

New York State Passes the Gender Expression Non-Discrimination Act

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After 16 years of debate and discussion, the New York State Legislature recently passed the [Gender Expression Non-Discrimination Act](#) (“GENDA”), which would amend the New York State Human Rights Law to expressly prohibit discrimination on the basis of gender identity or expression.

Under the Act, 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.” Under existing provisions of the New York State Human Rights Law, employees who successfully establish claims of discrimination are entitled to back pay and compensatory damages. The Act also expands New York’s hate crime laws to include crimes against transgender and gender non-conforming people.

The legislation has been sent to Governor Cuomo, who is expected to sign the bill. If signed, the Act will be effective thirty days after it is signed, with the exception of certain amendments relating to the hate crime laws, which will not become effective until November 1, 2019.

Notably, the New York City Human Rights Law currently prohibits discrimination based on gender identity or expression. Nonetheless, if and when the state legislation is signed, employers should review their existing policies, including their non-discrimination and anti-harassment policies, to ensure that they are in compliance with these state law requirements.

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