New York City Council Passes Bills Establishing Procedures on Flexible Work Schedules and Reasonable Accommodation Requests

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The New York City Council recently passed two bills affecting New York City employers and their employees. The first bill, Int. No. 1399, passed by the Council on December 6, 2017, amends Chapter 12 of title 20 of the City’s administrative code (colloquially known as the “Fair Workweek Law”) to include a new subchapter 6 to protect employees who seek temporary changes to work schedules for personal events. Int. No. 1399 entitles New York City employees to request temporary schedule changes twice per calendar year, without retaliation, in certain situations, e.g., caregiver emergency, attendance at a legal proceeding involving subsistence benefits, or safe or sick time under the New York City administrative code. The bill establishes procedures for employees to request temporary work schedule changes and employer responses. Exempt from the bill are employees: (i) who are covered by a collective bargaining agreement; (ii) who have been employed for fewer than 120 days; (iii) who work less than 80 hours in the city in a calendar year; and (iv) who work in the theater, film, or television industries.

The second bill, Int. No. 804-A, passed by the Council on December 19, 2017, amends New York City’s Human Rights law to require covered entities engage in a “cooperative dialogue” with individuals who may be entitled to a reasonable accommodation. Covered entities include employers, providers of public accommodations and providers of housing accommodations. The term “cooperative dialogue” means the process by which a covered entity and an individual who may be entitled to an accommodation engage in a discussion to identify what reasonable accommodations are available to assist the individual. The bill requires the covered entity to provide the individual requesting an accommodation a written final determination identifying any accommodation granted or denied. This determination may only be made after the parties have engaged, or the covered entity has attempted to engage, in the “cooperative dialogue.”

Mayor DeBlasio likely will sign both bills into law by the end of the year. New York City employers should be prepared to comply with the new requirements.

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