

EEOC Boosts Penalties for Posting Violations

The EEOC announced that it is more than doubling the current monetary penalties for notice-posting violations under Title VII, the ADA, and GINA, effective July 5. Employers will want to review their current postings and update them as needed to ensure compliance.

Background

The Civil Rights Act of 1964 (Title VII), the Americans with Disabilities Act (ADA), and the Genetic Information Non-Discrimination Act (GINA), which are enforced by the EEOC, require employers covered by those laws to post notices describing relevant statutory provisions. Notices must be posted in conspicuous locations where notices to employees, applicants, and members are customarily maintained.

The Federal Civil Penalties Inflation Adjustment Act of 1990 allowed federal agencies to adjust certain civil monetary penalties for inflation. Consistent with that law, the EEOC made two inflation adjustments to the maximum penalty for violating the notice-posting requirements of Title VII, the ADA, and GINA — from \$100 to \$110 per violation in 1997 and from \$110 to \$210 in 2014.

Under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, each federal agency is now required to make annual inflation adjustments to the maximum civil penalties under the statutes it enforces, with adjustments determined by fluctuations in the Consumer Price Index for all Urban Consumers (CPI-U). The first such adjustment, to be issued no later than July 1, 2016, was capped at 150% of the penalty in effect when the law was enacted. Subsequent cost-of-living adjustments are to be issued by January 15 of each following year, based on the percentage change between the CPI-U for the month of October preceding the adjustment and the prior year's October CPI-U.



Increased Civil Penalties

On June 2, the EEOC issued a [final rule](#) that adjusts for inflation the civil monetary penalties for violating the notice-posting requirements of Title VII, the ADA, and GINA specified in EEOC regulations. The final rule increases the maximum penalty from \$210 to \$525 for each separate offense. The inflation-adjusted amount will apply only to penalties assessed after the rule's effective date, July 5, 2016.

Comment. As the EEOC explained, the inflation-adjusted penalty would have been \$765 but for the statutory cap. Because the 2015 law restricted the initial increase made after its enactment to \$315 (150% of the penalty of \$210 last reported by the agency), the maximum penalty was limited to \$525.

In Closing

The EEOC is more than doubling the penalties employers face for failing to post required federal notices. The new penalties will take effect in July, and further increases are likely. Employers will want to review and, as needed, update their current postings to ensure ongoing compliance.

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