

MEMORANDUM

TO: Mandatory Poster Agency

FROM: Rhonda R. Ames

DATE: January 20, 2009

RE: Pennsylvania

I have reviewed the poster requirements for Pennsylvania and provide you with the following information:

<u>POSTERS</u>

Pennsylvania provides a state website that provides a list of the required posters. The list can be found at URL address: <http://www.dli.state.pa.us/landi/cwp/view.asp?a=354&q=63528>

Child Labor Abstract

<http://www.dli.state.pa.us/landi/lib/landi/laborlaw/pdf/lhc-5.pdf>

This poster was revised September 2008. Therefore, I would recommend that MPA reprint the poster in its entirety.

****Please be sure that the font throughout the poster is all approximately the same size. It appears that there is one paragraph in the middle of MPA's poster that is a much smaller font than the rest of the poster.****

Hours of Minors Under 18 (chart)

<http://www.dli.state.pa.us/landi/lib/landi/laborlaw/pdf/lhc-17.pdf>

The poster language is correct as is.

Minimum Wage

<http://www.dli.state.pa.us/landi/lib/landi/laborlaw/pdf/lhc-1.pdf>

The poster language is correct as is.

Equal Pay

<http://www.dli.state.pa.us/landi/lib/landi/laborlaw/pdf/lhc-8.pdf>

The poster language is correct as is.

Worker and Community Right to Know

<http://www.dli.state.pa.us/landi/lib/landi/pdf/pennsafe/pdfs/psf-4-4s.pdf>

The poster language is correct as is.

Unemployment Insurance

<http://www.dli.state.pa.us/landi/lib/landi/pdf/dept/posters/uc-700.pdf>

There is one change that needs to be made to the poster. In the middle of the poster, is a website address that currently reads as follows:

“WWW.STATE.PA.US
PA KEYWORD: UNEMPLOYMENT”

Please revise this so that it reads as follows:

“WWW.DLI.STATE.PA.US
KEYWORD: UNEMPLOYMENT”

Unemployment Insurance - State Employees

http://www.dli.state.pa.us/landi/lib/landi/uc/uc_forms/uc-700a_rev_1-04.pdf

It does not appear that MPA has the Unemployment Compensation for State Employees poster. Therefore, I would recommend that it be printed in its entirety.

Workers Compensation

<http://www.dli.state.pa.us/landi/lib/landi/laborlaw/pdf/libc-500.pdf>

The poster language is correct as is.

No Smoking

<http://www.dsf.health.state.pa.us/health/lib/health/tobacco/NoSmokingSignageCMYK.pdf> (No Smoking)

<http://www.dsf.health.state.pa.us/health/lib/health/tobacco/2167SmokePermitted1.pdf> (Smoking permitted)

Pennsylvania passed legislation June 13, 2008, prohibiting smoking. It is clear from the statute requiring posting that the No Smoking sign is to be posted. However, I would recommend that MPA revise the poster language to appear as follows (*please note that it is the intention that the picture of the burning cigarette remain intact; unfortunately, I am unable to reproduce that picture here*)

NO SMOKING

(Exceptions may apply where posted)

Further, MPA needs to make the No Smoking poster much larger than it is currently.

Education Provisions of Human Relations Act

http://sites.state.pa.us/PA_Exec/PHRC/publications/posters/Education.pdf

It does not appear that MPA has this poster printed at all. Therefore, please print the poster in its entirety.

Employment Provisions of Human Relations Act

http://sites.state.pa.us/PA_Exec/PHRC/publications/posters/Employment.pdf

Public Accommodations Provisions of Human Relations Act

http://sites.state.pa.us/PA_Exec/PHRC/publications/posters/Public%20Accomm.pdf

Fair Lending Practices

http://sites.state.pa.us/PA_Exec/PHRC/publications/posters/Fair%20Lending.pdf

Fair Housing

http://sites.state.pa.us/PA_Exec/PHRC/publications/posters/Housing.pdf

With regard to the above four posters (Employment Provisions, Public Accommodations, Fair Lending, and Fair Housing), I have the following comments:

It appears that in order to save space, MPA removed the bottom portion of each of the posters because each and every one contained the same information in the Warning section, as well as the addresses to file complaints.

Upon reviewing the way MPA has these posters set up, I believe it is too difficult for an individual to know when reading a respective poster, that the Warning and the addresses are actually to be on every single one of the four posters.

Therefore, I strongly recommend that MPA reprint each of these posters with the Warning and address section printed on each individual poster.

<u>FLYERS</u>

Abstract of Child Labor Law - Please revise the flyer language to read as follows:

Abstract of Child Labor Law (Title 43 Pennsylvania Statute §63)

“It shall be the duty of every person who shall employ any minor, under the age of eighteen years, to post and keep posted, in a conspicuous place in every establishment wherein said minor is employed, permitted or suffered to work, a printed abstract of the section of this act . . .”

Minimum Wage - Please revise the flyer language to read as follows:

Minimum Wage (Title 43 Pennsylvania Statute §333.108)

“Every employer subject to this act shall keep a summary of this act and any regulations issued thereunder applicable to him or her, posted in a conspicuous place where employees normally pass and can read it.”

Equal Pay - Please revise the flyer language to read as follows:

Equal Pay (Title 34 Pennsylvania Code §9.63)

“Employers who employ persons of both sexes shall post the abstract of the Equal Pay Law (43 P.S. §§36.1 - 336.10) provided by the Department.”

Unemployment Compensation - Please revise the flyer language to read as follows:

Unemployment Compensation (Title 43 Pennsylvania Statute §805)

“Each employer shall post in a conspicuous place, or places, in his establishment, or establishments, any printed statement or notice required by the rules and regulations of the department.”

Workers Compensation - Please revise the flyer language to read as follows:

Workers Compensation (Title 77 Pennsylvania Statute §501)

“Every employer shall post a notice at its primary place of business and at its sites of employment in a prominent and easily accessible place, including, without limitation, areas used for the treatment of injured employees or for the administration of first aid, . . .”

Worker and Community Right to Know - Please add the following language to the flyer:

Worker and Community Right-to-Know (Title 35 Pennsylvania Statute §7307)

“Workplace postings. -- Every employer shall prominently post in every workplace, in a location or locations where notices to employees are normally posted: . . .Lists of all hazardous substances and special hazardous substances found in that workplace . . .”

Please provide a section entitled “**Also Included**” and list it as follows:

Also Included:

Fair Employment Practices
Fair Housing Practices
Public Accommodations Notices
Fair Lending Practices
Fair Educational Opportunities Act

Clean Indoor Air Act - Since it is apparent that space will be an issue on the flyer, I would recommend that MPA add the “Clean Indoor Air Act” to the “Also Included” section.

ASSURANCE OF VOLUNTARY COMPLIANCE
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An Assurance of Voluntary Compliance (“AVC”) was signed in 2008. The following provides for a partial summary of the AVC:

Permanently enjoined from violating the following:

- 1.√ Using a company name in any solicitation which includes words/terms that mislead recipients to believe the solicitation is from a government agency, a company contracting with a government agency/entity in a non-commercial activity, including but not limited to use of the words “agency,” “mandatory,” “education” and “research” in a company name.
2. Use any solicitation materials, including envelopes or exterior mailings, that have the tendency to mislead persons to whom the solicitation is direct to believe that they are a government agency, have a contract with a government agency to provide a product, or that the material is coming from a government agency to provide a product, or that the material is coming from a government agency, including but not limited to:
 - a. Use words such as “government information” or “official business”;
This is correct as to the flyer. MPA needs to ensure compliance with this as to envelopes.
 - b. Use of symbols that include the outline of the US, Pennsylvania, the seal of PA or any PA agency/department, or symbol similar to the seal of PA or PA agency/department;
This is correct as to the flyer. MPA needs to ensure compliance with this as to envelopes.
 - c. Use the term “confidential”, “important information”, or any terms of similar import when referring to solicitations;
This is correct as to the flyer. MPA needs to ensure compliance with this as to envelopes.
 - d. Use of the term “approved” or any terms similar when referring to products;
This is correct as to the flyer. MPA needs to ensure compliance with this as to envelopes.
 - e. Representing that the solicitations were sent via express, registered mail, special delivery, or any other form of mail or delivery other than the rate that actually applies, such as bulk rate or first class mail;

This is correct as to the flyer. MPA needs to ensure compliance with this as to envelopes.

- f. Representing on envelopes/exterior mailings that an enclosed solicitation requires immediate or other mandated response;

MPA needs to ensure compliance with this as to envelopes/mailings.

- g. Use of notice numbers or business ID numbers, unless there is a specific business purpose for the designation;

This is correct as to the flyer. The flyer has “Key Code:”. MPA needs to ensure compliance with this as to envelopes.

- h. Use of names of state, local, or federal departments that are non-existent or do not represent actual entities, departments or divisions;

This is correct as to the flyer.

- i. Referring to any possible civil or criminal penalties, or other governmental actions that may occur or be imposed for failure to comply with the workplace poster requirements that are incomplete, inaccurate or suggest that penalties will be imposed for failure to purchase MPA’s product; and

The flyer contains the statement that “An employer found to be in violation of State or Federal Laws by willfully failing to post up-to-date OSHA posters may be subject to monetary penalties of up to \$7000, as well as exposure to civil liability actions.” This is the same statement that is on every other flyer. I believe MPA is in compliance.

- j. Representing, by use of a company name or otherwise, that MPA is engaged in a governmental or other non-commercial activity, including but not limited to research, education, or issuance of public service or like advisories. Notwithstanding the foregoing, this provision does not preclude MPA from providing businesses with advice or recommendations, provided that the disclaimers required below are made in a clear and conspicuous manner as required by the AVC.

I find MPA to be in compliance with this provision as the flyer references “The Pennsylvania Labor Law Poster Service.

- 3. Representing that MPA is the sole source of notices or posters or that these products must be purchased from MPA to comply with any law.

MPA makes no reference to being the sole source of notices or posters or that the product has to be purchased from MPA to comply with the law.

- 4. Representing that a failure to respond, or a delay in responding, to an advertisement or offer may result in negative consequences, legal or otherwise, including but not limited to use of numbered notices , (ie. “2nd Notice”, etc.)

MPA has the following statements in the flyer: “Compliance with State and Federal posting requirements may be achieved by responding to the order form below. Please Respond Today to the Enclosed.” It does not state anything with regard to failing to respond or delaying in responding would have negative consequences. Therefore, I believe MPA has complied.

- 5. Falsely representing any material fact in a solicitation for MPA’s products, including but not limited to:

- a. The legal requirement(s) of workplace postings;

I believe MPA will be in full compliance once the recommended flyer changes have been made.

- b. Possible civil or criminal penalties, or other governmental actions that may be imposed on businesses or individuals for failure to comply with workplace postings; and

The only representation MPA makes regarding monetary penalties and civil liability actions is with regard to OSHA. This statement is not a false representation of a material fact. Therefore, I believe MPA is in compliance with this requirement.

c. Existence of new or recently imposed legal requirements attendant to workplace postings.

MPA notes that the Federal Minimum Wage has been “Updated”, and also states that Equal Employment Opportunity has been “Newly Revised.” These are both true, therefore there is no false representation, and I believe MPA is in compliance.

6. Clearly and conspicuously disclose in all solicitations for the sale of workplace posters that:

a. The [identity of person or entity offering to sell the posters] is not a government agency or affiliated with a government agency and does not have any authorization from any state or governmental agency to supply posters to the public;

****MPA states that “The Pennsylvania Labor Law Poster Service is a non-governmental organization providing mandatory workplace posters and does not have a contract with any government agency.” While I believe this one sentence partially states what is required, I question whether MPA is in full compliance with the AVC requirement.**

b. As to mandatory workplace posters: similar posters may be available free of charge from other sources, including governmental agencies;

MPA does state that “Certain posters may be available free from the issuing governmental agencies.” Therefore, I believe MPA is in compliance.

c. As to non-mandatory workplace posters (posting not required by PA or Federal law): posters containing the same or similar information may be available free of charge from other sources, if true.

Again, I believe the statement that “Certain posters may be available free from the issuing governmental agencies” provide compliance.