

NORRIS, MURRAY & PELOQUIN, LLC

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SCHOOL CORNER

The recently enacted Student Opportunity Act provides more funding to districts with high percentages of low-income students and English Language Learners. Districts must submit accountability plans on how additional funding would be used by April 1, 2020.



DOT Clearinghouse Rules For FMCSA-Regulated Employers

Beginning January 6, 2020, employers are required to report positive drug results, alcohol test results over 0.04, refusals to test, “actual knowledge” violations, and negative return-to-duty test results to the FMCSA (Federal Motor Carrier Safety Administration) Drug and Alcohol Clearinghouse for employees whose position requires them to possess a Commercial Driver’s License (CDL).

In addition, employers or third-party administrators will be required to query the Clearinghouse for violations that would prohibit an employee or prospective employee from performing safety-sensitive functions. Employers will be required to search the database at least once a year for current employees. A limited query may be done to start, but if records are found during that query, a full query must be conducted immediately. Employee consent is required to perform a query. Drivers who have not completed a return-to-duty test for a previous violation or who refuse to provide consent for a query must be removed from safety-sensitive functions and may face discipline, up to and including termination.

Employers must also amend their policies to reflect that violations will be collected and reported to the Clearinghouse. Employers should be advised that certain changes to drug and alcohol policies, including disciplinary sanctions, may trigger an impact bargaining obligation. Contact your NMP attorney with any questions.

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CERB: City Required To Bargain Over Decision and Impact Of New Food Restrictions

You may recall from our June 2019 Advisor, that the Department of Labor Relations (DLR) in City of Boston, 45 MLC 126 (2019), issued a hearing officer decision that determined that the City’s new food guidelines for its operations room were not mandatory subjects of bargaining as they resulted in a mere inconvenience to employees. On appeal, the Commonwealth Employee Relations Board (CERB) has reversed this decision.

The CERB found that the new restrictions resulted in a material change to the employee’s terms and conditions of employment in that they went from being able to consume food at any time and any place, including while at their workstations, to a situation where that was no longer allowed. The silver lining is that the CERB affirmed the part of the hearing officer’s decision that determined the City was not required to bargain over the requirement that employees use spill-proof containers for drinks. The CERB concluded that this new requirement did not similarly prevent employees from drinking a beverage anywhere or anytime.

