

New Jersey Governor Phil Murphy Signs Legislation Strengthening Protections Against Age Discrimination

A681 Amends the Law Against Discrimination to Better Protect Employees from Age Discrimination

October 7, 2021

Source: Saiber Employment Law Alert

Although the New Jersey Law Against Discrimination (“LAD”) already prohibits discrimination and harassment based on age -- and based on other protected classes such as race, religion, gender, and more -- on October 5, 2021, Governor Phil Murphy signed into law A681, which strengthens protections against age discrimination in several key ways:

- A681 amends the LAD by implementing a higher standard for a public employer with respect to setting a mandatory retirement age. The current law allows a public employer to set a mandatory retirement age based upon an arguably vague showing that “the retirement age bears a manifest relationship to the employment in question.” With the amendment, a public employer must now show that the employee “is unable to adequately perform the person’s duties.” Similar protections have also been extended to tenured employees, such as at institutions of higher education.

-

A681 eliminates a provision of the LAD that allows employers not to hire or promote workers over 70 years old. As a result of this change, workers over 70 are subject to the same protections under the LAD as their younger counterparts and may file suit if the employee believes the employer’s conduct in not hiring or promoting the employee was due to his/her age being over 70 years old.

-

Remedies available to an employee required to retire due to age have now been expanded as a result of A681. Prior to the amendment, such employees seeking relief under the LAD were limited to filing a complaint with the Attorney General and seeking reinstatement with back pay and interest. Now, such employees are permitted to seek all remedies available under the LAD, which include filing suit to recover damages and counsel fees.