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Labor & Employment Client Advisory

November 9, 2004

EMPLOYER ALERT: NEW CEPA NOTICE FORM ISSUED BY NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

This Alert is an important follow-up to an Employer Alert we issued last month regarding the recent change to the New Jersey Conscientious Employee Protection Act ("CEPA"). The change, which went into effect immediately, introduced a new notice requirement applicable to all New Jersey employers with ten or more employees. CEPA prohibits employers from taking retaliatory actions against an employee who discloses or threatens to disclose, objects to, or refuses to participate in, any activity, policy or practice that the employee reasonably believes is illegal, criminal, or incompatible with a clear mandate of public policy concerning public health, safety or welfare.

In addition to the existing requirement that employers post a notice of employee rights, CEPA now also requires employers with at least ten employees to take the additional step of distributing, on an annual basis, a written notice of employees' protections, obligations, rights and procedures under the law. The notice may be distributed either on paper or in electronic form. Both the traditional posting and the new annual notice must be in at least English and Spanish, and, at the employer's discretion, may be in any other language spoken by a majority of the employer's employees.

The New Jersey Department of Labor and Workforce Development has just issued its compliant notice form, which may be distributed to employees and used as a wall posting as well. It may be obtained directly from the Department by calling (609) 777-3200 or from the Department's website at <http://www.state.nj.us/labor/CEPA270.1.pdf>.

Our recommendation for employers with ten or more employees is that they distribute the required notice immediately and then again at the beginning of each fiscal or calendar year. The notices may be distributed through any written or electronic means which provides for direct receipt by employees, such as through envelope stuffers in employee paychecks, memos to employees, or electronic distribution by e-mail. While not required, a distribution method which allows you to obtain proof of receipt is preferable.

You may wish to give out CEPA notices at the same time as other recommended distributions, such as the workplace harassment policy. This would also be an excellent time to implement annual training of employees and supervisors regarding their obligations and rights with respect to workplace harassment. The existence of such regular distribution of the workplace harassment policy and training can be a

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significant factor in avoiding liability if an employee sues your company.

Employers with any questions regarding CEPA compliance or harassment policies or training should contact David Rapuano or any member of Archer & Greiner's Labor and Employment Law Department at (856) 795-2121 or visit our website at www.archerlaw.com.