

New Dos and Don'ts: New York City Bans Discrimination Based On Hairstyle

Article By:

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On February 18, 2019, the New York City Commission on Human Rights (the “NYCCHR”) released new [legal enforcement guidance](#) (the “Guidance”) regarding discrimination on the basis of natural hair and hairstyles. In the Guidance, the NYCCHR advised employers that “[t]he New York City Human Rights Law (“NYCHRL”) protects the rights of New Yorkers to maintain natural hair or hairstyles that are closely associated with their race or identities.” While the NYCCHR made clear that “hair-based discrimination implicates many areas of the NYCHRL, including prohibitions against race, religion, disability, age, or gender-based discrimination,” the Guidance’s directives particularly focus on prohibiting hair and hairstyle discrimination against Black people, defined as “those who identify as African, African American, Afro-Caribbean, Afro-Latin-x/a/o or otherwise having African or Black ancestry.” Specifically, the Guidance states that the NYCHRL protects the rights of Black New Yorkers “to maintain natural hair, treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state.”[1]

While the NYCCHR noted that the NYCHRL also prohibits discrimination on the basis of hair and hairstyle by housing providers and places of public accommodation, the bulk of the Guidance focuses on unlawful discrimination by employers. In particular, the Guidance places employers on notice that they may face liability under the NYCHRL for either: (i) maintaining grooming or appearance policies that “ban or require the alteration of natural hair or hair styled into twists, braids, cornrows, Afros, Bantu knots, fades and/or locs”; or (ii) enforcing policies regarding appearance or grooming in a discriminatory manner. For instance, while an employer may maintain a policy requiring employees to maintain a “neat and orderly” appearance, the same policy may not prohibit any of the aforementioned hairstyles or require employees to alter the natural state of their hair. Examples of employer policies that would violate the NYCHRL delineated in the Guidance include:

- A grooming policy prohibiting twists, locs, braids, cornrows, Afros, Bantu knots, or fades;
- A grooming policy requiring employees to alter the state of their hair to conform with the employer’s appearance standards, including having to straighten or relax hair; and
- A grooming policy banning hair that extends a certain number of inches from the scalp, which would limit Afro hairstyles.

Employers are also prohibited from enforcing facially neutral appearance policies in a discriminatory manner, such as requiring only Black employees to change their hairstyle. Employers with health or safety concerns in the workplace are required by the Guidance to consider alternative ways to address those concerns before imposing a ban or restriction on employee hairstyles, including hair ties, hair nets and head coverings.

New York City employers should review their dress codes and grooming or appearance policies to ensure that they comply with the Guidance and the NYCHRL's prohibition on natural hair and hairstyle discrimination. We will provide updates as new information becomes available.

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[1] "Locs" are also known as "dreadlocks," though that term has negative connotations.

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