

CLIENT ALERT

NEW YORK CITY REQUIRES EMPLOYERS TO HANDLE ACCOMMODATION REQUESTS BY ENGAGING IN A "COOPERATIVE DIALOGUE"

New York City law now requires all most all employers to engage in a “cooperative dialogue” when handling an employee’s reasonable accommodations request.

As you likely know, various disability laws, including the New York City Human Rights Law (“NYCHRL”), require employers to provide reasonable accommodations for covered reasons, unless doing so would create an undue hardship for the employer. Covered reasons under the NYCHRL include an employee’s disability, pregnancy, childbirth or related medical condition, religious observance, or status as a victim of domestic violence, sexual violence, or stalking.

The “cooperative dialogue” requirement expands on the existing requirement under federal and state law to engage in an “interactive process” by mandating specific procedural conditions employers must follow when handling reasonable accommodations requests. Specifically, the law now requires the following:

- Initiating a cooperative dialogue – Employer may not refuse to engage in a cooperative dialogue with an employee who has requested an accommodation or where the employer “has notice” that the employee “may require such an accommodation.”
- Engaging in a cooperative dialogue – Employers must engage in “good faith” written or oral dialogue concerning the person’s accommodation needs, potential accommodations, alternative accommodations, and the “difficulties” potential accommodations may pose for the employer.
- Concluding the cooperative dialogue – Employers must create a written final determination and provide it to the employee requesting the accommodation, identifying an accommodation granted or denied.
- Continuing Obligation – Employers must initiate a new cooperative dialogue process for each separate accommodation request.

Importantly, failure to engage in a good faith “cooperative dialogue” is now a stand-alone violation of the NYCHRL. Therefore, New York City employers, even those familiar with the “interactive process” requirement under federal and state law, should review and revise their existing reasonable accommodations protocol to ensure that they are compliant with the NYCHRL’s “cooperative dialogue” requirement.

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If you have questions or would like additional information, please contact EGS’s Employment Law Practice Group Leader, Amanda M. Fugazy at afugazy@egsllp.com or the primary EGS attorney with whom you work.

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