

New Year City Releases Enforcement Guidance on Race Discrimination on the Basis of Hair

Legal enforcement guidance on race discrimination on the basis of hair from the New York City Commission on Human Rights affirms that employer policies on appearance and grooming that ban, limit, or otherwise restrict natural hair or hairstyles may be unlawful under the New York City Human Rights Law (NYCHRL).

The guidance states that “while grooming and appearance policies adversely impact many communities, this legal enforcement guidance focuses on policies addressing natural hair or hairstyles most commonly associated with Black people, who are frequent targets of race discrimination based on hair.”

Carmelyn P. Malalis, the Chair and Commissioner of the New York City Commission on Human Rights, noted that “[p]olicies that limit the ability to wear natural hair or hairstyles associated with Black people aren’t about ‘neatness’ or ‘professionalism;’ they are about limiting the way Black people move through workplaces, public spaces and other settings.”

While the guidance primarily focuses on race-based discrimination, it also notes that protections under the NYCHRL as they relate to hair-based discrimination extend to other areas beyond race, such as discrimination based on religion and gender, as well as ethnic or cultural identities.

For purposes of the guidance, “natural hair” is characterized as “the natural texture and/or length of hair;... hair that is untreated by chemicals or heat and can be styled with or without extensions.” Moreover, the guidance notes that protections available under the NYCHRL extend to “treated hair styled into twists, braids, cornrows, Afros, Bantu knots, fades and/or locs.” The guidance also provides for the right to keep hair in an “uncut or untrimmed states.”

Examples of potential violations of the NYCHRL by employers include:

- Maintaining policies that ban or require the alteration of natural hair or hair styled into twists, braids, cornrows, Afros, Bantu knots, fades, or locs.
- Applying facially neutral policies in a discriminatory manner, *e.g.*, enforcing a grooming policy banning the use of color or patterned hairstyles against Black employees only.
- Enacting policies that force employees to straighten, relax (using chemicals or heat), or otherwise manipulate their hair to conform to employer expectations.
- Enacting a policy prohibiting hair that extends beyond a certain length from the scalp.
- Harassing, imposing unfair conditions, or otherwise discriminating against employees based on aspects of their appearance associated with their race, *e.g.*, prohibiting a

Black employee with locs from being in a customer-facing role unless they change their hairstyle.

While the guidance recognizes an employer may have legitimate health or safety concerns regarding hairstyles, it states that employers must consider alternative ways to address concerns before imposing a ban or restriction on employees' hairstyles, such as use of hairnets, hair ties, head coverings, or alternative safety equipment.

Please contact Jackson Lewis if you have any questions or need assistance with this or other workplace requirements.