NORRIS, MURRAY & PELOQUIN, LLC
Legal Counsel to Employers and Schools

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New Name; Same Focus

Norris, Murray & Peloquin, LLC (NMP) began August 1, 2018. This issue marks the end of our first full month and our first NMP Client Advisor.

Leo Peloquin, Tim Norris and Melissa Murray remain in the full time practice and Phil Collins continues to work in an of counsel capacity. Our work is ably supported by our Legal Assistants Tina McCormick and Julie Pappas, and Law Clerk Antoine Fares.

Please update your contacts with our email addresses and check out our website at nmplabor.com, or by using the QR code below with your mobile device. ♣

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Revised Equal Pay Act Now in Effect

Massachusetts Equal Pay Act ("MEPA") took effect on July 1, 2018. As we have reported in previous Advisors, the revised statute expands the concept of "equal pay for equal work" to a "comparable worth" model that requires equal pay for jobs that are deemed comparable because they require substantially similar skill, effort, and responsibility, and are performed under similar working conditions.

Different pay is allowed in comparable jobs only where the pay differences are related to seniority, merit, productivity, experience, job-related education and training, work location and required travel. The Attorney General has issued guidance and a spreadsheet to help employers perform a self-evaluation. The self-evaluation, if sufficiently comprehensive, acts as a safe harbor to liability as long as the employer is taking reasonable steps to remediate any gender related pay discrepancies revealed by the evaluation.

The statute also prohibits employers from asking candidates about pay history, and prohibits employers from restricting employee communications about their own wages. Massachusetts employers should consider conducting the evaluation every three years to avoid getting caught up in what is likely to become a popular area of the law among employee advocates. ♣

Cancer Presumption Expands to 111F: Can the Employer Demand Bargaining?

Previously available only for disability retirements, starting October 22, firefighters will get the benefit of the cancer presumption to go on injured leave. Specifically, after five years on the job, a firefighter who contracts any of a long list of cancers is presumptively entitled to injured leave pay under MGL c. 41, §111F, and medical reimbursement (§100). To overcome the presumption, an employer will have to prove that risk factors, accidents, or hazards unconnected to firefighting caused the cancer. Since MGL c. 41, §111F is a statute that can be modified through bargaining, employers may be able to demand that the unions bargain about this costly change, which may not be covered by insurance available to help employers absorb §111F related costs. Can an employer bargain to eliminate the presumption? (Even if it is legal to do so, it would certainly be difficult). Can an employer demand impact bargaining about the administration of a cancer claim, including a specific policy/process? When the Legislature passes legislation favorable to employers, the unions often demand impact bargaining before implementation. We see no reason why, with this law, the shoe should not be on the other foot. ♣