



New York State Department of Labor
Andrew M. Cuomo, Governor
Colleen C. Gardner, Commissioner

February 3, 2011

[REDACTED]

Re: Request for Opinion
Posting of Notices
RO-10-0118

Dear [REDACTED]:

I am writing in response to your letter of July 27, 2010 concerning various elements of posting requirements found in New York law . You indicate that you are a commercial subcontractor but that "all of [y]our NYS as well as Federal posters" are located in your company's offices in Farmington, New York.

As a commercial subcontractor your worksites are at various locations, over various periods of time. You indicate that posting required notices at each of these locations, each time a work site is set up, would be impractical and ask whether the posters could be maintained in a binder with a poster indicating the location of the binder. You indicate that, "This would give all workers access to the information." You ask whether this alternative procedure would satisfy the various posting requirements of New York's Labor Law..

While we have not previously issued an opinion on the matter of centralizing all posters in a binder located at a central location, in 2009 this office issued an opinion concerning the posting of required notices electronically. In that opinion we stated:

...requirements to post information are not uniformly satisfied by providing a copy of the posting, electronic or otherwise, to the employee. The posting requirements were presumably intended to ensure that employees had *continuing* and easy access to information regarding their rights and the employer's duties under the Labor Law. This continuing access recognizes that employees could, at any time, need

Phone: (518) 457-4380 Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

the information contained in the poster and that such information would be most meaningful when such need arises. For example, a poster regarding Workers' Compensation coverage might pass unnoticed by an employee who is in good health but would provide invaluable information to the same employee after he or she has been injured on a job. Similarly, a poster regarding protections against workplace discrimination would take on greater import for an employee who feels victimized by such behavior. While an employee might not read and digest all the content of the poster until the time the information is needed, constant viewing of the poster in a common area would have alerted him or her to the fact that rights and obligations existed under law. Neither of these benefits is derived from a poster provided one time to employees at the time of hiring or information posted via computer. Nor are employees likely to scroll through numerous pages of intranet posted notices to find pertinent notices should they become injured or suffer some other form of harm at work. This approach would not only be tedious but it also presupposes that employees realize there is a notice that is pertinent to their circumstance and should be searched for in order to obtain important information regarding their rights. In fact, posting requirements recognize that we can presuppose just the opposite; hence the requirement for conspicuous, continuous notice.

The thinking and concerns set forth in this opinion apply equally to the proposal to bundle all notices into a binder that will be located away from the worksites where workers are located. Such a practice would not provide employees with the conspicuous, continuous notice required by law.

As to whether the approach that you are proposing would be compliant with posting requirements set forth in federal statutes or regulations, the Department does not have jurisdiction over enforcement of such laws and is not in a position to offer an opinion on alternative methods of posting any Federally-mandated posters.

This determination is based exclusively on the facts and circumstances described in your letter dated July 27, 2010, and is given based on your representation, express or implied that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letters and email might require a conclusion different from the one expressed herein. This opinion cannot be used in connection with any pending private litigation concerning the issue addressed herein. If you have any further questions, please do not hesitate to contact me.

Very truly yours,



Victor M. DeBonis
Senior Attorney

cc: Carmine Ruberto