



Legislation Text

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Int. No. 866

By Council Members Dinowitz, Schulman, Menin, Williams and Brannan

A Local Law to amend the administrative code of the city of New York, in relation to enforcing the human rights law and conducting an information campaign for places of public accommodation

Be it enacted by the Council as follows:

Section 1. Section 8-120 of the administrative code of the city of New York, as amended by local law number 63 for the year 2018, is amended to read as follows:

§ 8-120 Decision and order.

a. If, upon all the evidence at the hearing, and upon the findings of fact, conclusions of law and relief recommended by an administrative law judge, the commission shall find that a respondent has engaged in any unlawful discriminatory practice or any act of discriminatory harassment or violence as set forth in chapter 6 of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, any necessary party and any complainant who has not intervened an order requiring such respondent to cease and desist from such unlawful discriminatory practice or acts of discriminatory harassment or violence. Such order shall require the respondent to take such affirmative action as, in the judgment of the commission, will effectuate the purposes of this chapter or chapter 6 of this title, as applicable, including, but not limited to:

1. Hiring, reinstatement or upgrading of employees;
2. The award of back pay and front pay;
3. Admission to membership in any respondent labor organization;
4. Admission to or participation in a program, apprentice training program, on-the-job training

program or other occupational training or retraining program;

5. The extension of full, equal and unsegregated accommodations, advantages, facilities and privileges;

6. Evaluating applications for membership in a club that is not distinctly private, without unlawful discrimination;

7. Selling, renting or leasing, or approving the sale, rental or lease of housing accommodations, land or commercial space or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination;

8. Payment of compensatory damages to the person aggrieved by such practice or act;

9. Submission of reports with respect to the manner of compliance; and

10. Payment of the complainant's reasonable attorney's fees, expert fees and other costs. The commission may consider matter-specific factors when determining the complainant's attorney's fee award, including, but not limited to:

(i) Novelty or difficulty of the issues presented;

(ii) Skill and experience of the complainant's attorney; and

(iii) The hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county.

b. Where the commission has issued 3 cease and desist orders to the same respondent pursuant to subdivision a of this section, and where the underlying unlawful discriminatory, harassing, or violent conduct that led to the third such order occurred within 2 years of the underlying conduct that led to the first and second such orders, the commission shall consider including in the third such order a requirement that the respondent develop and carry out a remedial plan to prevent future discriminatory conduct.

1. Where the commission requires a respondent to develop and carry out a remedial plan pursuant to this subdivision:

(a) Such plan shall be designed to remediate any factor, including any policy, practice, or group of policies or practices of a covered entity, that directly or indirectly led to or facilitated any instance of unlawful discriminatory, harassing, or violent conduct for which the respondent was found responsible, pursuant to subdivision a of this section, within the preceding 2 years;

(b) The respondent shall submit a draft of such plan to the commission, and the commission shall approve such plan, with any modifications as it may require, within 6 months of the date on which the order requiring such plan was issued;

(c) The respondent shall implement such plan subject to a supervisory period of not less than 1 year and not more than 5 years from the date on which the commission approves the plan;

(d) The respondent shall report to the commission on implementation of such remedial plan at intervals to be determined by the commission, except that in no case shall the respondent submit fewer than 2 reports annually for the duration of the supervisory period required by subparagraph (c) of this paragraph; and

(e) The commission shall carry out regular inspections or audits of the respondent to determine compliance with such plan.

2. The commission may modify the terms of a remedial plan developed pursuant to this subdivision at any time prior to the end of the supervisory period required by subparagraph (c) of paragraph 1 of this subdivision where (i) such modification furthers the goal of effectuating the purposes of this chapter or chapter 6 of this title; (ii) such modification conforms with the requirements applicable when the terms were initially set; and (iii) either the respondent consents to such modification, or an administrative law judge finds that such modification would meaningfully advance the plan's purpose to effectuate this chapter or chapter 6 of this title.

3. The supervisory period required by subparagraph (c) of paragraph 1 of this subdivision shall be extended for an additional period of not less than 1 year and not more than 3 years from the date on which the commission, as applicable:

(a) Determines that, during such supervisory period, the respondent has materially deviated from the

terms of the remedial plan on more than 2 occasions; or

(b) Finds, pursuant to requisite proceedings under subdivision a of this section, that during such supervisory period the respondent engaged in any unlawful discriminatory practice or any act of discriminatory harassment or violence as set forth in chapter 6 of this title.

c. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter 6 of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§ 2. Education campaign for inclusion in places of public accommodation. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Covered entity. The term “covered entity” means a person required to comply with any provision of subdivision 4 of section 8-107 of the administrative code of the city of New York.

Place of public accommodation. The term “place of public accommodation” has the same meaning as in chapter 1 of title 8 of the administrative code of the city of New York.

Protected person. The term “protected person” means a person who is legally protected from any unlawful discriminatory practice prohibited by subdivision 4 of section 8-107 of the administrative code of the city of New York.

b. Beginning no later than 60 days after the effective date of this law, the city commission on human rights shall conduct a public education campaign to promote compliance with subdivision 4 of section 8-107 of the administrative code of the city of New York. Such campaign shall include information on:

1. Best practices for covered entities to avoid engaging in unlawful discriminatory practices prohibited by subdivision 4 of section 8-107 of the administrative code of the city of New York, including in relation to

policies and practices which may result in a disparate impact to the detriment of any group protected by the human rights law, pursuant to subdivision 17 of section 8-107;

2. Best practices for covered entities to promote apparent and actual safety on their premises, including during public events and demonstrations, such that all persons may enjoy, on equal terms and conditions, the accommodations, advantages, facilities and privileges of a place of public accommodation; and

3. The application of subdivision 4 of section 8-107 of the administrative code of the city of New York to educational institutions and other places that regularly host intellectual or cultural events and discussions, such as cultural centers, museums, and libraries.

c. The campaign required by the preceding subdivision shall use, at a minimum, television, internet, radio, print media, digital kiosks, and subway and other public transportation advertisements throughout the city.

d. Such campaign shall continue for no less than 24 weeks.

§ 3. This local law takes effect immediately.

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