



LABOR & EMPLOYMENT DEPARTMENT

ALERT

CEPA'S POSTING REQUIREMENT FOR NEW JERSEY

In the fall of 1986, New Jersey enacted the Conscientious Employee Protection Act (CEPA), often referred to as the "whistleblower" statute. In passing that legislation, New Jersey joined a growing number of states that had enacted laws to protect the employment of workers who "blow the whistle" on employer practices that are unlawful or simply contrary to the public good. CEPA prohibits an employer from retaliating against an employee (i.e., demotion, suspension, termination, reduction in pay or hours) who has complained, reported, or objected to an employer practice or conduct that the employee reasonably believes is unlawful.

Since its enactment, CEPA has required employers (1) to "conspicuously display" notices to their employees of the protections afforded by the Act and (2) to use "other appropriate means" to keep employees so informed. The Act, however, did not specify how this was to be done or what format or language was to be used. The only specific requirement CEPA mandated with respect to the notice was that it must include the name of the person or persons the employer designated to receive written notifications pursuant to the Act.

However, on September 14, 2004, New Jersey sought to correct this lack of direction by amending CEPA's notice provisions. As a result, CEPA now requires, for those employers with 10 or more employees:

1. that an employer **conspicuously display, and annually distribute** to all employees, **written or electronic notices** of its employees' protections and obligations, rights and procedures under CEPA

2. that the notice posted or distributed to **employees be in English and in the language spoken by the majority of the employer's employees, if that is not English, Spanish and at the employer's discretion, any other language spoken by the majority of the employer's employees**
3. that the notice include the name of the person or persons the employer has designated to receive written notifications

While the amendment does not set forth exactly what the notice needs to say, it does direct the Commissioner of Labor to make available the text of a notice in both English and Spanish, as well as any other language requested by an employer (apparently at a cost to employers) fulfilling the requirements of the amendment that is suitable for displaying and distribution. The New Jersey Department of Labor has prepared and made available sample notices in English and Spanish. The notices are to be displayed where the employer posts the other required employment-related postings and they are to be annually disseminated to employees, in both English and Spanish. These samples are available by going to <http://lwd.dol.state.nj.us/labor/> and clicking on the button on the home page for Conscientious Employee Protection Act "Whistleblower Act."

Employers having any questions concerning the obligation to display and distribute the CEPA notice or about CEPA itself should consult one of Fox Rothschild's Labor & Employment attorneys at www.foxrothschild.com.