

CLIENT ALERT

New York City Adopts New Rules On Gender Identity Discrimination

The New York City Commission on Human Rights recently began enforcing new rules establishing broadened protections against discrimination based on gender identity and expression.

The new rules define and expand on various terms related to gender identity and expression, including gender, cisgender, gender expression, gender identity, gender non-conforming, intersex, sex, and transgender. Notably, the new rules now explicitly include and define “non-binary” identities as a protected class under the New York City Human Rights Law.

The new rules also explain existing prohibitions against gender identity discrimination by listing specific prohibited conduct, including:

- Deliberate refusal to use an individual’s self-identified name, pronoun, or title;
- Conditioning an individual’s use of their self-identified name on obtaining a court-ordered name change or providing identification in that name;
- Asking or requiring an individual to provide information about their medical history or proof of having undergone medical procedures to use their self-identified name, pronoun, or title;
- Refusing to use an employee’s self-identified name in their email account;
- Refusing to allow individuals to use single-gender facilities or participate in single-gender programs consistent with their gender identities; and
- Imposing different dress or grooming standards based on gender.

In addition, NYC employers with 4 or more employees must provide equal employee benefits regardless of gender identity, including with health benefit plans. The following practices are prohibited:

- Offering health benefits that exclude coverage for procedures based on gender;
- Offering health benefits that exclude coverage, or limit coverage, for health care related gender transition, including hormone replacement therapy, psychological or psychiatric treatment, hormone suppressers, voice training, or surgery;
- Giving greater leave benefits to mothers, based solely on gender rather than physical recovery from childbirth;
- Selecting a benefit plan offering health benefits that deem certain medical procedures available to only one sex.

Finally, employers must grant requests for accommodations, including leave requests, to address medical or health care needs related to an individual’s gender identity in the same manner as requests for all other medical conditions, and must provide reasonable accommodations for individuals undergoing gender transition.

If you have questions or would like additional information, please contact EGS' Employment Law Practice Group Leader Amanda M. Fugazy (afugazy@egsllp.com) or the primary EGS attorney with whom you work.



THE EMPLOYMENT LAW PRACTICE GROUP

Amanda M. Fugazy, Esq.

Paul P. Rooney, Esq.

Valerie J. Bluth, Esq.

Stephania C. Sanon, Esq.

Mohammad B. Shihabi, Esq.

Ilan Weiser, Esq.

Allison Vieyra, Paralegal

1345 Avenue of the Americas, New York, NY 10105

Telephone: (516) 801-8139/(212) 370-1300

afugazy@egsllp.com | www.egsllp.com

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