



## Get Ready for the NYC “Hair Discrimination” Guidelines

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The New York City Commission on Human Rights issued today a new set of first-in-the-nation guidelines addressing racial discrimination in employment, school, or places of public accommodation based on an individual’s natural hair, hairstyle, or hair color. According to the City Commission, Black hairstyles are protected racial characteristics under the New York City Human Rights Law because they are an inherent part of African-American identity. The Hair Discrimination Guidelines state that employers discriminate when their grooming or appearance policies limit or forbid natural hair or hairstyles associated with Black employees and applicants.

The Guidelines provide examples of the offending grooming or appearance policies, including:

- Policies that ban or require the alteration of natural hair or hair styled into twists, braids, cornrows, Afros, Bantu knots, fades, and/or locs, which the Guidelines state “are commonly associated with Black people”;
- Policies that force employees to straighten, relax, or otherwise manipulate their natural hair to conform to employer expectations; and
- Policies “banning hair that extends a certain number of inches from the scalp, thereby limiting Afros.”

According to the NYC Commission, such policies constitute direct evidence of disparate treatment based on race and/or other relevant protected classes.

The Hair Discrimination Guidelines also caution that facially neutral grooming policies may discriminate against employees if discriminatorily applied. For example, an employer violates City law when it bans Black employees only from using extensions, patterned hairstyles, or color/dye. Examples in the Guidelines include:

- Requiring only Black employees to obtain supervisory approval prior to changing hairstyles;
- Telling Black employees with locs that they cannot be in a customer-facing role without changing their hairstyle;
- Requiring only Black employees to alter or cut their hair or risk losing their jobs;
- Refusing to hire a Black applicant with cornrows because his or her hairstyle does not fit the sales representative “image” the employer is trying to project; and
- Mandating that Black employees hide their hair or hairstyle with a hat or visor.

Lastly, the Guidelines caution that employers may not ban, limit, or restrict natural hair or hairstyles associated with Black communities to promote a certain corporate image due to customer preference or under the guise of speculative health or safety concerns.

Nothing in the new Hair Discrimination Guidelines prevents an employer from requiring all workers to wear their hair up or in a net for legitimate health or safety reasons. However, the Guidelines require employers to consider alternative ways to meet the health or safety concerns prior to imposing a ban or restricting hairstyles, such as the use of hair nets, hair ties, or alternative safety equipment.

This initiative is reportedly responsive to increased complaints from African-American workers that they have experienced harassment and discrimination by employers due to their individual grooming preferences.



While these new Guidelines are being characterized as first-in-the-nation, the District of Columbia's Human Rights Law has, for decades, expressly prohibited discrimination based on appearance. In addition, courts across the country have found that limitations on hair style can be a form of discrimination due to a protected characteristic.

A copy of the Hair Discrimination Guidelines can be read [here](#).

Employers operating in New York City are encouraged to review their respective grooming and appearance policies and practices to address these Guidelines and ensure compliance in the workplace.

For more information on the matters discussed in this *Locke Lord QuickStudy*, please contact the authors.

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