

THE LAST 60 DAYS OF ACTION IN EMPLOYMENT LAW
Part VI of VI – Miscellaneous Laws

February 5, 2020

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Federal

On December 23, 2019, the National Labor Relations Board returned to former precedent, holding that it will defer to an arbitrator’s decision: when the proceedings were conducted fairly and without irregularities; the parties agreed to be bound by the result; the arbitrator considered the labor violation at issue; and the decision is “not clearly repugnant” to the National Labor Relations Act. See 369 NLRB No. 1.

On December 17, 2019, the National Labor Relations Board held that rules barring employees from discussing workplace investigations are generally legal if they are limited to the period of active investigation. The decision reversed a 2015 decision finding that such policies infringe workers’ rights. See 368 NLRB No. 143.

On December 17, 2019, the National Labor Relations Board overruled its 2014 decision that allowed employees to use their work email for union business, holding that employees have no statutory right to use employer equipment, including any information technology resources, for National Labor Relations Act Section 7 purposes. See 368 NLRB No. 143.

California

California passed a law, effective January 1, 2020, prohibiting no-rehire provisions in settlement agreements between employers and employees who have filed a claim or complaint against their employer. See 2019 Cal AB 749.

Illinois

Illinois enacted the Artificial Intelligence Video Interview Act, which became effective on January 1, 2020. This Act requires employers to comply with notification and consent requirements before using artificial intelligence to analyze videotaped interviews of job applicants. Additionally, the employer may not share applicant videos with third parties, with limited exceptions. The Act also provides a method upon which an applicant can request that an employer destroy the video. See 2019 Ill. HB 2557.

Maine

Beginning January 1, 2020, an employer may not request a social security number from a prospective employee on an employment application or during the application process for employment except for the purposes of substance abuse testing or a pre-employment background check. See Me. Rev. Stat. tit. 26, § 598-A.

This newsletter is designed to provide an overview of certain employment law changes in the last 60 days; it is not meant to be exhaustive. This newsletter does not serve as legal advice, nor does it establish an attorney-client relationship with any reader of the article where one does not exist.

Always consult an attorney with specific legal issues.

New Jersey

On January 21, 2020, New Jersey passed a law requiring employers with at least 100 workers to provide 90 days' notice (up from 60 days) in advance of a layoff where at least 50 workers are terminated. The law further requires one week of severance for every year of employment. The law becomes effective July 19, 2020. See 2018 NJ S.B. 3170.

New Jersey enacted a law, effective January 1, 2020, that requires employers in the hospitality industry to provide panic buttons to employees working alone performing housekeeping or room service duties. See 2018 Bill Text NJ S.B. 2986.

To discuss any of these changes, contact Patricia Tsipras at 610.408.2029 or ptsipras@rubinformunato.com

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