



New York Bans Transgender Discrimination

Insights

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The New Year has brought long-awaited and historic change to the legal rights of the LGBTQ community in the Empire State. On January 15, the State Assembly and State Senate voted to pass the Gender Expression Non-Discrimination Act (GENDA). The statute, which had languished in the New York State legislature for the past 16 years, will protect transgender individuals from discrimination. Governor Andrew Cuomo applauded the legislation and has pledged to sign GENDA into law.

[Ed. Note: The governor signed this law into effect on January 25. The provisions related to workplace discrimination will take effect on February 24, 2019.]

What Do Employers Need To Know?

By adding gender identity and expression to the list of protected classes under the New York State Human Rights law (NYSHRL), GENDA will make discrimination based on gender identity or expression unlawful, including in the workplace. For purposes of this law, “gender identity or expression” is defined as a “person’s actual or perceived gender-related identity, appearance, behavior, expression or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.”

In 2016, Governor Cuomo directed the New York State Division of Human Rights to adopt regulations to make clear that transgender individuals are protected under the NYSHRL’s prohibition of discrimination and harassment of individuals on the basis of sex. GENDA will now codify those protections for transgender and gender non-conforming individuals.

In New York City, discrimination based on gender identity has already been prohibited by the New York City Human Rights Law. Indeed, last year New York City broadened those protections by expanding the definition of “gender” to cover “actual or perceived sex, gender identity, and gender expression including a person’s actual or perceived gender-related self-image, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth.

What Should NY Employers Do?

GENDA expands the protections provided to employees under the NYSHRL. As it is inevitable that GENDA will be signed into law, employers in New York should update their antidiscrimination

policies to reflect this new protected class, ensure that their training materials are amended to conform to the new law, and make any other adjustments necessary to ensure full compliance.

We will continue to monitor further developments and provide updates once the law is signed and an effective date is established, so you should ensure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney or any attorney in our [New York City office](#).

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