

New Jersey Bill Aims to Broaden Standard for Harassment Claims & Require Written Workplace Policies and Employee Training

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On January 9, 2024, a new bill was introduced to the Assembly Labor Committee in the New Jersey Legislature (Bill A2443) that may have the effect of lowering the standard for a claim of unlawful harassment. The Bill's stated purpose is "to affirm that the right to be free from discrimination in employment, housing, business relationships, and places of public accommodation ... based on any characteristic protected by the 'Law Against Discrimination.'" However, the Bill broadens the scope of workplace misconduct that may be considered "severe or pervasive". More specifically, the Bill provides, in part, that a single incident may be sufficiently "severe and pervasive", there is no requirement for physical contact, and offensive language, sexual in nature or otherwise, may be sufficient to support a claim for unlawful harassment.

The Bill also seeks to require employers to take affirmative steps to prevent unlawful discrimination and harassment in the workplace. For example, the new legislation would require employers to draft and maintain policies against discrimination and harassment, which include a complaint procedure and penalties for policy violations. Employers would also be statutorily required to provide interactive training to all employees and all other employees regarding discrimination and harassment in the workplace as well as training to supervisors on their responsibilities under the Bill. If the Bill becomes law, each employer with 50 or more employees will be required to comply with certain record and reporting requirements, including the collection and reporting of data regarding internal complaints to the New Jersey Division on Civil Rights.

The new proposed legislation also extends the protections of the Law Against Discrimination to cover domestic workers and extends the statute of limitations for filing complaints with the New Jersey Division on Civil Rights from 180 days to 365 days from the alleged act of discrimination, or from the discovery of the alleged act of discrimination.

Although the future of the Bill is uncertain, employers should take proactive steps to update current policies and procedures for preventing harassment and discrimination in the workplace, and implement a comprehensive training program for all employees. If you have any questions concerning the above bill, or any other federal or state employment laws, please contact DanaLynn Colao of Saiber LLC's Employment and Labor Law practice.