

KD Employment Law Alert: New York Employers Now Prohibited from Discriminating against Employees based on their Relationships or Associations

By Keith J. Gutstein, Ellen R. Storch and Aaron Solomon

The New York State Division of Human Rights (“NYSDHR”) has adopted regulations clarifying that employers cannot discriminate against applicants or employees because of their relationship or association with members of a protected class. For example, New York employers cannot refuse to hire an applicant because their spouse is transgender.

Specifically, the new regulations expand the definition of “unlawful discrimination” to include discrimination on the basis of an “individual’s known relationship or association with a member or members of a protected category.” 9 N.Y.C.R.R. § 466.14.

The purpose of the regulations is to prevent employers from discriminating against workers or potential workers based on the race, color, creed, national origin, sexual orientation, gender identity, disability, or other protected characteristic of their family members, friends, or associates.

As a result of the new regulations, the NYSDHR will now investigate and prosecute complaints of “unlawful discrimination” by individuals who are associated with someone who is a member of any of the wide range of categories protected under New York law. In order to establish a claim of associational discrimination, complainants must prove that they suffered an adverse action because of their association with someone in a protected class.

Associational discrimination claims have long been recognized under a variety of other statutes including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the New York City Human Rights Law. However, the new regulations now extend the prohibition against such discrimination to all employers in the State of New York covered by the New York State Human Rights Law.

New York employers should update their policies to ensure that they prohibit associational discrimination. Also, employers should ensure that management is trained to make employment decisions for legitimate business reasons and not because of an employee’s relationship or association with a member of a protected category.

KD’s employment attorneys can assist employers in avoiding and minimizing the likelihood of liability for allegedly discriminatory practices.