

This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Federal Postings Are Still Required for Remote Workplaces

Under federal law, employers are required to display notices and posters in the workplace advising employees of their rights. Typically, notices and posters are displayed in a conspicuous place that is accessible to all employees, such as on a bulletin board in a break room or cafeteria. Because of COVID-19, many employees are now working remotely, and do not have access to the organization's facility to see these postings.

On December 29, 2020, the United States Department of Labor ("USDOL") issued this new [guidance](#) that addresses the requirements for legally-compliant electronic postings when the workforce is remote. The new guidance addresses postings related to laws that are administered by the USDOL, such as the Fair Labor Standards Act and the Family and Medical Leave Act, which require postings that are accessible at all times to employees ("continuous posting").¹

Under the new guidance, a continuous posting requirement can only be met with an electronic distribution to employees when (1) all employees exclusively work remotely; (2) all employees customarily receive information from the employer via electronic means; and (3) all employees have readily available access to the electronic posting at all times.

The new USDOL guidance indicates that, "if an employer seeks to meet a worksite posting requirement through electronic means, such as on an intranet site, internet website, or shared network drive or file system posting, the electronic notice must be **as effective as a hard-copy posting.**" Affected individuals must be able to see a copy of the required postings at all times without restrictions. An electronic posting will not be considered readily accessible if an employee must specifically request access to a computer or ask for file permissions to view the posting. Sending an email to each employee with a notice as an attachment is also not considered to be readily accessible at all times. In addition, to be in compliance, the employer must take steps to inform employees of where and how to access the notice electronically.

Employers with some employees who work onsite and some who work remotely must continue to provide hard-copy posters at the facility for those who work onsite. It is also advisable for

¹ While this new USDOL guidance does not address federal laws administered by the Equal Employment Opportunity Commission, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act or the Americans with Disabilities Act, or state laws, such as workers' compensation and unemployment, please be aware that those laws also have posting requirements for employers who are subject to them. (Please see this [table](#) to determine whether your nonprofit is covered by specific federal employment discrimination laws that may have posting requirements).

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them to provide electronic access to postings for any employees who do not go to the facility at all.

Employers with fully or partially remote workforces should immediately ensure their compliance with notice requirements, based on this new guidance, and advise employees of where and how they can locate each required notice.

If you have questions about required postings, please contact your PBPA attorney.