



New York Protects Religious Garb And Facial Hair In The Workplace

Insights

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New York Governor Cuomo just signed into effect an amendment to state law which expressly prohibits discrimination against employees based on clothing or facial hair worn in accordance with the employee's religion. The amendment is set to take effect October 8, 2019. What do New York employers need to know about this development?

Background And Summary

According to a memo by the bill's sponsors, the legislation was inspired in part by a Sikh employee who sued the MTA, his employer, after he was told he had to either remove his turban or brand it with the MTA's logo. After lawmakers passed the bill, Governor Cuomo signed it on August 9.

Once effective, the amendment the New York State Human Rights Law will expressly prohibit an employer from taking any discriminatory action against an employee – including refusing to hire, retain, or promote – for wearing any clothing, attire or facial hair associated with the requirements of the employee's religion. The employer bears the burden to demonstrate that it cannot reasonably accommodate the employee's religious practice, such as wearing a yarmulke, headscarf, turban, burqa or hijab, without undue hardship to the business.

New York law has long prohibited discrimination based on religion and already requires employers to provide employees with reasonable accommodations based on their religious beliefs. While most New York employment lawyers would maintain that discrimination based on religious-based attire or facial hair was already unlawful under the state's antidiscrimination laws, by expressly prohibiting such conduct, the state is putting employers on notice that it will not tolerate this type of behavior.

Next Steps

Employers in New York should review their uniform, grooming, and appearance policies to ensure they are in compliance with the amendments, as well as [recent legislation prohibiting hairstyle discrimination](#). Additionally, employers should ensure they have a procedure in place for employees to request any religious based workplace accommodations, including those related to the wearing of religious garb or facial hair.

We will continue to monitor further developments and provide updates on this issue and other labor and employment issues affecting New York employers, so make sure you are subscribed to Fisher

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