

Int. No. 804-A

By Council Members Barron, Eugene, Mendez, Richards and Rosenthal

A Local Law to amend the administrative code of the city of New York, to require covered entities to engage in a cooperative dialogue with persons who are or may be entitled to reasonable accommodations

Be it enacted by the Council as follows:

1           Section 1. Section 8-102 of the administrative code of the city of New York is amended by  
2 adding a new subdivision in alphabetical order to read as follows:

3           Cooperative dialogue. The term “cooperative dialogue” means the process by which a  
4 covered entity and a person entitled to an accommodation, or who may be entitled to an  
5 accommodation under the law, engage in good faith in a written or oral dialogue concerning the  
6 person’s accommodation needs; potential accommodations that may address the person’s  
7 accommodation needs, including alternatives to a requested accommodation; and the difficulties  
8 that such potential accommodations may pose for the covered entity.

9           § 2. Section 8-107 of the administrative code of the city of New York is hereby amended by  
10 adding a new subdivision 28 to read as follows:

11           28. Reasonable accommodation; cooperative dialogue.

12           (a) Employment. It shall be an unlawful discriminatory practice for an employer, labor  
13 organization or employment agency or an employee or agent thereof to refuse or otherwise fail to  
14 engage in a cooperative dialogue within a reasonable time with a person who has requested an  
15 accommodation or who the covered entity has notice may require such an accommodation:

16           (1) For religious needs as provided in subdivision 3 of this section;

17           (2) Related to a disability as provided in subdivision 15 of this section;

1           (3) Related to pregnancy, childbirth or a related medical condition as provided in  
2 subdivision 22 of this section; or

3           (4) For such person's needs as a victim of domestic violence, sex offenses or stalking as  
4 provided in subdivision 27 of this section.

5           (b) Public accommodations. It shall be an unlawful discriminatory practice for any person  
6 who is the owner, franchisor, franchisee, lessor, lessee, proprietor, manager, superintendent, agent  
7 or employee of any place or provider of public accommodation to refuse or otherwise fail to engage  
8 in a cooperative dialogue within a reasonable time with a person who has requested an  
9 accommodation or who the covered entity has notice may require an accommodation related to  
10 disability as provided in subdivision 15 of this section.

11           (c) Housing accommodation. It shall be an unlawful discriminatory practice for an owner,  
12 lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell,  
13 rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be  
14 constructed, or an interest therein, or any agency or employee thereof to refuse or otherwise fail to  
15 engage in a cooperative dialogue within a reasonable time with a person who has requested an  
16 accommodation or who the covered entity has notice may require an accommodation related to  
17 disability as provided in subdivision 15 of this section.

18           (d) Upon reaching a final determination at the conclusion of a cooperative dialogue  
19 pursuant to paragraphs (a) and (c) of this subdivision, the covered entity shall provide any person  
20 requesting an accommodation who participated in the cooperative dialogue with a written final  
21 determination identifying any accommodation granted or denied.

22           (e) The determination that no reasonable accommodation would enable the person

1 requesting an accommodation to satisfy the essential requisites of a job or enjoy the right or rights in  
2 question may only be made after the parties have engaged, or the covered entity has attempted to  
3 engage, in a cooperative dialogue.

4 (f) Rights and obligations set forth in this subdivision are supplemental to and independent  
5 of the rights and obligations provided by subdivisions 3, 15, 22 and 27. A covered entity's  
6 compliance with this subdivision is not a defense to a claim of not providing a reasonable  
7 accommodation under provisions of title 8 other than this subdivision.

8 § 3. This local law takes effect on the same date as section 3 of a local law amending the  
9 New York city charter and the administrative code of the city of New York, in relation to making  
10 improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-  
11 102 of the administrative code of the city of New York, relating to definitions of terms in the human  
12 rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the  
13 city of New York, relating to the functions, powers and duties of the commission on human rights  
14 and its relations with city departments and agencies, as proposed in introduction number 1012-A for  
15 the year 2015, takes effect.

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