



Worker Freedom from Intimidation Act

—Background—

On July 26, 2006, then Governor Jon Corzine signed into law the “Worker Freedom from Intimidation Act.” This law prohibits an employer from requiring its employees to attend any meeting in which the purpose of the meeting is to communicate the employer’s opinion about “religious or political matters.” In addition, the law prohibits an employer from requiring employees to participate in any communications with the employer concerning the employer’s view of “religious or political matters.” The law covers all full- and part-time employees in both the private and public sectors.

—Requirements—

The law defines a “political matter” as “political party affiliation and decisions to join or not join or participate in any lawful political, social or community activity.” Thus, the law’s broad definition could very easily include employer-sponsored charitable activities, such as a United Way campaign. Unfortunately, the law does not define the term “communication” as used in the statute, which presents several questions for employers. For example, it is unclear if company-wide emails, posters displayed in break rooms, or notices included with employee paychecks constitute a communication and trigger the requirements of the law.

—Exemptions—

The law includes an exemption for certain employers. Specifically, (1) religious organizations, (2) political organizations or parties, and (3) educational institutions are permitted to communicate with their employees about religious or political matters.

In addition, the law contains an exemption that permits any employer to host a meeting and/or send a communication to its employees about “religious or political matters,” provided that the employer notifies the employee of her/his right to refuse to attend the meeting or disregard the communication.

Former Governor Jon Corzine issued a signing statement, which explained his interpretation of the types of “communications” covered by the law. The statement noted that the former Governor did not interpret the plain language of the law “as prohibiting the mere sending of an email by an employer, which employees are free to delete or disregard.” Instead, the Governor noted that the use of the word communications “...is intended to cover interactive communications such as video conferences and teleconferences and not simple emails.”

—Penalties—

The law provides that if an aggrieved employee wishes to file a civil action, they must do so within 90 days of the date of any alleged violation. Employees who prevail in court are eligible to receive payment of any lost wages or benefits, to be reinstated to a former or equivalent position within the company, and to receive payment of attorneys' fees. Employees who prevail in court are also eligible for restraints against further violation. Additionally, employers that violate the law may face either triple damages or a civil fine of up to \$1,000 for a first violation and up to \$5,000 for each subsequent violation. Further, the law expressly prohibits retaliation by employers. Specifically, an employer may not terminate, discipline or penalize an employee because the employee makes a good faith report of a violation or suspected violation of the statute.

—Compliance Strategies—

Employers should consider instituting company-wide policies regarding meetings and emails in order to demonstrate their commitment to compliance. For example, employers may wish to include disclaimers in emails and materials regarding charitable fundraising to remind employees that they need not participate in these activities. Alterations to an employee handbook or manual might also serve as a useful reminder to managers and employees of the law's requirements.

—For More Information—

If you need additional information, please contact NJBIA's Member Action Center at 1-800-499-4419, ext. 3 or member411@njbja.org.

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This information should not be construed as constituting specific legal advice. It is intended to provide general information about this subject and general compliance strategies. For specific legal advice, NJBIA strongly recommends members consult with their attorney.