

Puerto Rico Department of Labor Issues New Guidelines

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An McV Labor & Employment Law Alert

June 19, 2019

In May, 2019, the Puerto Rico Department of Labor issued new interpretive guidelines that cover the 2017 Labor Reform provisions and other employment laws in Puerto Rico. The DOL Guidelines do not create rights; they are just a guide. Some noteworthy interpretations in the newly issued DOL Guidelines are:

- **Posting Requirements:** Except for those notices expressly required to be posted on a visible place in the employers' establishment, the employer may satisfy its statutory duty to provide notices to employees through electronic means.
- **Religious accommodation:** Employers must accommodate an employee's religious practices even if it requires them to incur administrative expenses to make alterations to the employees' work schedules; or pay overtime to an employee who is willing to work overtime in exchange for a day off to attend a non-recurrent religious activity.
- **Probationary employees:** Employers are entitled to automatically extend an employee's probationary period under P.R. Act 80 of 1976 ("Act 80") for the same number of days that said employee utilizes in an authorized leave, such as vacation and sick leave days, during his or her probationary period.
- **Sick Leave:** Employers shall not require a non-exempt employee to furnish a medical certificate for sick related absences that do not exceed two (2) days, if the employee had accrued the sick days pursuant to Act 180 of 1998. A rule or policy to request a medical certificate in such circumstances is void and unenforceable.
- **RIF's and Lay-offs:** Employers that lay-off workers in order to increase competitiveness and productivity in the establishment, as authorized under Act 80, shall have a plan or internal study of the business that shows the benefits of not having in employment said laid-off workers.
- **Plant Closings:** Employers that conduct a temporary closing of operations not exceeding three (3) months are not required to follow an order of

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seniority for the selection of laid-off workers or for their recall because the RIF seniority requirements under Act 80 are applicable only when the employees' suspension of employment exceeds three (3) months.

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