



EXECUTIVE ORDER

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NO 33: Prohibiting Discrimination In State Employment On The Basis Of Gender Identity

WHEREAS, the State of New York has a substantial interest in putting in place a workforce hired based on employees' ability to perform the tasks necessary for effective job performance; and

WHEREAS, invidious discrimination is at odds with that goal, and has no place in the hiring or other employment decisions of the State of New York; and

WHEREAS, there are compelling arguments that discrimination on the basis of gender identity is illegal under existing anti-discrimination statutes, and any such discrimination will expose the State to legal liability; and

WHEREAS, thirteen states and over ninety municipalities and counties – including the City of New York – prohibit discrimination on the basis of gender identity by statute, and numerous others have imposed such a ban through executive action or policy; and

WHEREAS, many large and successful companies also have such policies; and

WHEREAS, there is no evidence that any such statute or policy has undermined in any way the functioning of a workplace, and to the contrary anti-discrimination practices are important tools to attract and retain competent and effective employees; and

WHEREAS, it is imperative that the State of New York take all possible measures to end discrimination on the basis of gender identity;

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, do hereby order as follows:

1. For purposes of this order, "gender identity" shall mean having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth. For purposes of this Order, "State agency" shall mean any department, agency, division, commission, bureau or other entity of the State over which the

Governor has executive power.

2. No State agency shall discriminate on the basis of gender identity against any individual in any matter pertaining to employment by the State including, but not limited to, hiring, termination, retention, job appointment, promotion, tenure, recruitment and compensation.
3. All managers, supervisors and employees in all State agencies shall make diligent, good faith efforts to ensure that all employees are afforded equal opportunity, without regard to their gender identity.
4. The Office of Employee Relations, in consultation with the Executive Director of the Division of Human Rights, is hereby directed to promulgate clear and consistent guidelines prohibiting discrimination based on gender identity to maintain an environment where only job-related criteria are used to assess employees or prospective employees of the State. The Office of Employee Relations shall also implement a procedure to ensure the swift and thorough investigation of complaints of discrimination based on gender identity. Particular effort should be made to conduct investigations with due regard for confidentiality. The terms of this order shall take effect immediately, and shall be in effect irrespective of the issuance of any guidelines or procedures.

G I V E N under my hand and the Privy Seal of the State in the City of New York this sixteenth day of December in the year two thousand nine.

David A. Paterson
Governor

Lawrence Schwartz
Secretary to the Governor