

Client Alert

A report
for clients
and friends
of the firm May 2005

New Jersey DOL Issues New Version of Whistleblower Notice

Several months ago, the Commissioner for the New Jersey Department of Labor issued a new notice of employee rights under the Conscientious Employee Protection Act ("CEPA," also known as New Jersey's whistleblower law). The Commissioner has just issued a revised version of the new notice. As we noted in our November 2004 Client Alert, this notice must be posted in both English and Spanish language versions. Additionally, employers with 10 or more employees must annually distribute the notice to employees by written or electronic means.

Section 7 of CEPA states that the notice of rights "shall include the name of the person or persons the employer has designated to receive written notifications pursuant to section 4 of [the] Act." Section 4 states that the protections of CEPA will not apply to an employee who makes a disclosure to a public body, unless the employee has first brought the supposed improper activity, policy or practice to the attention of a supervisor by means of a written notice and has afforded the employer a reasonable opportunity to correct the problem. That requirement, however, does not apply if the employee is reasonably certain that one or more supervisors are aware of the activity, policy or practice, or, if there is an emergency situation and the employee reasonably fears physical harm if disclosure is made. The language of section 4 has been added to the CEPA notice in the new version issued by the Commissioner.

The revised notice, like the original version issued last November, has a place to fill in the name and contact information for an individual "designated to answer your questions or provide information regarding your rights and responsibilities under this act." There is no indication in the new notice, however, that the person designated is an individual

to whom written notice of an improper activity, policy or practice should be given pursuant to section 4. Thus, employers should consider whether to modify the new notice to add language pursuant to section 7, stating that the contact person has also been designated to receive such written notices. Further, although the notice contains space for one contact person to be designated, it appears permissible to add additional contact persons, as an employer may find appropriate.

Currently, a copy of the new CEPA notice is available on the New Jersey Department of Labor website at [http://www.state.nj.us/labor/AD-270\(11X17\).pdf](http://www.state.nj.us/labor/AD-270(11X17).pdf). Alternatively, employers may contact the New Jersey Department of Labor at 609-777-3200 or an outside vendor of required legal postings for the new notice. Please also feel free to contact your Proskauer relationship attorney or either of the attorneys listed below on this alert for a copy of the new notice or for additional information concerning it.

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Proskauer's Newark office has 40 attorneys with significant and diverse experience in labor, employment, employee benefits and immigration law. The following individuals serve as contact persons for this alert and would welcome any questions that you might have. For more information on this matter, please contact:

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