

New Jersey Bans Discrimination Based on Hair

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On December 19, 2019, New Jersey enacted legislation amending the [New Jersey Law Against Discrimination](#) (“NJLAD”) to add a definition for “Race” – which has always been a protected category under the NJLAD – and for the term “Protective hairstyle.” The [Amendment](#), referred to as the “CROWN Act” (short for “Create a Respectful and Open Workspace for Natural Hair Act”), amends the NJLAD to add the following to the statute’s list of definitions:

“Race” is inclusive of traits historically associated with race, including, but not limited to, hair texture, hair type, and protective hairstyles.

“Protective hair styles” includes, but is not limited to, such hairstyles as braids, locks, and twists.

The Amendment, which became effective immediately upon signing, essentially codifies portions of enforcement guidance (“Guidance”) issued earlier this year by the state’s Division on Civil Rights, about which we previously [wrote](#). The Guidance, which reflects the DCR’s interpretation of the NJLAD, but is not statutory, provides directives to employers that are not in the Amendment, but which will now carry more weight because of it. Of note, although the Amendment specifically includes hairstyles associated with Black persons in the definition of “protective hair styles,” the Guidance also includes, hairstyles associated with particular religions such as payot (sidelocks) worn by Orthodox Jewish men and Sikh persons who wear uncut hair.

With the Amendment, New Jersey becomes the third state (following California and New York) to ban discrimination based on hair and hairstyles. Some cities, including New York City and Cincinnati, have also enacted laws prohibiting hair-based discrimination. Other states are also [considering similar legislation](#). Given this trend, all employers – not just those in New Jersey and other locales with such laws on the books – should consider reviewing their workplace grooming and appearance policies and, in particular, their enforcement of such policies, to confirm that they are applied in a nondiscriminatory manner.

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