

New York Passes GENDA: Discrimination Now Prohibited Based on Gender Identity or Expression

On January 15, 2019, the New York legislature passed the Gender Expression Non-Discrimination Act (“GENDA”). GENDA, which faced more than a decade of impasse in the State Senate, was signed by Governor Cuomo on January 25, 2019.

GENDA protects the rights of transgender and gender non-conforming New Yorkers by adding “gender identity or expression” as a protected category under the Human Rights Law. The legislation defines “gender identity or expression” 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.”

With its addition to the Human Rights Law, “gender identity or expression” takes on the same protected status as other protected categories, such as race, sex, religion, or age. Although it was presumed that gender identity and gender expression would be protected under the statute’s existing protections for gender and sexual orientation, GENDA makes this explicit: employers, labor organizations, places of public accommodation, educational institutions, and housing establishments may not take adverse actions against individuals because of their gender identity or gender expression.

Entities employing individuals in New York should update their Equal Employment Opportunity and Sexual Harassment Prevention policies accordingly, and should ensure that their annual mandatory sexual harassment training contains adequate information regarding harassment based on this newly protected category. For more information on New York’s required sexual harassment training, click [here](#). Educational institutions should similarly update these policies, along with reviewing their admissions criteria and application process.

If you have any questions about this Information Memo, please contact [Theresa E. Rusnak](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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