

## Your Rights Under the NJ Public Employees' Occupational Safety & Health Act

*The Public Employees' Occupational Safety and Health Act* was enacted by the New Jersey legislature in 1983. The law's purpose is to ensure that all New Jersey public workers are provided with a safe and healthful work environment, free from recognized hazards.

Two state agencies implement this law. The NJ Department of Labor (DOL) is the lead agency responsible for administering and enforcing the law. The DOL also responds to complaints concerning **safety** hazards. The Department of Health and Senior Services (DHSS) responds to complaints regarding **health** hazards.

The Act includes minimum standards addressing many, *but not all*, safety and health problems. Because New Jersey has an occupational safety and health plan approved by the U.S. Occupational Safety and Health Administration (OSHA), state standards must be as least as protective as federal OSHA standards. The DOL and DHSS both inspect workplaces and the DOL can issue "orders to comply" to employers. In occasional cases, DOL issues financial penalties to public employers that violate the law.

This law, despite limitations, is an important tool for winning better working conditions. However, using the law is most effective as part of a union plan for safety and health that includes member education, active rank and file involvement and contractual provisions.

The worker and union rights referred to in this fact sheet are based on the text of the *Public Employees' Occupational Safety and Health Act*, P.L.1983,c.516 as amended through July 25, 1995 and the rules that implement it, which are called the *Occupational Safety and Health Procedural Standards for Public Employees*, Chapter 110.

Note: Numbers preceded by **PS** mean reference to the Procedural Standards; other references refer to the Act.

# Worker and Union Rights Under the PEOSH Act

*The term “PEOSH” refers to the DOL and/or the DHSS Public Employee Occupational Safety and Health programs, as appropriate.*

## Inspections

- 1) The right to file a written complaint with PEOSH about unsafe and unhealthy working conditions. 34:6A-36a. & 34:6A-38a.
- 2) The right to file a written complaint with PEOSH about a violation of a safety or health standard or about a violation of the general duties clause of the Act. 34:6A-36a. & 34:6A-38a. & 34:6A-33.
- 3) The right *not* to be identified by PEOSH to anyone as the source of the complaint without the authorization of the complainant. 34:6A-36a.
- 4) The right to get an on-site inspection from PEOSH “...at the earliest time possible.” 34:6A-36a. & 34:6A-38a. The right to get an on-site inspection within 24 hours of an imminent danger situation, within 3 working days for potentially serious hazards, and within 10 working days for other than serious or regulatory situations. PS 12:110-4.7(c) 2.
- 5) The right to receive in writing from PEOSH any determination that there are no reasonable grounds to believe that a violation or danger exists and, therefore, that no inspection is warranted. PS 12:110-4.7 (a).
- 6) The right to challenge this determination. PS 12:110-4.8.
- 7) The right (including the right of the complaining party) to be present at and participate in *all* phases of the inspection, from the opening conference through the closing conference. 34:6A-36 b. & 34:6A-38 b. PS 12:110-4.4 (h).
- 8) The right to have the employee or employees filing the complaint and the employee representative accompany the PEOSH inspector to aid the inspection. 34:6A-36b. & 34:6A-38b.
- 9) The right of “any” employee accompanying the inspector to receive payment for “normal wages” from the employer for the time spent during the PEOSH inspection. 34:6A-36c. & 34:6A-38c.
- 10) The right of *any* worker to inform the PEOSH inspector during the inspection of workplace hazards. PS 12:110-4.6.

## **Inspection Results**

11) The right of the person (and/or union) who filed the complaint and a member of the public to receive from PEOSH a copy of any notice to comply given to the employer. 34:6A-4b.

12) The right to have any notice to comply posted by the employer at or near each area where a violation of the Act occurred. 34:6A-4b.

## **Protection from Employer Reprisal**

13) The right not to be fired or discriminated against in any way for exercising rights under the Act or for safety and health activity. (The right to walk off the job is *not* protected; however there can be “imminent danger” situations when a worker may be protected for refusing to do a job.) 34:6A-45b. & 34:6A-48 and PS 12:110-7.9.

## **Appeals of PEOSH Enforcement Actions**

14) The right to receive a copy from PEOSH of any employer requests to DOL to delay financial penalties for Act violations and the right to comment to the DOL within 10 days. PS 12:110-4.11.

15) The right to contest *any* provision of an order to comply issued to an employer with the Occupational Safety and Health Review Commission, provided it is contested within fifteen working days. 34:6A-41c.

16) The right to participate in any proceeding regarding the employees’ employer before the Review Commission. 34:6A-42d.

17) The right to appeal a decision of the Review Commission to the Superior Court. 34:6A-43.

## **Information About Hazardous Conditions**

18) The right to review copies of the Act, appropriate standards, and regulations from the employer upon request. PS 12:110-3.5.

19) The right of the employee representatives and each supervisor to receive a copy of the employer’s “written occupational safety and health program applicable to the establishment.” PS 12:110-3.5.

20) The right to receive training about hazards covered by standards issued under the Act. (Training about chemical hazards must also be provided under the *Worker and Community Right to Know Act*).

21) The right to observe and receive results of any employer measurement for noise, dust, fumes, or other hazards covered by standards issued under the Act. 34:6A-40c.

22) The right to receive a copy of your personal medical records or medical test results kept by the employer.

23) The right to review and copy injury and illness logs which the employer is required to maintain. PS 12:110-5.7.

**This fact sheet provides an overview of worker rights under the PEOSH Act. Consult the actual law, NJSA 34:6A-25 et seq and its regulations, Chapter 110, *Occupational Safety and Health Procedural Standards for Public Employees* for more information. Federal OSHA standards are available on-line at [www.OSHA.gov](http://www.OSHA.gov); other standards enforced under the PEOSH Act are available from the DHSS or DOL.**

- N.J. Work Environment Council (May 14, 2001)

**Produced by the New Jersey Work Environment Council (WEC). For assistance with filing a PEOSH complaint, speakers, or information about how your union can affiliate with WEC, call (609) 695-7100 FAX (609) 695-4200.**