

Connecticut Prohibits Discrimination on Basis of Gender Identity

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On July 1, 2011, Connecticut Governor Dannel Malloy signed into law Public Act No. 11-55, An Act Concerning Discrimination (the "[Act](#)"). This new law prohibits discrimination based on gender identity or expression in employment, public accommodation, housing, credit, and other areas of the law over which the Connecticut Commission on Human Rights and Opportunities ("CHRO") has enforcement jurisdiction. When the Act goes into effect on October 1, 2011, Connecticut will be the fifteenth state in the nation with legislation specifically prohibiting transgender discrimination. Connecticut has protected employees from discrimination based on sexual orientation since 1991.

The Act applies to any employer, public or private, that employs three or more people, as well as employment agencies and labor organizations. The Act, however, does not apply to religious entities "with respect to the employment of individuals to perform work connected with the carrying on by such [entity]." Further, the Act covers all employees, except those employed by their parents, spouse, or children, or those employed in domestic service.

The Act defines "gender identity or expression" as "a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth." The definition specifies that gender-related identity can be established in various ways, including through evidence of: (1) medical history, (2) care or treatment of the gender-related identity, (3) consistent and uniform assertion of such an identity, or (4) any other evidence that the identity is sincerely held, part of a person's core identity, or that the person is not asserting such an identity for an improper purpose.

Discrimination Based on Gender Identity or Expression in Employment is Prohibited

Specifically, the Act prohibits an employer or employer's agent, except in the case of a *bona fide* occupational qualification or need, from refusing to hire or employ someone, barring or discharging someone from employment, or discriminating against someone in compensation or in terms, conditions or privileges of employment based on the individual's gender identity or expression.

The Act also prohibits the following kinds of employment discrimination based on gender identity or expression:

1. Employment agencies from failing or refusing to classify properly or refer for employment or otherwise discriminating against someone except in the case of a *bona fide* occupational qualification or need;
2. Labor organizations from excluding someone from full membership rights, expelling a member, or discriminating in any way against a member, employer, or employee, unless the action is due to a *bona fide* occupational qualification;
3. Employers, employment agencies, labor organizations, or anyone else from taking adverse action against someone because he or she opposed a discriminatory employment practice, brought a complaint, or testified or assisted someone else in a complaint;

4. Any person from aiding, abetting, inciting, compelling, or coercing someone to commit a discriminatory employment practice or attempting to do so;
5. Employers, employment agencies, labor organizations, or anyone else advertising employment opportunities from advertising in a way that restricts employment, and thus discriminates, except for a *bona fide* occupational qualification or need; and
6. Employers, employment agencies, labor organizations, or any of their agents from harassing any employee or person seeking employment or membership on the basis of gender identity or expression.

The Act also prohibits discrimination based on gender identity or expression in a place of public accommodation and in other contexts, such as in public contracts.

Enforcement of the Act

The Act explicitly authorizes the CHRO to investigate complaints of discrimination on the basis of gender identity or expression. It applies the same rules, procedures, and remedies that apply to other types of discrimination complaints, including the right to file a lawsuit if the CHRO's investigation is not completed within a certain time.

What Connecticut Employers Should Do Now

- Update employment policies and employee manuals to include provisions prohibiting discrimination and harassment based on gender identity or expression.
- Notify employees of such a change.
- Train and periodically retrain supervisors, managers, and human resources personnel on the substantive requirements of the Act, including being aware of, and taking action to stop, any actions which might constitute discrimination or harassment of employees on the basis of any statutorily protected characteristics, including gender identity and expression.
- Ensure that no employee is retaliated against for protesting or opposing real or perceived illegal discrimination based on gender identity or expression.
- Train supervisors and managers to avoid retaliation against those who oppose reasonably perceived violations of law.

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