

Client Alert

A report
for clients
and friends
of the firm **October 2004**

Amendment to New Jersey's Conscientious Employee Protection Act Modifies Employer Notice Obligations

On September 14, 2004, Governor James McGreevey signed legislation amending Section 19-7 of the Conscientious Employee Protection Act ("CEPA"), commonly referred to as New Jersey's whistleblower statute. The amendment modifies an employer's notice obligations under CEPA and became effective upon signing.

Employers' Prior Obligations

Prior to the September 14th amendment, Section 19-7 required all employers to conspicuously display a notice of employee protections and obligations under CEPA. The notice also had to include the name of the person(s) the employer had designated to receive written notifications pursuant to Section 19-4 of CEPA. That provision requires an employee to notify a supervisor, in writing, of a particular activity, policy or practice which he or she believes violated a law, rule or regulation promulgated pursuant to law, prior to disclosing that activity, policy or practice to a public body.

Employers' New Obligations

The amendment to Section 19-7 of CEPA enhances an employer's notice obligations. Not only must an employer "conspicuously display" notices of employee protections and obligations under CEPA, but now an employer with 10 or more employees must also annually distribute the notice to its employees, by written or electronic means. In addition to advising employees of their protections and obligations, the notice must now also include information as to "rights and procedures."

Further, the notice must be in English, Spanish and, at the employer's discretion, any other language spoken by the majority of its employees. The requirement as to posting and distributing a Spanish version of the notice

apparently applies whether or not an employer has any Spanish-speaking employees. As before, the notice still must include the name of the individual to whom Section 19-4 notifications can be made.

The amendment directs the Commissioner of Labor to make available to employers a text of a notice that fulfills the new requirements of Section 19-7. As of this date, the Commissioner's office has not yet prepared such a notice.

Implication of the September 14, 2004 Amendments For Employers

Although the Amendment to Section 19-7 of CEPA is now in effect, it is unclear what information should be included in the mandated notice beyond the previous requirements. The Commissioner's office has advised that within the next few weeks, it expects to issue a notice that employers may use to fulfill their notice obligations. Thus, employers may wish to wait for the Commissioner to issue the new notice before making any modification to their current notice. We will issue a follow-up alert when the Commissioner's office issues the new notice. Employers who wish to modify their CEPA notices now should contact counsel.

**NEW YORK • LOS ANGELES • WASHINGTON
BOSTON • BOCA RATON • NEWARK
NEW ORLEANS • PARIS**

Client Alert

Proskauer's 160-plus Labor and Employment lawyers are capable of addressing the most complex and challenging labor and employment law issues faced by employers. For more information on this matter, please contact:

Wanda Ellert
973.274.3285 – wellert@proskauer.com

Proskauer Rose is an international law firm that handles a full spectrum of legal issues worldwide.

This publication is a service to our clients and friends. It is designed only to give general information on the developments actually covered. It is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice or render a legal opinion.

© 2004 PROSKAUER ROSE LLP. All rights reserved.