

Labor Law Bulletin

Labor and employment law trends of interest to our clients and other friends.

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New York City's Human Rights Law Recently Amended

Mayor Bloomberg recently signed into law several amendments to New York City's Human Rights Law ("NYCHRL"). The amendments, collectively known as the "Local Civil Rights Restoration Act of 2005" ("LCRRA"), re-emphasize the City Council's intention that the NYCHRL not be interpreted to include the same limitations which have been placed upon similar or identical New York state or federal statutes. The LCRRA also makes several substantive changes to the NYCHRL.

The LCRRA adds "partnership status," the status of being in a domestic partnership as defined by the New York City Administrative Code ("Code"), to the list of classes protected by the NYCHRL. The Code defines a domestic partnership as "a close and committed personal relationship" between two people who "live together and have been living together on a continuous basis." Generally, these relationships must be registered pursuant to the Code in order to receive domestic partnership status. However, the Code also provides domestic partnership status to non-registered relationships between "persons who are members of a marriage . . . not recognized by the state of New York, [a] domestic partnership, or [a] civil union, . . . entered into in another jurisdiction." Employers who have employees based in New York City should review their policies, especially their EEO/Nondiscrimination and Anti-Harassment policies, to assure compliance with these amendments. It is unclear at this time whether the intent of LCRRA is to force amendments to employee benefit plans, but it would also be prudent to review non-ERISA benefits to include recognition of registered domestic partners as defined in the amendments.

The LCRRA also clarifies the definition of retaliation under the NYCHRL, rejecting the definition currently applied by the Second Circuit under Title VII of the Civil Rights Act of 1964. The new provision explains that retaliation proscribed by the NYCHRL "need not result in an ultimate action with respect to employment . . . or [] a materially adverse change in the terms and conditions of employment" so long as it is "reasonably likely to deter a person from engaging in protected activity."

The LCRRA additionally raises the penalties which may result from a violation of the NYCHRL. It provides that "a plaintiff whose commencement of litigation has acted as a catalyst to effect [a] policy change . . . [by] the defendant" may recover costs and reasonable attorney's fees. It also raises the maximum civil penalty for an unlawful discriminatory practice from \$50,000 to \$125,000 and the maximum civil penalty for discriminatory harassment or violence from \$100,000 to \$250,000.

If you have questions about the LCRRA or any other issue regarding employment law in New York, please contact: Alan Koral (212-407-7750), Neal Korval (212-407-7780) or Jonathan Wexler (212-407-7732).

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