each current employee and each newly hired employee with a copy of a statement to be produced by the NJDOL stating the employee’s rights under the state’s wage and hour laws, the provisions of N.J.S.A. 2C:40A-2 (regarding criminal penalties), and how to file a claim or take an action pursuant to those laws. A copy of the statement is available here .
<i>Worker Misclassification Notice (New)</i>	As of April 1, 2020, employers must “conspicuously” post a notice for employees regarding misclassification, in a “place or places accessible to all employees in each of the employer’s workspaces[.]” A copy of the worker misclassification notice is available for download here .
<i>One Jersey Pledge (New and Optional)</i>	To help stop the spread of COVID-19, New Jersey developed posters for businesses and organizations to post to pledge their commitment to follow health and safety guidelines. The One Jersey Pledge posters are available for download here .

In addition to the above, New Jersey has posting requirements aimed at specific sectors of the labor force. For example, New Jersey employers associated with the sale, rental, or lease of properties are required to advise of the NJLAD in housing. Employers that provide services to the public—including, but not limited to, restaurants, hotels, hospitals, movie theaters, and shopping centers—must advise patrons of the NJLAD in public accommodations. These businesses should display posters in areas readily accessible to the public (for example, near cash registers). Health care facilities must post notices apprising employees of mandatory overtime restrictions.

Employers should also remember the need to similarly comply with posting requirements under federal law; workplace posters from the USDOL are available for downloading [here](#).

Employers may meet many of their posting obligations by purchasing New Jersey and federal “all in one” posters from a reputable supplier and subscribing for updates.

What New Jersey Employers Should Do Now

- Review all posting and notice requirements applicable to your company.
- Update the company’s notices and postings to ensure compliance with current law.
- Keep or take a photo of the posters/notices that are being replaced to maintain a historical record of compliance.

- Review the company’s new hire materials to ensure that they include the required notices.
- Review USDOL guidance regarding electronic posting of federally required notices and posters. (For more information on how to comply with these notices and posters, [see our blog post](#).)
- Monitor the NJDOL website for similar guidance regarding electronic posting and/or distribution of notices and posters.
- If distributing required notices by email, require employees’ written acknowledgment of receipt.
- Consider subscribing with a reputable supplier of federal and state notices.

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