

NEW YORK STATE AMENDS THE HUMAN RIGHTS LAW (AGAIN) TO PROHIBIT DISCRIMINATION ON THE BASIS OF EMPLOYEES' RELIGIOUS ATTIRE, CLOTHING AND FACIAL HAIR

Hodgson Russ Labor & Employment Alert
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On August 9, 2019, Governor Andrew Cuomo signed into law an amendment to the New York State Human Rights Law that expressly prohibits discrimination based on religious attire, clothing or facial hair. This amendment becomes effective on October 8, 2019.

The amendment changes the New York State Human Rights Law to expressly provide that employers may not discriminate against individuals for wearing “any attire, clothing, or facial hair” in accordance with a sincerely held religious practice. While New York law has long prohibited religious discrimination, the current amendment makes clear that the existing prohibition on religious discrimination extends to religious attire, clothing, and facial hair. An employer can still assert the undue hardship defense if it can establish that, after engaging in a bona fide effort, it cannot accommodate the applicant or an employee’s sincerely held religious observance or practice, without undue hardship.

According to a memorandum published by the bill’s sponsors, the amendment was passed in response to a lawsuit brought by a Sikh employee against his employer, the Metropolitan Transportation Authority, after it instructed him to remove his turban or put his employer’s logo on it.

Once the amendment takes effect, any employer that requires an employee to violate or forgo a sincerely held religious practice relating to clothing, attire or facial hair may face liability under the New York State Human Rights Law. Employers are cautioned that potential liability for private employers as a result of an alleged unlawful discriminatory practice may soon include claims for punitive damages and attorneys’ fees as a result of another law recently signed by Governor Cuomo. See our recent alerts discussing this law [here](#) and [here](#).

Employers should review their existing policies to ensure their appearance, grooming, and related policies comply with this amendment to the Human Rights Law, as well as the recent amendment banning discrimination on the basis of certain

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hairstyle. See our last alert on this topic [here](#). Employers should also ensure they have procedures in place for employees to request accommodations on the basis of their religious beliefs, including those related to the wearing of any clothing, attire or facial hair, and that supervisors are trained on how to respond to such requests.

If you have any questions regarding this amendment or its impact on employers, please contact one of our Labor and Employment attorneys.

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