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NEW JERSEY CLARIFIES ILLEGALITY OF HAIRSTYLE AND HAIR TYPE DISCRIMINATION

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By Ben Teris

On December 19, 2019, New Jersey Governor Phil Murphy signed the [“Create a Respectful and Open Workplace for Natural Hair Act,” otherwise known as the “CROWN Act,” into law](#). The Act amends the New Jersey Law Against Discrimination (LAD) to clarify that prohibited race discrimination includes discrimination on the basis of “traits historically associated with race, including, but not limited to, hair texture, hair type, and protective hairstyles.” “Protective hairstyles” include, without limitation, “such hairstyles as braids, locks, and twists.”

The Act is modeled after a recent California law and was signed on the one-year anniversary of the controversial high school wrestling match, where an African-American wrestler was forced to cut his dreadlocks in order to compete.

What Employers Need to Know

The Act removes any doubt as to what was already true under the LAD: discrimination on the basis of racially-associated traits, such as types hair and hairstyles, is unlawful.

The New Jersey Division on Civil Rights (DCR) previously [released guidance](#) on prohibited hairstyle discrimination, which all employers should review. Importantly, the guidance warns employers that “hair-related policies that are facially neutral—such as requirements to maintain a ‘professional’ or ‘tidy’ appearance—will likely violate the LAD if they are discriminatorily applied or selectively enforced against Black people” While certain employers, such as those in the food industry, may still maintain grooming policies (e.g., hair length, etc.), such policies cannot be selectively enforced against those with protective hairstyles (e.g., locks). Moreover, employers must consider whether there are less restrictive alternatives than such policies.

The CROWN Act is the last in a lengthy list of employment laws enacted in New Jersey in 2019. This includes laws banning employee nondisclosure agreements, expanding family leave protections, increasing penalties for wage law violations, protecting employees prescribed with medical cannabis, and [prohibiting employers from screening job applicants based on salary history](#). With the new year upon us, New Jersey employers should review their policies, practices, procedures, and handbooks to ensure compliance with the laws.

For Further Information

If you have any questions about this Alert, please contact [Ben Teris](#) or the attorneys in our [Labor and Employment Group](#).