

NORRIS, MURRAY & PELOQUIN, LLC

Legal Counsel to Employers and Schools

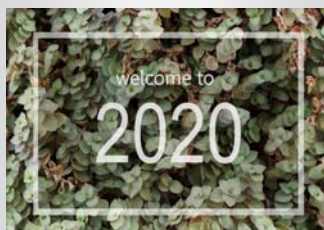
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SCHOOL CORNER

On January 2, the DESE and the Massachusetts Rehabilitation Commission (MRC) issued a joint advisory regarding Pre-Employment Transition Services (Pre-ETS) offered by MRC. The advisory describes the services, who is eligible and how to refer students. MRC offers Pre-ETS to students with disabilities ages 14-21. A copy of the advisory is available on our website.



CONTACT US

Leo Peloquin

lpeloquin@nmplabor.com

Tim Norris

tnorris@nmplabor.com

Melissa Murray

mmurray@nmplabor.com

Philip Collins

pcollins@nmplabor.com

Antoine Fares

afares@nmplabor.com



nmplabor.com

Ethics Commission Issues New Advisory On Gifts

The State Ethics Commission (“Commission”) has issued a new advisory addressing restrictions that the State’s conflict of interest law places on gifts given to state, county and municipal employees. The new advisory, *Advisory 19-1: Gifts and Gratuities*, replaces *Advisory 04-02* and provides an updated look at the conflict of interest laws regarding gifts, including an extensive list of frequently asked questions (“FAQ”). The advisory also includes new guidance regarding crowdsourced fundraisers, public employee discounts, complimentary meals, and gifts from lobbyists. The advisory follows the Commission’s October 2019 FAQs for Public School Teachers which addresses gifts and travel expenses for teachers.

As a general reminder, unless an exemption applies, the State’s conflict of interest law prohibits public employees from accepting gifts worth \$50 or more that are given because of their public position, or for or because of an official act he or she has performed or will perform in the future. Gifts valued under \$50 (that are not bribes) may be accepted, however, under certain circumstances an employee may still have to file a disclosure to dispel the appearance of a conflict of interest.

If you have questions about this advisory or a conflict of interest situation, contact your NMP attorney for guidance. The new Advisory is available on our website.

CSC: Racist Behavior Is Grounds For Termination

In *LaVallee v. Boston Fire Department*, D1-19-059 (Dec. 2019), the Civil Service Commission (“Commission”) upheld the termination of a 14-year firefighter who used the n-word while hanging out in the station off duty. LaVallee, a white firefighter with the BFD, walked into the firehouse in a drunken state and sat down in the station’s TV room where on-duty Firefighter CB (“CB”), a black firefighter, was playing a game and talking to his girlfriend on PlayStation. CB heard LaVallee eating behind him and then heard LaVallee say “you fucking [n-word]” and then he cleared his throat and spat. CB’s girlfriend heard the n-word through the PlayStation headset. CB was outraged and immediately left the room to inform his supervisor of the incident. The BFD investigated and LaValle was terminated.

In its decision upholding the termination, the Commission affirmed its position reached in prior decisions that “racist behavior by a public employee is grounds for termination.” According to the Commission, there is no place for such behavior in the workplace and no modification of the discipline was warranted. LaVallee’s claim that alcoholism was to blame was dismissed by the Commission, which noted that he had already received a second chance in 2011 after using the same language.