

CLIENT ALERT

NYC Amends Human Rights Law to Prohibit Discrimination Based on Actual or Perceived Height and Weight

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On May 26, 2023, New York City Mayor Eric Adams signed into law a [bill](#) that amends the New York City Human Rights Law to prohibit discrimination in employment, housing, and public accommodations on the basis of an individual's actual or perceived height or weight (the "[Law](#)"). The Law takes effect November 22, 2023.

The Law includes exceptions for employers to consider height or weight in employment decisions when:

- required by applicable law or regulation; or
- permitted by regulations to be issued by the New York City Commission on Human Rights identifying particular jobs or categories of jobs where (i) a person's height or weight could prevent them from performing the essential requisites of the job and there is no reasonable alternative; or (ii) consideration of height or weight is reasonably necessary for the execution of normal business operations.

For employers that do not qualify for an exemption, the Law provides an affirmative defense to a claim of height or weight discrimination where the employer can establish that:

- a person's height or weight prevents them from performing the essential requisites of the job and there is no reasonable alternative; or

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- consideration of height or weight is reasonably necessary for the execution of normal business operations.

Further, the Law does not prevent employers from offering weight management incentives in connection with voluntary wellness programs.

When the Law goes into effect, New York City will join Michigan, Washington, D.C., San Francisco, Santa Cruz, California, Madison, Wisconsin, Binghamton, New York, and Urbana, Illinois in prohibiting some form of height or weight discrimination. Similar legislation is pending in Massachusetts, New Jersey, New York, and Vermont.

New York City employers should update their policies to prohibit discrimination on the basis of height or weight and should consider training employees on the new Law. Additionally, if height or weight is relevant to a particular job, employers should review the extent to which consideration of such factors would be compliant with the Law.

For additional analysis, see an article authored by Willkie on [Bloomberg Law's Practitioner Insights](#).

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