



Governor Cuomo Issues Executive Order Prohibiting Transgender Discrimination in New York State

October 28, 2015

On October 23, 2016, Governor Andrew Cuomo (“Governor Cuomo”) exercised his executive power to expand the New York State Human Right Law to include protections for transgender individuals. The announcement came during the annual dinner hosted by the Empire State Pride Agenda, a group that traditionally advocates for gay, lesbian, bisexual and transgender people.

“I am directing the State Division of Human Rights to immediately issue regulations defining New York State’s anti-discrimination law to prohibit discrimination against trans individuals in the state of New York,” stated Governor Cuomo. The new regulations will “affirm that all transgender individuals are protected under the State’s Human Rights Law, and all public and private employers, housing providers, businesses, creditors and others should know that discrimination against transgender persons is unlawful and will not be tolerated anywhere in the State of New York.” According to Governor Cuomo’s official site, this was the first time that any state executive in the nation had used his or her executive power in an effort to implement state-wide regulation to ban “harassment and discrimination on the basis of gender identity, transgender status or gender dysphoria.”

Discrimination against transgender people had been prohibited against state workers under a 2009 executive order, but this new order clearly broadens the protections to include private employment as well.

“Transgendered individuals deserve the same civil right that protects them from discrimination” stated Governor Cuomo. Although transgender protection had been passed as a measure through the State Assembly, which is controlled by Democrats, it has subsequently stymied within the Republican-controlled Senate on several occasions. Thus, Governor Cuomo was prompted to pass such regulation via executive order to ensure the regulations’ continued viability. Another reason for the necessity of executive action, according to Governor Cuomo, was to ensure that the protections would universally apply on a state-wide level. Currently, protection for the New York State transgender community varies from municipality to municipality, and thus, such protections varied from place to place. The Governor’s executive order ensures the necessary uniformity of such protection for transgender individuals traveling throughout the State.

“The scourge of harassment and discrimination against transgender individuals is well-known – and has also has gone largely unanswered for too long,” Governor Cuomo said. “New York has always been a beacon for the country on LGBT rights. We started the movement at Stonewall, we led the way with marriage equality, and now we are continuing to show the nation the path forward. We will not tolerate discrimination or harassment against

transgender people anywhere in the State of New York – period.”

The regulations must first be published in the state registry and will then be subject to a 45-day comment period before taking effect. Employers should take note of the broad impact of these regulations and review, and if necessary, revise any hiring practices or internal policies in order to ensure compliance with the new regulations.

If you have any questions or concerns regarding employment or education-related issues, please contact James G. Ryan at jryan@cullenanddykman.com or at 516-357-3750.

Thank you to Adam Waknine, a law clerk at Cullen and Dykman, for his help with this post.