



# Know Your Rights

## Be sure to post/distribute the new EEOC poster

by: Robert C. Goldberg, BTA General Counsel

Over the years, many dealers have had to address complaints filed by current or former employees alleging violations of the laws enforced by the Equal Employment Opportunity Commission (EEOC). A complaint to the EEOC is a prerequisite to the filing of a private lawsuit. Following an investigation, the EEOC may issue a Notice of Right to Sue (i.e., a “right-to-sue letter”) to the complainant. The right-to-sue letter does not conclude a violation; it is merely an authorization of the individual to address the matter in a federal court.

In its investigation, the EEOC often visits the dealership to interview individuals and evaluate the work environment. One of the first things the EEOC will request during its visit is to view where federal disclosures are displayed for employees to review. On Oct. 19, 2022, the EEOC released an updated “Know Your Rights” poster. This new poster replaces the previous “EEO is the Law” poster that employers are required to display. The EEOC explains that the updated “Know Your Rights” poster is available in both English and Spanish, and will be available in additional languages at a later date.

Covered employers (including private employers with 15 or more employees) must place the poster in a conspicuous location in the workplace where notices are typically posted. Historically, you would find the EEOC poster (as well as additional posters required by federal and state law) in a break room or lunchroom. With the proliferation of remote work, the EEOC encourages employers to also post a notice digitally on a website or otherwise make them available to employees electronically.

According to the EEOC press release, the “Know Your Rights” poster includes the following changes from the prior “EEO is the Law” poster:

- Updated language and formatting;
- Explanation that harassment is a prohibited form of discrimination;
- Clarification that sex discrimination includes discrimination based on pregnancy and related conditions, sexual orientation and gender identity;
- A QR code for digital access to the EEOC’s website on how to file a charge;
- And information about discrimination based on pay inquiries and other forms of discrimination for federal contractors.



It will now be even easier for employees to access, understand and enforce their rights to be free from unlawful workplace harassment and discrimination — with just the aim of their smartphones or other devices. This proves that there can truly be a QR code for anything and everything — in this case, saving workers precious seconds and adding convenience and expediency when they seek to file an EEOC charge against their employers, make an inquiry or learn more about the laws enforced by the EEOC.

Failure to comply with the EEOC’s posting requirement may not only result in financial penalties (currently a maximum of \$612, adjusted annually) but further compromise a dealer’s defenses to an EEOC claim. The EEOC has not announced a deadline for replacement, but dealers should swap out their posters as soon as possible. A post on your dealership’s website for remote workers should also be considered. The notice does not need to be available to all website visitors, but can be in an employees-only section. The notice may also be sent electronically to all employees, but this does not eliminate the need to physically post it inside the business. This update must be made, so do not put it off. ■

*Robert C. Goldberg is general counsel for the Business Technology Association. He can be reached at [robert.goldberg@sfbg.com](mailto:robert.goldberg@sfbg.com).*

