

# Client Alert

A report  
for clients  
and friends  
of the firm      November 2004

## New Jersey DOL Issues New CEPA Notice

Pursuant to the recent amendment to Section 19-7 of the Conscientious Employee Protection Act ("CEPA," also known as New Jersey's whistleblower law), the Office of the Commissioner for the New Jersey Department of Labor has issued a new notice of CEPA rights to be conspicuously displayed in the workplace. The new 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. For more information regarding this amendment, please visit our website at [www.proskauer.com](http://www.proskauer.com) and click on our earlier October 2004 Client Alert on this subject.

It should be noted that Section 19-7 requires the notice to "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 new notice issued by the Commissioner has a place to fill in a name and contact information for an individual "designated . . . to answer your questions or provide additional information regarding your rights and responsibilities under [the] act." There is no indication in the new notice 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 reflecting the requirements of Section 4, such as a statement that the employee should give written notice to the designated contact person (or persons) of any activity, policy or practice that the employee believes violates a law, rule or regulation, and allow the employer time to correct any improper conduct. The employer may also wish to add a statement that failure to do so may result in loss of protection under the Act.

To receive a copy of the new CEPA notice issued by the Commissioner, employers may contact Sal Anderton in the New Jersey Department of Labor at 609-292-1700. Alternatively, they may contact legal counsel or an outside vendor of required legal postings for a new notice.

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### Client Alert

**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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