



Wake County and Raleigh City Expand Non-Discrimination Provisions for Workplaces and Public Areas

Insights

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Both Wake County (NC) and Raleigh City (NC) just expanded their non-discrimination provisions to prohibit discrimination against individuals based on their sexual orientation, gender identity, and natural hairstyle in both the workplace and in public areas. The Wake County Board of Commissioners voted on Monday to expand protections, and the Raleigh City Council voted to join Wake County's ordinance on Tuesday. The ordinance takes effect on February 1, 2022. What do employers and businesses need to know about these impending changes?

What Does the Ordinance Cover?

- Wake County and Raleigh City now both interpret "sex discrimination" to include discrimination on the basis of sexual orientation, gender identity, and gender expression. The ordinance defines "gender identity or expression" as "having gender-related identity, expression, appearance, or behavior, whether or not that identity, expression, appearance, or behavior is different from that traditionally associated with the sex assigned to that individual at birth."
- The ordinance also ensures that Wake County and Raleigh interpret "race discrimination" to include discrimination on the basis of protected hairstyles. "Protected hairstyle" is defined as "any hairstyle, hair type, or hair texture historically associated with race such as, but not limited to, braids, locks, twists, tight coils or curls, cornrows, Bantu knots, and afros."

As a result of these changes, Wake County and Raleigh City now both prohibit discrimination on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin or ancestry, National Guard or veteran status, religious belief or non-belief, age, or disability.

Individuals claiming violations of the ordinance must file a complaint with the County Manager's Office within 90 days of the alleged discriminatory act. The County will then investigate and, if necessary, conduct a conciliation between the employer and employee.

What Should Wake County and Raleigh City Employers and Businesses Do?

These changes should lead you to revisit any workplace policies related to discrimination, harassment, and retaliation to ensure that you include among enumerated protected characteristics sexual orientation, gender identity or expression, and protected hairstyles – as well as all other

sexual orientation, gender identity or expression, and protected hairstyles – as well as all other protected characteristics provided by the ordinance. Failing to revisit your policies and train employees on the new ordinance could expose you to liability if you discriminate against individuals based upon these new protected characteristics.

Even if your policies and practices were not restricted in such a way, this amendment will no doubt bring a wave of actions based upon these new protected characteristics, so it should serve as a good reminder for you to ensure your compliance efforts are up to date when it comes to discrimination, harassment, and retaliation issues. In particular, you should review and revise, if necessary, your policies to ensure that all protected characteristics are covered. You should also make sure your workforce is up to date on any discrimination training, including training on implicit bias.

Finally, this ordinance applies to not just workplaces but public areas (with the exception of religious organizations), so any business inviting members to the public to their premises can also be liable to these expanded categories of discrimination. Now would be a good time to remind your managers and staff through documented training about their non-discrimination obligations when it comes to customers, vendors, visitors, and other third parties.

Conclusion

Employment laws in North Carolina are rapidly changing and evolving. Fisher Phillips will continue to monitor any changes and provide updates as warranted, so make sure that you are subscribed to Fisher Phillips' Insights to get the most up-to-date information direct to your inbox. If you have questions or would like assistance in reviewing or preparing your own workplace policies or for any other employment law issues, you can contact your Fisher Phillips attorney, the author of this Insight, or any member of our Charlotte office.

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