Hello and thank you for having me. My name is Dr. Gillian Scott-Ward. I am a trauma focused, mind-body clinical psychologist and director of the award winning documentary, Back to Natural.

My earliest hair memory takes place when i was around 9 and taking a monthly trip to the salon. I looked forward to leaving with that sought after “flowy”hair and everyone around me affirming how beautiful i looked. To get to that beautify though, required something difficult for a child, for anyone really. I would, like a good girl, have to endure the inevitable pain and burning, from the chemicals required to turn my kinky hair that grew towards the sun, straight.I knew i was suppose to tell the stylist as soon as i felt a tingling, so she could wash it out, but i knew the longer i allowed it sit, the straighter it would be. so when the tingling started, i would watch the clock to see how long i could go, before calmly telling her it was time, even though on the inside i was screaming from the pain, anticipating the sores and scabs that would emerge on my scalp in the coming days.

This is a familiar experience for Black people, Black women especially. To have to sit, quietly through the pain, and that training starts in the hair salon.

It was not until I had already become a clinical psychologist, that I allowed myself to fully sit with what those experiences meant - of feeling my most beautiful- after what felt like torture. Confusion, shame and embarrassment about this led me to explore my relationship with hair, and Black peoples relationship with hair generally, across the globe through film.

In 2017 I released a documentary, Back to Natural, about the meaning of hair within global, Black communities. Through this exploration, I have come to the conclusion that instituting protection policies like those we are discussing today, is not simply about hair, it is about protecting people’s rights to bodily autonomy, integrity, identity, spirituality and history.

These rules are not just about hair, they are about freeing parents from being forced to transform their children’s bodies with dangerous, carcinogenic chemicals, causing an endless list of negative, lifelong health implications, as well as bodily and racial trauma. Trauma that destroys people from within, threatening relationships with others. It’s about preventing the

normalization of the requirement to assault and contort our bodies in unnatural ways and forcing a psychological rejection of the self.

These protection policies set the foundation for an important cultural shift. What we get as a society for protecting rights to wearing hair in alignment with our true physical and spiritual selves is a chance for us to be seen and known, by ourselves, and by each other, bringing about personal harmony and harmony within communities. Permission to bring our full selves into our schools and our workplaces allows for a diversity of ideas that can only help our society flourish and thrive.

Laws are the first step. I encourage this body to understand that laws don't change hearts and minds. The anxiety, fear and discomfort, that these hairstyles we seek to protect engender, will not go away overnight. Education, and events encouraging psychological and bodily exploration for why we discriminate must be a part of this movement. but first, let us commit to the law.

Testimony to the New York City Commission on Human Rights
Regarding the Proposed Rule on
Prohibition on Hair Discrimination Based on Race and Religion
to be codified at § 2-09 of title 47 of the Rules of the City of New York

The American Civil Liberties Union (ACLU) and the New York Civil Liberties Union (NYCLU) respectfully submit the following testimony in support of the Proposed Rule on Prohibition on Hair Discrimination Based on Race and Religion, which clarifies that disparate treatment based on hair can be a form of race- and religion-based discrimination. We strongly support codifying the Commission's prior Guidance on Race Discrimination on the Basis of Hair in a formal rule.

Executive Summary

Despite longstanding federal and state law generally prohibiting discrimination based on race and religion, hair discrimination remains common for Black people and people of faith who have been unduly targeted because of objections to their natural hair or religious hair practices. Though hair discrimination is, unfortunately, not a new phenomenon, in recent years we have seen a rise in media coverage of Black people being humiliated, shamed, or banned from their schools or workplaces because others objected to their hair. And discrimination based on religious hair practices has increased in recent years as minority-faith populations continue to grow across the country. Due to the Commission's leadership against hair discrimination, we now have the opportunity to combat this problem more directly and explicitly in New York City.

The proposed rule explicitly prohibits covered entities—including but not limited to employers, schools, and public accommodations—from acting against individuals who wear

natural hairstyles or follow religious hair practices. More specifically, it establishes that bans or restrictions on hair, hairstyle, hair length, religious headwear, or other hair practices associated with race or religion are forms of racial and religious discrimination. Once codified, the rule will thus affirm that hair discrimination is indeed a subset of race and religious discrimination—a policy and legal position the ACLU has long advanced.

Interest of the ACLU and the NYCLU

The ACLU is a national, nonpartisan public-interest organization with more than four million members, activists, and supporters dedicated to protecting the constitutional and civil rights of individuals. The NYCLU, the New York state affiliate of the ACLU, is a not-for-profit, nonpartisan organization with eight offices across the state and over 141,000 members and supporters statewide. The NYCLU's mission is to defend and promote the fundamental principles, rights, and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution, including the right to be free from racial and religious discrimination based on hair style.

Both the ACLU and the NYCLU have successfully litigated race and religion discrimination cases in the state and federal courts, including cases involving hair discrimination. Moreover, the ACLU and its affiliates have participated in nationwide advocacy efforts to pass legislation at the federal and state level to make clear that hair discrimination is a form of racial and religious discrimination.

I. The Proposed Rule Will Provide Vital Protections Against Hair Discrimination Based on Race

Discrimination based on natural Black hair remains common today. Such discrimination typically presents in one of two ways. First, some entities adopt explicit bans on hairstyles associated with natural Black hair or Black identity, such as a ban on box braids or locs

(sometimes called "dreadlocks"). For example, an Alabama woman named Chastity Jones had a job offer rescinded based on her prospective employer's policy banning employees from wearing their hair in locs.[1] Second, others adopt facially race-neutral grooming rules that, though not discriminatory on their face, are applied unfairly to disadvantage Black people. For example, a school may enforce a ban on braids only against Black students while allowing white students to wear the same hairstyle. This happened to Massachusetts students, sisters and ACLU clients Mya and Deanna Cook, who were barred from extracurricular activities and threatened with expulsion for wearing box braids that included hair extensions, though the school yearbook revealed that white students were allowed to wear hair extensions with impunity.[2] Both types of discrimination are based on race.

Though hair discrimination has only recently received widespread coverage in the media, it is not new, but deeply rooted in our nation's history of chattel slavery. The term "dreadlocks," for example, stemmed from slave owners' opinion that natural Black hair texture is "dreadful."[3] Today, this racist legacy appears as stereotypes that Black hairstyles are inherently messy, unkempt, and unprofessional.

These stereotypes particularly impact Black women. Recent studies have found that African American women face the highest instances of hair discrimination and are "more likely to be sent home from the workplace because of their hair."[4] Additionally, 80% of African-

[1] *EEOC v. Catastrophe Mgmt. Sols.*, 852 F.3d 1018, 1020 (11th Cir. 2016), *cert. denied*, 138 S. Ct. 2015 (2018).
[2] Press Release, ACLU of Massachusetts Challenges Malden Charter School's Discriminatory Hair Policy (May 16, 2017), https://www.aclu.org/press-releases/aclu-massachusetts-challenges-malden-charter-schools-discriminatory-hair-policy.
[3] Brief of Amici Curiae NAACP Legal Def. and Educ. Fund, Inc. et al. in support of Plaintiff/Appellant's Petition for Rehearing En Banc, *EEOC v. Catastrophe Mgmt. Sols.*, 876 F.3d 1273 (11th Cir. 2017).
[4] JOY Collective, The Crown Research Study, DOVE 4 (2019), https://static1.squarespace.com/static/5edc69fd622c36173f56651f/t/5edeaa2fe5ddef345e087361/1591650865168/Dove_research_brochure2020_FINAL3.pdf.

American women have felt pressured to change their natural hair style in order to fit in at work.[5]

Hair discrimination is also prevalent in the education system. In addition to the recent experience of Mya and Deanna Cook mentioned above, in August 2018, six-year-old Clinton Stanley Junior, another ACLU client, was not allowed to begin the first grade because school administrators objected to his locs.[6] The following month, eight-year-old Faith Fennidy was expelled from a school in Louisiana due to a policy against her braided hairstyle.[7] On Halloween of 2018, a Navajo family, also ACLU clients, complained after a teacher cut the braid of a Native American student.[8] The cutting was especially traumatizing because of this country's history of nineteenth century Native American boarding schools that forced Native students to cut their hair to deny them their heritage and beliefs.[9] Then, in December 2018, high school athlete Andrew Johnson was forced to choose between forfeiting a wrestling match or having his hair cut on the spot, though white athletes were allowed to compete with hair of a similar length.[10] Earlier this year, two Black students in Texas were suspended from their high school because administrators objected to their locs.[11] One of the students was threatened with exclusion from prom and graduation, causing him to withdraw from the school altogether; the other was suspended. No one should lose a job, and no student should miss out on an opportunity to learn, because of their hair.

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[5] *Id.*
[6] Clinton Stanley, *My Black Son Was Sent Home From First Grade Because of His Natural Hair*, ACLU, https://www.aclu.org/blog/racial-justice/race-and-inequality-education/my-black-son-was-sent-home-first-grade-because-his.
[7] Julia Jacobs & Dan Levin, *Black Girl Sent Home From School over Hair Extensions*, N.Y. Times, Apr. 21, 2018.
[8] Letter from Leon Howard, Legal Director of ACLU of Mexico, to Raquel Reedy, Superintendent of Albuquerque Public Schools (Nov. 28, 2018), https://www.aclu-nm.org/sites/default/files/field_documents/aclu_demand_letter_aps_.pdf
[9] National Museum of the American Indian, Boarding Schools, https://americanindian.si.edu/education/codetalkers/html/chapter3.html#:~:text=At%20boarding%20schools%2C%20Indian%20children,names%20and%20take%20English%20ones.
[10] Laurel Wamsley, *Adults Come Under Scrutiny After HS Wrestler Told to Cut his Dreadlocks or Forfeit*, NPR, Dec. 27, 2018.
[11] *Arnold v. Barbers Hill Indep. Sch. Dist.*, No. 4:20-CV-1802, 2020 WL 4805038, *10 (S.D. Tex. Aug. 17, 2020).

Existing Law Regarding Hair Discrimination Based on Race

Though federal, state, and local law all clearly prohibit race discrimination, too often courts have wrongly excluded hair discrimination from bans on race discrimination. When the Commission issued its landmark Guidance just last year, the leading federal case had held that discrimination against Black hair was not a form of discrimination against Black people because, according to the U.S. Court of Appeals for the Eleventh Circuit, hairstyles can be changed.[12] While it is of course true that hair*styles* can be changed, natural hair texture cannot. The effect of allowing a ban on natural Black hairstyles was to require Black people to alter the texture of their hair as it grows out of their head simply to be able to hold a job, to go to school, or to go about their daily lives. This kind of mental gymnastics is wrong, and that is why the Guidance was so important. The Guidance provided a first-of-its-kind roadmap to judges and lawmakers explaining why opposition to natural Black hairstyles cannot be separated from anti-Black racism. The Commission has taken the right approach by defining hair discrimination as a form of race discrimination.

Since the Guidance was issued, more recent federal decisions have recognized that hair discrimination is, in fact, a form of race discrimination. In a Texas case, after granting a preliminary injunction enjoining a school from enforcing its hair-length policy as both race and sex discrimination, the district court noted that Black students were three times as likely as white students to lose a day of instruction because they were suspended because of their hair.[13] Though this decision is a powerful sign that our courts are beginning to catch up to our communities, not every student will have access to statistical evidence—and they shouldn't have to. Clearer

[12] *Catastrophe Mgmt. Sols.*, 852 F.3d at 1021 ("Our precedent holds that that Title VII prohibits discrimination based on immutable traits, and the proposed amended complaint does not assert that dreadlocks—though culturally associated with race—are an immutable characteristic of black persons.").
[13] *Arnold*, 2020 WL 4805038, at *10.

guidance is needed to ensure that all students have the freedom to learn regardless of their hair.

There has also recent legislative movement to make clear that hair discrimination is unlawful. To date, seven states— California, Colorado, Maryland, New Jersey, New York, Virginia, and Washington—have adopted legislation that expressly extends protection from discrimination to discrimination based on hair.[14] Similar legislation has been introduced in Congress and passed the House of Representatives.[15] This represents tremendous progress in just a few years, but nationwide coverage is still a distant goal. This proposed rule could not come at a more appropriate time, when our nation is reckoning with the legacy of chattel slavery in our present lives.

The Proposed Rule's Protections Against Race-Based Hair Discrimination

The proposed rule includes vital provisions that will protect all in New York City from racial discrimination based on their hair.

First, the proposed rule clarifies that hair discrimination is a form of race discrimination, which is already unlawful, rather than creating a new, distinct type of discrimination.[16] This is core to understanding the nature of discrimination based on hair, a characteristic as innate—and immutable—as skin color. Second, the proposed rule clarifies that so-called "customer preference" can never be used to justify discrimination.[17] Third, the proposed rule includes useful illustrations drawn from real-life examples and thus gives covered entities adequate guidance as they work to comply with the rule, once it is codified.[18]

[14] Alexandra Kelley, *House Passes Bill Banning Race-Based Hairstyle Discrimination,* The Hill, Sept. 23, 2020.
[15] Crown Act of 2020, H.R. 5309, 116th Cong. (2020).
[16] N.Y.C. Comm'n on Human Rights, Prohibition on Hair Discrimination Based on Race and Religion, § 2-09(a)(1) (2020).
[17] *Id.*
[18] *Id.* § 2-09(a)(2).

II. The Proposed Rule Will Provide Vital Protections Against Hair Discrimination Based on Religion

Many people of faith, including adherents of both minority religions and Christian faiths, comply with specific religious tenets that guide how they wear their hair. Many Sikh men, for example, do not cut the hair on their head or their facial hair; instead, they wear their hair tied up under a turban and let their beards grow unshorn. So, too, some Jewish and Muslim men believe they are forbidden to shave off their facial hair, and some wear religious head coverings, such as kufis or yarmulkes. Some Muslim women wear hijab, the practice of donning a headscarf to cover their hair from the view of others, while women in some Christian sects likewise cover their hair. Many Rastafarians grow their hair into dreadlocks for religious reasons. This is not, by any means, an exhaustive list of religious hair practices by adherents of various faiths, but it illustrates that these practices are a common and important aspect of religious exercise for many individuals.

Unfortunately, discrimination against these religious hair practices is also common and arises in a variety of troubling contexts. For example, the ACLU has intervened to reverse a public school's suspension of a Muslim student after he wore a kufi to school.[19] We have successfully represented a Native American kindergartener whose Texas school required him to cut his hair, which he kept long in accordance with his faith.[20] We have demanded that Disney stop discriminating against a Sikh employee because of his turban and beard.[21] And we have objected or sued in numerous situations where employers, public accommodations, and other

[19] Morgan Keller, *ACLU-DE Protects Students' Rights to Religious Freedom*, ACLU Delaware, https://www.aclu-de.org/en/news/aclu-de-protects-students-rights-religious-freedom.
[20] *A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist*., 611 F.3d 248 (5th Cir. 2010).
[21] Heather L. Weaver & Gurjot Kaur, *Happily Ever After: Religious Freedom Prevails at Walt Disney World*, ACLU, https://www.aclu.org/blog/religious-liberty/free-exercise-religion/happily-ever-after-religious-freedom-prevails-walt.

institutions have banned or harassed Muslim women who wear hijab.[22] Of course, people of minority faiths are not the only religious individuals affected by hair discrimination. Thus, when necessary, the ACLU has stepped in to defend the rights of Christians facing similar restrictions, including a Christian woman in Alabama who was forced to remove her headscarf for a DMV photo,[23] and a Christian woman who was banned from visiting her brother in a Georgia prison unless she removed her religious head covering.[24]

Existing Law Regarding Hair Discrimination Based on Religion

Existing law across the country provides some protection against hair discrimination based on religion, but there are gaps. In the public-school context, for example, schools that allow students to wear baseball caps cannot turn around and bar students from wearing kufis or religious headscarves. Nor, under the First Amendment, may schools allow students of some faiths to wear religious headwear while denying the same right to students of other faiths. Some state laws may also provide some heightened protections for public-school students and others against governmental rules that substantially burden individuals' religious hair practices.

Federal and state employment laws, meanwhile, require employers to provide employees with religious accommodations in certain circumstances; federal and state laws also prohibit discrimination in housing and public accommodations. But, across the board, there are few, if any, explicit statutory protections for religious hair practices. The lack of explicit protections for religious hair practices creates uncertainty and risk for people of faith and makes it harder for

[22] Rebecca Guterman, *When a Headscarf Becomes a Target*, ACLU, https://www.aclu.org/blog/religious-liberty/religion-and-public-schools/when-headscarf-becomes-target.
[23] Yvonne Allen, *What's Driving Religious Discrimination at the Alabama DMV?*, ACLU, https://www.aclu.org/blog/religious-liberty/free-exercise-religion/whats-driving-religious-discrimination-alabama-dmv.
[24] Audra Ragland, *Federal Prison Illegally Bans Christian Head Scarves for Visitors Like Me*, ACLU, https://www.aclu.org/blog/religious-liberty/free-exercise-religion/federal-prison-illegally-bans-christian-head-scarves.

them to participate in civil society, whether in the workplace, schools, social settings, or other contexts. These are daily religious rituals and practices that, as a general matter, pose no harm or risk to others and should thus be accommodated as broadly as possible.

The Proposed Rule's Protections Against Religion-Based Hair Discrimination

As with hair discrimination based on race, the proposed rule makes clear that restrictions on "hair textures, hairstyles, including the use of headcoverings, or hair length associated with an individual's religious beliefs, observance, or practice" is tantamount to religious discrimination. Employers may not make employment decisions based on employees' religious headwear, whether it be a yarmulke, turban, headscarf, or other head covering. And employers must accommodate employees' religious hair practices except in limited, unusual circumstances—for instance, where there is a legitimate health or safety concern. Like the proposed rule's provisions relating to race-based hair discrimination, the rule also makes clear that the religious biases of others or religious stereotypes regarding what is "unprofessional" or a "distraction" do not excuse discrimination by employers or other covered entities.

Moreover, schools may not penalize students for adhering to their faith's hair practices; landlords and stores may not reject individuals based on their religious appearance; healthcare providers may not disregard patients' religious hair practices absent an emergency. These provisions are all key to ensuring that people of faith have the same access to schools, workplaces, housing, medical care, and public accommodations as everyone else.

Taken together, the race- and religion-based provisions of the proposed rule provide important guidance and clarification that will help all New Yorkers to live free from discrimination based on who they are, how their wear their hair, and religious hair practices.

Conclusion

The proposed rule provides robust legal protections that will reduce hair discrimination, ensuring that Black people, other people of color, and people of minority faiths have the same opportunities as everyone else. The Commission's decision to give its Guidance the force of law will affirm that hair discrimination is illegal and wrong, and it has no place in New York City. For these reasons, we commend the Commission for issuing its landmark Guidance last year and strongly support codifying that Guidance into a formal rule. We appreciate the opportunity to submit testimony for the Commission's public hearing on this matter and stand ready to assist or answer any questions you may have.

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Written Testimony of Katurah Topps

Policy Counsel

NAACP Legal Defense and Educational Fund, Inc.

New York City Commission on Human Rights

Hearing on

Proposed Rule § 2-09 Prohibiting Race and Religious Discrimination Based on Hairstyle and Hair Texture

October 15, 2020

Good afternoon Chairwoman Malalis and members of the Commission. My name is Katurah Topps and I serve as Policy Counsel for the NAACP Legal Defense and Educational Fund, Inc. ("LDF"). We thank you for the opportunity to testify today on Proposed Rule § 2-09, which seeks to amend Chapter 2 of title 47 of the Official Compilation of the Rules of the City of New York to prohibit racial and religious discrimination based on a person's hairstyle or hair texture.

LDF is the nation's first civil and human rights law organization. It was founded in 1940 by Thurgood Marshall, who later became the first Black U.S. Supreme Court Justice. During the nearly 80 years since its inception, LDF has used litigation, policy/advocacy, and public education to promote full, equal, and active citizenship for Black people. This work has included litigating seminal cases such as *Brown v. Board of Education* and *Newman v. Piggie Park Enterprises*, which upheld Title II of the Civil Rights Act of 1964 and its prohibition on racial discrimination in public accommodations. Consistent with its mission, LDF has been on the frontlines of challenging policies that have a discriminatory impact on Black people because of their specific characteristics, including hair type.[1]

LDF has vigorously opposed hair policies that serve as pretexts or justifications for racial discrimination in schools and in the workplace, including *EEOC v. Catastrophe Management Solutions*, where LDF petitioned the Supreme Court of the United States to review the case of Chastity Jones, a Black woman whose job offer was rescinded solely because she wore her hair in locs.[2] In just the past two years alone, we challenged a hair policy in a Boston-area charter school that denied students Mya and Deanna Cook the right to wear braid extensions at their school;[3] obtained public records and demanded institutional change when Andrew Johnson, a Black high school student in New Jersey, was forced to cut his hair in order to

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[1] *See, e.g.*, Brief of NAACP Legal Def. & Educ. Fund, Inc. et al., as Amici Curiae, EEOC v. Catastrophe Management Solutions, 2016 WL 7173828 (11th Cir. Dec. 2, 2016); *Hearing on Perspectives on TSA's Policies to Prevent Unlawful Policing Before the H. Comm. on Homeland Security,* 116th Cong. (2019) (testimony of Janai S. Nelson, Assoc. Dir.-Counsel, NAACP LDF); *Letter Regarding Discrimination Against Andrew Johnson* to Rachel, Apter, Dir., New Jersey Division of Civil Rights, (Feb. 12, 2019); *Florida Department of Education Complaint on Behalf of Clinton Stanley Jr.* to Adam Miller, Exec. Dir., Office of Indep. Educ. and Parental Choice, Fla. Dep't of Educ. (Nov. 29, 2018).

[2] *See* Press Release, *LDF Files Supreme Court Petition in Major Employment Discrimination Case Targeting Natural Black Hairstyles (Apr. 5, 2018)*, https://www.naacpldf.org/press-release/ldf-files-supreme-court-petition-major-employment-discrimination-case-targeting-natural-black-hairstyles/.

[3] After pressure from parents and local activists, as well as media attention brought by LDF, the school's trustees lifted the no-extension ban through the end of the school year and permitted Deanna, Mya, and other students who received similar penalties to resume all extracurricular activities. *See* Press Release, *Civil Rights Groups Retained to Represent African American Teens Punished for Wearing Braids at Massachusetts Charter School* (2017), https://www.naacpldf.org/press-release/civil-rights-groups-retained-to-represent-african-american-teens-punished-for-wearing-braids-at-massachusetts-charter-school/.

compete in a high school wrestling match;[4] and filed an administrative complaint with the Florida Department of Education on behalf of a six-year-old boy, Clinton Stanley Jr., who was denied entry on his first day of school because he wore his hair in locs.[5] Most recently LDF initiated litigation in the state of Texas after the Barbers Hill Independent School District ("BHISD") informed students Arnold and K.B that they would be required to either cut their natural locs or no longer participate in regular classes and school activities, including Arnold's graduation ceremony. In August 2020, a federal judge granted the our client's request to enjoin enforcement of BHISD's discriminatory dress and grooming policy, enabling K.B to return to class and extracurricular activities.[6] Our extensive experience gives us a unique understanding of the critical need for policies and legislation to eradicate discriminatory practices that prevent Black people and other traditionally marginalized groups from moving freely in society, with equal access and opportunities.

Consistent with its deeply rooted history of anti-Black racism, America has a long legacy of discriminating against Black people for wearing hairstyles or textures that are linked to Black identity and culture. Natural Black hair generally grows outward in thick, tight coils and forms or can be groomed into locs, an Afro, twists, braids or other natural hairstyles and formations.[7] Black people have long battled the prevalent stereotype that these natural styles and formations are unsuitable for the workplace.[8] By mislabeling these hairstyles and formations as un-

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[4] After conversations with LDF, the National Federation of State High School Associations changed their hair rule, eliminating the reference to an athlete's natural hair state entirely. *See* Press Release, *LDF Makes Public Records Request in Response to Hair Discrimination Case Involving Buena Regional High School Wrestler* (Jan. 7, 2019),https://www.naacpldf.org/press-release/ldf-makes-public-records-request-response-hair-discrimination-case-involving-buena-regional-high-school-wrestler/; *see also* Press Release, *LDF Sends Letters Over Concerns with Discriminatory Hair Policies Stemming from Incident Involving New Jersey High School Wrestler* (Feb. 12, 2019), https://www.naacpldf.org/press-release/ldf-sends-letters-concerns-discriminatory-hair-policies-stemming-incident-involving-new-jersey-high-school-wrestler/.

[5] Letter from Angel S. Harris, et al., to Adam Miller re: Clinton Stanley Jr. Complaint (Nov. 29, 2018), https://www.naacpldf.org/wp-content/uploads/11.29.2018-Stanley-Complaint-002.pdf. After pressure from LDF and an investigation from the Florida Department of Education, A Book's Christian Academy discontinued enrollment in state scholarship programs.

[6] *See* Press Release, *LDF Defends Black High School Student Against Discriminatory Hair Policy in Preliminary Injunction Hearing* (July 22, 2020), https://www.naacpldf.org/press-release/ldf-defends-black-high-school-student-against-discriminatory-hair-policy-in-preliminary-injunction-hearing/.

[7] D. Wendy Greene, *Splitting Hairs: The Eleventh Circuit's Take on Workplace Bans Against Black Women's Natural Hair in* EEOC v. Catastrophe Management Solutions, 71 U. MIAMI L. REV. 987, 999-1000 (2017).

[8] A 2017 study found that white women, on average, believe that "[B]lack women's textured hair," is "less professional than smooth hair. Alexis m. Johnson, et al., *The "Good Hair" Study: Explicit And Implicit Attitudes Toward Black Women's Hair* 6, Perception Institute (Feb. 2017),https://perception.org/wp-content/uploads/2017/01/TheGood-HairStudyFindingsReport.pdf ; *see* Dawn D. Bennett-Alexander & Linda F. Harrison, *My Hair Is Not Like Yours: Workplace Hair Grooming Policies for African American Women As Racial Stereotyping in Violation of Title VII*, 22 CARDOZO J.L. & GENDER 437, 446 (2016).

sanitary, unkempt, and/or unsuitable for the workplace, as well as educational and other spaces, public and private actors found yet another way to exclude Black people from public spaces and/or suppress Black characteristics.[9] Though frequently guised as "appearance policies" or "dress codes," these policies merely use the uniqueness and beauty of Black hair as a proxy for routine racial discrimination.[10] These racial proxies are employed to limit the mobility of Black people in public and private spaces, strike at the freedom and dignity of Black people, and maintain the myth of white supremacy.

Almost fifty years ago, the Equal Employment Opportunity Commission ("EEOC") recognized that natural hair discrimination constituted race discrimination. In a 1971 decision, the EEOC "concluded that race discrimination encompassed an employer's prohibition of Afro hairstyles.[11] In its reasoning, the EEOC noted that wearing traditionally Black hairstyles have "been so appropriated as a cultural symbol," that their suppression would automatically indicate racial prejudice. [12] The EEOC later codified this interpretation in its Compliance Manual, which analyzes charges of race and color discrimination under Title VII of the Civil Rights Act of 1964, a federal antidiscrimination law.[13] This guidance advises that Title VII permits employers to impose neutral hairstyle rules, but those rules must respect racial differences in hair texture and it "prohibits employers from applying neutral hairstyle rules more restrictively to hairstyles worn by African Americans."[14]

Recently, federal, state, and local leaders have begun acknowledging that policies that discriminate against traditionally Black hairstyles qualify as racial discrimination. California passed the Creating a Respectful and Open Workplace for Natural Hair ("CROWN") Act in January 2019. The law, in effect as of January 1, 2020,[15] prohibits schools and employers from discriminating against natural hair-

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[9] The term "dreadlocks" originated from slave traders who described Africans' hair that had naturally formed into locs as "dreadful." *See* Brown White, *Releasing the Pursuit of Bouncin' and Behavin' Hair: Natural Hair as an Afrocentric Feminist Aesthetic for Beauty,* 1 INT'L J. MEDIA & CULTURAL POL. 295, 965 n.3 (2005) [hereinafter White].

[10] *See generally* White, *supra* note ix; *see also* David S. Joachim, *Military to Ease Hairstyle Rules After Outcry from Black Recruits,* N.Y. TIMES (Aug. 14 2014), https://www.nytimes.com/2014/08/15/us/military-hairstyle-rules-dreadlocks-cornrows.html; Maya Rodan, *U.S. Military Rolls Back Restrictions on Black Hairstyles,* TIME, Aug. 13, 2014, https://time.com/3107647/military-black-hairstyles/.

[11] Br. of the Equal Employment Opportunity Commission, EEOC v. Catastrophe Mgmt. Solutions, No. 14-13482 at *26 (11th Cir. Sept. 22, 2014), available at 2014 WL 4795874 [hereinafter EEOC Br.]

[12] EEOC Br. Dec. No. 71-2444, 1971 WL 3898, 4 Fair Empl. Prac. Cas. (BNA) 18 (1971).

[13] Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employers from discriminating against employees based on sex, race, color, national origin, and religion.

[14] U.S. Equal Employment Opportunity Commission, *EEOC Compliance Manual Section on Race and Color Discrimination,* https://www.eeoc.gov/racecolor-discrimination; *see also* EEOC Compliance Manual,§ 15.VII.B.5 (2006), *available at* https://www.eeoc.gov/policy/docs/race-color.html#VIIB5.

[15] S.B. 188, 2019-2020Leg., (Cal. 2020).

styles associated with race.[16] According to the sponsor of the bill, Sen. Holly J. Mitchell: "There are still far too many cases of Black employees and applicants denied employment or promotion— even terminated—because of the way they choose to wear their hair. I have heard far too many reports of Black children humiliated and sent home from school because their natural hair was deemed unruly or a distraction to others."[17]

Following California's lead, on July 12, 2019 New York State enacted the CROWN Act, which "[p]rohibits race discrimination based on natural hair or hairstyles" and defines race to include "traits historically associated with race, including but not limited to, hair texture" and "braids, locks, and twists."[18] And in New York City, this Commission rightly noted that employers and public accommodations "are engaging in unlawful race discrimination when they target natural hair or hairstyles associated with Black people, and/or harass Black employees based on their hair" and "may face liability under the [New York City Human Rights Law] NYCHRL because these policies subject Black employees to disparate treatment."[19]

In addition to California and New York, Maryland, Virginia, Washington, and Colorado, and New Jersey have passed state versions of the CROWN act and twenty-four other states have considered or are considering similar CROWN act language.[20] We commend these jurisdictions for taking action to address the pervasive discrimination based on hair texture and styles.

On December 5, 2019, Senator Cory Booker and Congressman Cedric Richmond introduced the federal CROWN Act to prohibit discrimination against

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[16] *See* Kristin Lam, *California's CROWN Act seeks to end racial discrimination based on hairstyles*, USA Today (Apr. 23, 2019), https://www.usatoday.com/story/news/nation/2019/04/23/california-bill- end-racial-discrimination-hairstyle/3557231002/.

[17] "Senate OKs Sen. Mitchell's bill to protect against discrimination based on hair texture, styles," YouTube.com (Apr. 22, 2019), https://www.youtube.com/watch?time_continue=182&v=Ty69wWU- M7E.

[18] *See* N.Y. Exec. Law § 292 (McKinney); N.Y. Educ. Law § 11 (McKinney); *see also Governor Cuomo Signs S6209A/A7797A To Make Clear Civil Rights Laws Ban Discrimination Against Hair Styles Or Textures Associated With Race*, (July 12,2019), https://www.governor.ny.gov/news/governor-cuomo-signs-s6209aa7797a-make-clear-civil-rights-laws-ban-discrimination-against-hair.

[19] New York City Commission on Human Rights, *Legal Enforcement Guidance on Race Discrimination on the Basis of Hair* at 6-7 (Feb. 2019), https://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf, ("Covered employers that enact 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 may face liability under the NYCHRL because these policies subject Black employees to disparate treatment . . . employers may not enact discriminatory policies that force Black employees to straighten, relax, or otherwise manipulate their hair to conform to employer expectations. The existence of such policies constitutes direct evidence of disparate treatment based on race and/or other relevant protected classes under the NYCHRL.").

[20] *See* https://www.thecrownact.com/about listing states that have filed or pre-filed CROWN Act legislation.

hairstyles commonly worn by Black people. LDF endorsed this important bill, which clarifies that discrimination based on natural and protective hairstyles associated with people of African descent – including hair that is tightly coiled or in locs, cornrows, twists, braids and Afros—is a prohibited form of racial or national origin discrimination under federal anti-discrimination laws.[21] With 63 cosponsors, the bill passed the U.S. House of Representatives on September 21, 2020.

Despite these efforts, racist stereotypes and discriminatory conduct surrounding Black hair continue to permeate numerous social environments, including those in New York City.[22] Black people should not have mute or alter their naturally forming hair, identity, or culture, in order to ensure they have equal access to undisrupted and unbiased opportunities. Accordingly, we strongly support amending Chapter 2 of title 47 of the Official Compilation of the Rules of the City of New York to add Proposed Rule § 2-09. We urge this Commission to continue the bold leadership displayed in its February 2019 "Guidance on Race Discrimination on the Basis of Hair."

Additionally, we strongly encourage the Commission to ensure that rigorous public education, data collection and assessment, and public reporting follow the addition of Proposed Rule § 2-09.

LDF is committed to continuing to work alongside organizations and policymakers that aim to end policies and practices that have a discriminatory impact on Black people because of their hair texture and/or style.

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[21] See Press Release, *LDF Statement on House Judiciary Committee Considering CROWN Act*, (Sep. 16, 2020), https://www.naacpldf.org/wp-content/uploads/CROWN-Act-Statement-Final.pdf.

[22] *See e.g.*, Michael Elsen-Rooney, *Queens Catholic school told 8-year-old student to lose his cornrows in order to stay in class: lawsuit*, DAILY NEWS (Oct. 30, 2019), https://www.nydailynews.com/new-york/education/ny-catholic-school-hair-discrimination-20191030-smfttve3mnhypbhskx6szbtjmu-story.html; Stacey Stowe, *Upper East Side Salon Under Investigation for Racial Discrimination,* N.Y. TIMES (Feb. 23, 2019), https://www.nytimes.com/2019/02/23/style/sharon-dorram-color-sally-hershberger-hair-discrimination.html.

Thank you for considering this testimony. If you have any questions, or would like any additional information, please do not hesitate to contact Katurah Topps at 212-965-2200 or ktopps@naacpldf.org.

Sincerely Yours,

Lisa Cylar Barrett
Director of Policy

Katurah Topps
Policy Counsel

Why I Support the Proposal to Amend Rule 47

Greetings,

My name is Mireille Liong, I am a lifelong Social Entrepreneur and Natural Hair Advocate with a Master Degree in IT.

Maintaining the longest running natural hair website for over a decade and a half showed me the devastating impact of inequal hair rights, up-close. Not just on the hair itself but also on the psyche of our people and the way it affects nearly every aspect of our lives.

To underscore my support for the proposal to amend Rule 47, I like to highlight three: The human rights issue, the impact on our hair and last but not least, the financial ramifications.

The Human Rights Issue

When a mom in the Netherlands won the case of her 12-year-old daughter who was suspended from ballet school because the mom did not want to straighten her daughter's hair, I realized that Black people are the only people on planet earth who don't have the fundamental human right to wear their God-given tresses natural.

We need to go to court to wear styles like locs, braids and cornrows which are all perfect for our natural texture. Instead we are forced to comply to a hair-etiquette based on strands that are genetically different. This is inhumane and it comes with a serious price which brings me to the next point.

The impact on our hair

Black babies are known to come out of the womb with the most hair on their head. Yet, our teenage girls are the first to suffer from hair loss, massively.

The latest research tells us that 73% of Black women are suffering from relaxer induced alopecia, a hair loss condition related to hair straightening chemicals and weaves.

These statistics are alarming and already make crystal clear why these proposed rules are essential but the financial ramifications are as important.

The financial ramifications

By the time most Black women hit 30 they have spent a mortgage on hair. Nine times more than any other ethnic group.

The black hair care business is a 9-billion-dollar industry. Can you imagine the impact if our women didn't have to spend as much on weaves and straighteners to comply with society's standard of appropriate hairstyles?

Conclusion

So not only do I fully support the proposal of the NYC commission on Human rights to amend its rules on Title 47. I think these rules are imperative.

The current hair etiquette is inhumane for Black women, it's literally destroying our follicles and have set back our communities financially, for centuries.

Thank you and Thank you Commission for the work you do.

Testimony

Thank you to the New York City Commission on Human Rights for holding this very important and timely hearing. My name is Nantasha Williams and I am the founder and president of the New York City Black Women's political club and we have been working with Assemblywoman Tremaine Wright to hold conversations around the crown act and safe spaces for Black women to talk about their own personal hair journey and challenges faced .

In early African civilizations, hairstyles were a significant part of who you are you're identity. "Just about everything about a person's identity could be learned by looking at the hair," says journalist Lori Tharps, who co-wrote the book Hair Story about the history of black hair.

During the 19th Century, slavery was abolished in much of the world, including the United States in 1865. However, many black people both men and women felt pressure to fit in with mainstream white society and adjusted their hair accordingly to assimilate and make their white counterparts feel comfortable. There is also a history in this country, this state, and this city to pass laws and accept societal norms that equate 'blackness,' and the associated physical traits, for example, dark skin, kinky and curly hair as a mark of inferiority, sometimes subject to separate and unequal treatment.

Well in 2020, it has been far too long for us to push pass these inaccurate societal norms and shift the narrative. It is also important that we create policy that officially rights this injustice that has prevailed for far too long.

Amending the rules governing race- and religion-based discrimination serves as an important step in dismantling systems of oppression that show up at work or school and I proudly support this measure.

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Nantasha Williams

www.nantashawilliams.com

Statement for the Record from the Sikh Coalition

New York City Commission on Human Rights

October 15, 2020

§ 2-09 Prohibition on Hair Discrimination Based on Race and Religion

The Sikh Coalition respectfully submits this statement for the record in connection with the above-referenced hearing before the New York City Commission on Human Rights (Commission). We welcome this public comment opportunity on hair discrimination. The Sikh Coalition is the largest Sikh American civil rights organization in the United States. Our organization was founded on the night of September 11, 2001, in response to a torrent of discrimination and hate crimes against Sikhs throughout the United States. Our mission has been to work towards a nation where Sikhs, and other religious minorities, may freely practice their faith without bias and discrimination.

I. Background

By way of background, the Sikh religion, founded in India, is the fifth-largest organized religion in the world, with over 500,000 followers in the United States, including a large population here in New York City. While Sikhs have been an integral part of the American fabric for over 125 years, they remain disproportionately subject to bias and discrimination, including employment discrimination.

The core teachings of the Sikh religion are that there is one God and that all human beings are created equal, regardless of distinctions such as their religion, race, sex, or caste. Devout Sikhs maintain unshorn hair (kesh) as one of the primary means to practice their faith. This religious mandate includes not only hair on the head, but all body hair for men and women. The Sikh religious code of conduct (the Rehat Maryada) explicitly forbids cutting, shaving, or removal of hair. Maintaining uncut hair is regarded as living in harmony with the will of the Divine. This practice is an essential part of the Sikh way of life; one cannot be a practicing Sikh without it. Sikhs are mandated to cover their unshorn hair with a turban (a practice that is mandatory for men and optional for women). Denying a Sikh the right to maintain kesh or a turban has symbolized denying that person the right to belong to the Sikh faith, and is perceived by adherents as the most humiliating and hurtful physical injury that can be inflicted upon a Sikh. The religious observance of maintaining hair unshorn is not unique to just Sikhs; other faiths have a sacrosanct reverence for hair including Rastafarians, Apostolic Pentecostals, Native Americans, Nordic Hedons, and Amish.

More troubling is that our kesh has invoked bias against our community. As far back as the early 20th century, Sikhs have been ridiculed and stereotyped because of their religious appearance (specifically, unshorn hair/beard and turban), and continue to be subjected to unusually high rates of employment discrimination.

II. Barriers to Equal Employment for Observant Sikhs

The Sikh Coalition appreciates the Commission's intent to have a thoughtful and comprehensive proposed policy addressing workplace discrimination towards hair, grooming and religious headwear. Indeed, the proposed policy addresses some of the ways in which observant Sikhs are discriminated against. However, we request that the Commission ensure that they remain committed to comprehensively addressing hair discrimination in all forms that it can manifest itself. The following scenarios and examples illustrate that observant Sikhs will continue to face discrimination on the basis of their hair, grooming and religious headwear if left unaddressed by the proposed policy.

A. Segregation Based Upon Religious Headwear & Grooming

Segregation of religious minorities who maintain visible articles of faith (including unshorn hair/beards and religious headwear) most often occurs when they are told that they cannot have a job or an assignment due to a corporate image policy or generalized concerns about customer preference. The Sikh Coalition first encountered the issue of segregation of observant Sikhs in early 2002 when the New York City Metropolitan Transit Authority (MTA) -- in a kneejerk and biased reaction to the September 11th terrorist attacks -- told its Sikh and Muslim subway and bus drivers that they could no longer wear their religious headwear because customers may be unable to recognize them as MTA employees with authority in the event of an emergency. Never mind that several of these employees had worn their religious headwear for literally decades while employed at the MTA without issue. Or that our client Kevin Harrington had been given an award by the MTA for driving his subway train backwards from the World Trade Center on 9/11 and safely evacuating passengers, all while wearing his turban, of course. Predictably, the employee-drivers refused to remove their religious headwear and were reassigned or threatened with reassignment to nonpublic, less desirable positions in the depots and rail yards cleaning buses and subway cars. In other words, they were segregated or threatened with segregation because they wore religious headwear.

The Sikh Coalition also resolved an egregious workplace segregation case against Disney in 2015. Sikh employee Gurdit Singh wears a turban and maintains unshorn hair and a beard, which Disney contended violated it's "Look Policy." In order to purportedly accommodate him, the company segregated him. For seven years, Mr. Singh was restricted to delivering mail to Disney corporate offices, on a single mail route that shielded him from areas where Disney guests congregate (i.e., the theme parks and hotels). All of Mr. Singh's co-workers, however, rotated their routes every three weeks and delivered mail in full view of Disney customers. Disney's segregation of Mr. Singh relegated him to an inferior position, directly impacted his workload, created animosity amongst his co-workers, and precluded his opportunities for professional advancement.

Mr. Singh contacted the Sikh Coalition to help him assert his right to be free of discrimination in the workplace. The Sikh Coalition partnered with the ACLU and sent a forceful demand letter to Disney explaining that its treatment of Mr. Singh violated the law. In response, Disney agreed to fully desegregate Mr. Singh by providing him with a religious accommodation that allowed him to rotate his delivery route like the rest of his colleagues who worked in full view of Disney guests. We highlight this case specifically to underscore that a multinational global company like Disney could not get it right. Thus, it is imperative that the Commission provide explicit and sufficiently clear guidance so that smaller organizations do not segregate their employees in lieu of religious accommodations, and ensure equal opportunity for all employees.

B. Facial Hair & Personal Protective Equipment

Sikhs have been wrongfully told that they must shave their facial hair as a condition of their employment. This issue has become pronounced in the healthcare sector as hospitals are often unaware of alternative personal protective equipment (PPE) that can be worn by people with facial hair. Since the start of the covid-19 pandemic in March of 2020, the Sikh Coalition has received approximately twenty inquiries from Sikh healthcare professionals around the country whose rights to maintain religiously mandated beards have been challenged due to workplace rules mandating the wear of tight-fitting N95 masks. Instead of attempting to procure appropriate PPE and provide reasonable accommodations, some employers have attempted to segregate the employees from their assigned roles, duties, and responsibilities, threatened them with suspension, and given them ultimatums about continuation of their employment. In other instances, the individuals have been told to reconsider their career choices and have been left uncertain as to their employment and/or advancement opportunities. The Sikh Coalition's legal team has been able to work to resolve these cases by appropriately counseling the Sikh employees to assert their workplace rights, and intervening when necessary.

For example, the Sikh Coalition facilitated the intervention of the U.S. Department of Health and Human Services to protect an observant Sikh medical student against adverse action by Staten Island University Hospital (SIUH) in New York City. The hospital temporarily suspended the medical student's rotations at the hospital, required that he wear N95 respirator masks, and accordingly directed him to shave his religiously-mandated beard. Although the student passed an N95 fit test using a beard gown underneath the mask, the hospital continued to demand that the individual shave his beard. After intervention by the federal agency, the hospital granted the student's accommodation request to use an alternative form of PPE, i.e., a Powered Air Purifying Respirator (PAPR), which provides greater protection than N95 masks and can be worn with a beard.

C. Hair-based Drug Testing

The Sikh Coalition became acutely aware of the need for accommodations to hair-based drug testing through its representation of three observant Sikh truck drivers who were wrongfully terminated from transportation logistics giant J.B. Hunt for refusing to submit hair samples for drug testing. The Equal Employment Opportunity Commission (EEOC) brokered a settlement between the parties in 2016, after a seven-year federal investigation during which it concluded that JB Hunt had discriminated against the Sikh truck drivers in violation of federal law by failing to provide religious accommodations. During the course of the investigation, J.B. Hunt revised its written policies and procedures regarding discrimination and religious accommodations, and established an alternative to drug testing by hair sample for those who require religious accommodations.

It must be noted that drug testing (particularly pre-employment) is often outsourced to third-party vendors. Discrimination may occur when the third-party testing facilities administering drug testing fail to realize that they are acting as agents of the employer, and are untrained to appropriately respond to requests for religious accommodation.

The Sikh Coalition would like to impress upon the Commission the need for clear guidance regarding hair-based drug testing. Employers and testing facilities can provide alternative forms of testing such as oral fluids, urine, and nail testing to satisfy pre-employment and random drug testing. (We understand that nail testing, in particular, provides historical data on drug usage and is functionally analogous to hair testing.) These alternatives to hair testing are acceptable to observant Sikhs as they do not require the removal or cutting of hair. Alternative testing would also advance employers' interests in maintaining drug-free, safe workplaces.

We are also concerned that employers may report applicants or employees who refuse hair sample drug testing for religious reasons to drug and alcohol databases or clearinghouses (which track employees who violate anti-drug policies), thereby creating further barriers to employment. We fear that the risk of wrongfully entering an individual into a drug and alcohol database is high due to a lack of regulation on the creation and use of such lists. The entry of one's name into a drug and alcohol database can have long lasting repercussions as employers can deny employment to individuals listed in the database. Unfortunately, individuals placed onto such databases may not even be aware that they have been limited from gainful employment. For databases that actually do provide notice to the individual about their name being listed, the process to have one's name removed can be difficult and limited.

D. Body Hair

While the Sikh Coalition is appreciative that many of the examples in the proposed changes discuss beards, it is important that the rules explicitly prohibit bias towards any hair on the body that is maintained unshorn or untrimmed for religious reasons. Some observant Sikhs have been subject to bias and harassment in the workplace because they maintain unshorn hair, i.e., unshorn body and facial hair. For example, this year the Sikh Coalition received an inquiry from an observant Sikh woman who works in New York City and maintains all of her body hair unshorn. Her colleagues have made extremely inappropriate and biased comments like, "how does your husband kiss you?" referring to her facial (upper lip) hair and have also commented that she does not pluck or trim her eyebrows. They often "joke" about her facial hair which has caused her to feel extremely uncomfortable in her workplace.

Policy Recommendations

The Sikh Coalition offers the following recommendations in connection with the committee's hearing:

1. The rule should be explicit that discrimination against religiously-mandated hair may also include body hair and facial hair. This would ensure that all participants in the workplace are aware of their obligations to not discriminate against *all* hair, not just scalp hair.
2. The Commission must also address workplace segregation and separation due to religious headwear and unshorn hair/grooming observances. Employees should not be reassigned or otherwise deprived of public-facing roles solely because of their religious headwear, or unshorn scalp, facial or body hair.
3. Mandate alternative testing requirements to drug hair testing for individuals requesting a religious accommodation. Such a mandate must be followed with clear guidance to all drug testing facilities and related third-party vendors to ensure they are not coercing individuals to remove or cut their hair in order to obtain or otherwise maintain employment if it violates the donor's sincerely held religious beliefs and practices.
4. Employers and their agents, i.e., drug screening laboratories, should also be prohibited from taking adverse action against an applicant or employee who refuses to submit to drug hair testing when the individual objects on the basis of religion. Nor should a refusal on such grounds constitute a basis to submit an individual's name to an employment or licensing database as a drug screening failure.

Conclusion

The Sikh Coalition is grateful for the opportunity to submit this statement for the hearing record and looks forward to working with its partners in government, civil society, and grassroots communities nationwide to eliminate workplace discrimination barriers. We look forward to working with members of the Commission and employers to allow all New Yorkers to practice their faith freely.

Testimony of Rabbi Yeruchim Silber

Agudath Israel of America

New York City Commission on Human Rights

Public Hearing: Protections Against Hair Discrimination

October 15, 2020

Good afternoon, my name is Yeruchim Silber and I serve as the Director of New York Government Relations for Agudath Israel of America. Founded in 1922, Agudath Israel is a national organization headquartered in Manhattan with an office in Washington and seven regional offices across the country. Among our goals are advocacy on behalf of the Orthodox Jewish community primarily in education and religious freedom.

As part of that mission, we are please to offer testimony to the New York City Commission on Human Rights on the proposed amendment to its rules governing race- and religion-based discrimination. The proposed new rules prohibit discrimination or harassment on the basis of hair styles or head coverings such as prohibiting discrimination against those who cover their head and hair for religious reasons, or who have particular hair styles, facial hair, and the like, especially for religious reasons.

Agudath Israel of America supports the concept of prohibiting discrimination on the basis of hair styles and head coverings. Orthodox Jewish men are required by Jewish law to wear a head covering or yarmulke at all times. Married women of the Orthodox Jewish faith are also required by Jewish law to have their hair covered in all public places. While many women wear wigs, which are often indistinguishable from natural hair, others keep to a custom to don only kerchiefs or other forms of hair coverings. Additionally, many men choose to have long side curls often referred to as *peyos* or long beards as an expression of their religious beliefs. None of these coverings or hairstyles should ever be the basis of any discrimination or harassment. There are many stories of Orthodox Jewish men going on job interviews and told that they would not be offered a job if they wore a yarmulke. Thankfully, these are quite rare today but it is important that it be part of the rules of the Human Rights Commission.

While as indicated we generally support these proposed rules, we do have one slight concern. Section 2 ix of the proposed rules lists as an example private schools prohibiting certain hair styles or coverings. Agudath Israel believes that private religious institutions such as private religious schools should be allowed to require their staff and students to have hair styles and head coverings that conform to the religious beliefs, observances, and dress code policies of those institutions,

without being subject to charges of discrimination under the City's Human Rights Code.

Thank You