

**Testimony of Carmelyn P. Malalis
Commissioner and Chair New York City Commission on Human Rights
Before the Committee on Civil Rights
June 19, 2017**

Good afternoon, Chair Mealy, Council Member Dromm, and members of the Civil Rights Committee, and thank you for convening today's hearing on Intro. No. 1186 and a proposed bill to ban conversion therapy. I am Carmelyn P. Malalis, Commissioner and Chair of the New York City Commission on Human Rights. I am happy to be here today to talk about updating the definitions of "sexual orientation" and "gender" under the New York City Human Rights Law to ensure that the law's coverage for these two protected categories are broad and inclusive. I am especially pleased and proud, of course, to be here during Pride Month to discuss how we can fulfill the promise that the City Human Rights Law is as protective as possible, so that my agency can carry out its mission to make sure that all New Yorkers can live, work, and be free from discrimination and harassment. This issue is personally and professionally important to me. As a lesbian, I am a loud and proud member of New York City's diverse and beautiful LGBTQ community. As an attorney, I spent over a decade as a workers' rights advocate, representing employees in discrimination cases based on gender identity, sexual orientation, disability, and many other areas of protection.

Protections against discrimination on the basis of sexual orientation were added to the law in 1986; Local Law 2 defined sexual orientation as "heterosexuality, homosexuality, or bisexuality." Protections against gender identity and expression have existed in the New York City Human Rights Law since 2002, when the definition of gender was amended to include "actual or perceived sex and shall also include a person's 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 legal sex assigned to that person at birth.”

In the nearly two and a half years that I have been at the helm of the Commission, we have worked diligently to be transparent about policy, increase outreach, and strengthen enforcement in these key areas of protection. In December 2015, the Commission published its Legal Enforcement Guidance on Discrimination on the Basis of Gender Identity or Expression to provide clear guidance to business owners, employers, housing providers, and members of the public on what exactly is considered discrimination on the basis of gender identity and expression under the City Human Rights Law, and how such discrimination works to marginalize transgender and gender non-conforming people. The Legal Enforcement Guidance specifically articulates violations of the City Human Rights Law, which include: denying someone access to the single-sex facility, such as a bathroom or locker room, or program that aligns with their gender identity; refusing to use someone’s preferred name or pronoun; requiring dress codes or uniforms, or applying grooming or appearance standards, that impose different requirements for individuals based on sex or gender; or forcing a transgender or gender non-conforming individual to use a single-occupant facility. It is our goal in creating the guidance to provide needed transparency and clarity to New Yorkers on their rights and obligations under the City Human Rights Law. Last year we also launched our Citywide, award-winning campaign, “Look Past Pink & Blue,” featuring real New Yorkers, to educate New Yorkers on their rights regarding access to single-sex facilities. The Commission now has a long-standing partnership with the LGBT Community Center to provide training to employers, City, state, and federal agencies, housing providers, and others, on transgender cultural competency. And last year, the Commission worked with local community partners to organize

the City's first-ever Transgender Week of Remembrance and Resilience, expanding it from one day into an entire week of activities and events.

Our Law Enforcement Bureau has also stepped up enforcement to protect transgender and gender non-conforming New Yorkers. Claims of discrimination based on gender identity or expression continued to rise in 2016, following a two-year trend. In 2014, only one such case was filed at the Commission's Law Enforcement Bureau. In 2015, 18 cases were filed, and in 2016, 29 cases were filed, including three Commission-initiated complaints in the employment context, across all jurisdictional areas. In addition, the Law Enforcement Bureau conducted 47 Commission-initiated investigations into gender identity and expression discrimination by providers of housing and public accommodations, using testing and document demands for information on policies and practices. Similarly, in 2016, the Commission filed 49 complaints of discrimination based on sexual orientation building on a two-year trend of increased complaints, up from 30 in 2014. We are up more than 60% in complaints from 2014 to 2016 in sexual orientation and 60% in gender identity from 2015 to 2016. And, let me be clear, these are numbers of complaints filed, not inquiries, matters resolved through pre-complaint intervention, or pre-complaint investigations.

We strongly support the goals of this legislation as it furthers our shared mission to ensure that the City Human Rights Laws' protections are comprehensive and inclusive. The Commission, along with our partners in the Administration, are reviewing the language proposed in Intro. 1186 and are exploring additional options based on language used in other jurisdictions, feedback from community partners, and our internal analysis. We have already initiated conversations with Council Member Dromm's office to consult on some of these changes and will continue to do so. We look forward to working closely with the Council to ensure that the

updated definitions reflect our intent to protect people on the basis of their sexuality and their gender identity.

I also wish to comment briefly on the proposed legislation to crack down on conversion therapy. The Commission supports efforts to ban this offensive and inhumane practice and we are eager to explore ways in which we can work with our Administration and Council partners to tackle this problem.

We thank Council Member Dromm for introducing Intro. 1186 and we look forward to working with you, the Council, and our partners in the Administration to ensure that protections based on sexual orientation and gender are inclusive of the full scope of sexualities and gender identities, to further our shared goal of dignity and respect for all.