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New York City Council Expands Employer Obligations for Reasonable Accommodations

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The New York City Council passed an amendment to the New York City Human Rights Law (NYCHRL) that increases employer obligations when an employee requests a reasonable accommodation. The amendment details the “cooperative dialogue” that an employer must participate in when an employee requests a reasonable accommodation and requires documentation of that process. Mayor DiBlasio is expected to sign the law into effect shortly.

Under the NYCHRL, employers are required to provide reasonable accommodations to employees with disabilities, who are pregnant, who are victims of domestic violence, or for religious reasons.

The amendment expands upon this, requiring employers to engage in a cooperative dialogue with an employee who requests a reasonable accommodation: (1) for religious needs; (2) related to a disability; (3) related to pregnancy, childbirth or a related medical condition; or (4) for their needs as a victim of domestic violence, sex offenses or stalking.

The cooperative dialogue established by the amendment requires employers to engage in a good faith written or oral conversation with the employee regarding the employee’s accommodation needs, potential accommodations (including alternatives to the accommodation proposed by the employee), and any difficulties that the proposed accommodations could pose for the employer. At the conclusion of the cooperative dialogue, the employer **must provide the employee with a written final determination** identifying any accommodation that was granted or denied.

The amendment states that employers who fail to engage in the cooperative dialogue, including failing to provide the written final determination, may be found liable of engaging in an unlawful discriminatory practice under the NYCHRL. Although employers were already required to engage in discussions with employees

regarding the need for an accommodation under the NYCHRL, this more formalized process will open employers to increased likelihood of violations of the NYCHRL due to the broad language of the amendment.

In fact, as written, an employee requesting a simple convenience from their employer, such as a pregnant employee leaving work an hour early for a doctor’s appointment or an employee taking a day off from work to observe a religious holiday, could implicate the need to engage in a cooperative dialogue and require the employer to provide a written final determination on such an accommodation to the employee. Failure to do so, even for such simple conveniences, could result in liability under the law.

As a result of this amendment to the NYCHRL, New York City employers should review their employee handbooks and policies regarding requests for reasonable accommodations in order to ensure that they are in compliance with the new cooperative dialogue and documentation requirements. Employers should also be prepared to document all accommodations and/or conveniences, no matter how minor or trivial, that are provided to employees: (1) for religious needs; (2) related to a disability; (3) related to pregnancy, childbirth or a related medical condition; or (4) for their needs as a victim of domestic violence, sex offenses or stalking.

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