

NEW YORK STATE GOVERNOR'S EXECUTIVE ORDER REGARDING TRANSGENDER RESTROOMS

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In New York State, sex discrimination protections extend to transgender persons, and “gender dysphoria” is a protected “disability” under the Human Rights Law. Employers may not discriminate against individuals because of sex, including gender identity and transgender status. Accordingly, we have given advice to employers regarding how to make restrooms available for employees who identify as transgender.

On March 28, 2016, Governor Cuomo signed Executive Order No. 155 prohibiting state funded or state sponsored travel to North Carolina. The ban follows North Carolina’s enactment of a law banning transgender individuals from using restrooms appropriate to their gender identity. The Executive Order shall be in place “so long as there is law in effect there that creates the grounds for discrimination against LGBT citizens...”

This follows a similar ban against Indiana by the Governor in 2015 when the state passed a controversial religious freedom measure that did not prohibit discrimination against the LGBT community. That law was later amended.

Governor Cuomo stated “In New York, we believe that all people – regardless of their gender identity or sexual orientation – deserve the same rights and protections under the law.”

The Governor’s move should remind employers of the importance of ensuring that their workplace has adequate restroom facilities to accommodate transgender employees. For additional information about proposed legislation related to transgender employees, please see my recent blog entry, “Anti-Discrimination, Anti-Harassment, Anti-Retaliation Policies: Best Practices,” dated November 20, 2015, and the Client Alert from our practice group “New York Proposes Regulations Protecting Transgender Individuals from Discrimination and Harassment in Employment,” issued November 10, 2015.