

NYC Bans Height and Weight Discrimination

On May 26, 2023, New York City Mayor Eric Adams signed a Bill into law that prohibits discrimination based on height and weight. The Bill amends the New York City Human Rights Law to add height and weight to the list of protected characteristics. It will go into effect on November 22, 2023.

The legislation comes in response to the American Psychological Association's report that more than 40 percent of adults said that they have experienced some form of stigma related to their weight. Additionally, the World Obesity Foundation has reported that people with obesity also will likely be paid lower wages and get fewer promotions at work.

Key Provisions

The Bill prohibits discrimination on the basis of a person's actual or perceived height or weight in employment, housing, and access to public accommodations.

The Bill does create some exemptions for employers. Specifically, employers can make an employment decision on the basis of weight or height where it is required by federal, state or local law or regulation. Employers can also use weight or height as a factor if the individual's height or weight could prevent them from performing the essential functions of the position with or without an accommodation and no alternative is available, or when a certain height or weight is reasonably necessary for the employer's normal operations of business.

The Bill does not provide guidance as to what particular jobs would qualify under these exemptions. Rather, the Bill requires the New York City Commission on Human Rights to provide such guidance.

New York City now joins six other cities and one state that has enacted similar legislation banning height and/or weight discrimination. Other states' legislatures, such as New York, New Jersey, and Vermont, are considering their own legislation to prohibit such discrimination. At this time, Michigan is the only state that has passed a law to declare weight as a protected category from discrimination.

Steps Employers Can Take

With the recent passage of this legislation, New York City employers should promptly review their policies and handbooks to ensure compliance with this amendment. Specifically, New York City employers should update handbooks to include these new protected categories and make sure key hiring personnel are aware of the law's new provisions. Also, businesses who deal with customers in places of public accommodations should assess how these new protections will impact policies and procedures.

KAUFMAN DOLOWICH IS HERE TO HELP

If you have questions about these developments, complying with the New York City Human Rights Law or are in need of assistance in implementing the new policies, please contact one of Kaufman Dolowich's experienced Labor & Employment Law attorneys, noted below.

Authors:

Keith J. Gutstein
Co-Managing Partner, Long Island Office
Co-Chair, Labor & Employment Practice Group
(516) 283-8708
KGutstein@kaufmandolowich.com

Taylor M. Ferris
Labor & Employment Attorney
(516) 283-8706
TFerris@kaufmandolowich.com