

**Testimony of JoAnn Kamuf Ward
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New York City Commission on Human Rights
Before the Committee on Civil and Human Rights &
the Committee on State and Federal Legislation
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Good morning Chair Williams, Chair Abreu and committee members. I am JoAnn Kamuf Ward, Deputy Commissioner of Policy and External Affairs at the New York City Commission on Human Rights. Joining me today for questions is Hillary Scrivani, Senior Policy Counsel. Thank you for convening today's hearing. Before turning to Intro. 209, which would make it unlawful for employers, housing providers, and providers of public accommodations to discriminate against individuals based on height and weight, and Intro. 702, which would make it unlawful for employers to discriminate against individuals on the basis of having a tattoo, I will highlight some of the Commission's history and recent work.

The New York City Commission on Human Rights is the agency that enforces the New York City Human Rights Law – one of the broadest and most protective civil rights laws in the country. The Commission interprets the Law's protections expansively consistent with the terms of the statute itself.¹ The Human Rights Law prohibits discrimination in the areas of housing, employment, and public accommodations, and currently covers twenty-seven protected categories, including age, gender, religion, disability, race, and national origin.

To fulfill our dual mandate of enforcement and fostering intergroup relations, the Commission's two largest units are Community Relations and Law Enforcement. The Community Relations Bureau is responsible for outreach and education, and partners with a wide array of community groups, sibling agencies, and stakeholders across New York City. In Fiscal Year 2022, we engaged more than 100,000 New Yorkers through this work. The Law Enforcement Bureau conducts testing, launches investigations, initiates complaints, and enters settlements that address individual and structural discrimination.

The Commission's own roots can be traced back the Depression era. During the 1940's Mayor LaGuardia established "The Mayor's Commission on Conditions in Harlem" in response to uprisings in Harlem and to better understand the issues facing residents. This committee eventually became the "Committee on Unity" and was guided by the goal of making New York City "a place where people of all races and religions may work and live side by side."² Subsequently called the "Commission on Intergroup Relations," in 1955, the Commission gained the ability to investigate complaints.³ At its inception, the Commission was tasked with studying the problems of prejudice, intolerance, bigotry, and discrimination while promoting intergroup relations.⁴ From 2001 through 2014, the City Council amended the Law twelve times. Since 2015, City Council has amended the Law thirty-eight times.

The Law's expansive protections already reach some forms of discrimination that relate to appearance. This includes where appearance intersects with protected categories such as race, religion, and disability. In 2019, the Commission issued guidance⁵ affirming that grooming policies targeting natural hair constitute unlawful discrimination. The guidance focuses on the

significant negative impact of these policies on Black New Yorkers, and highlights the links that race, religion, and culture have with hair. The guidance notes that there may be circumstances where legitimate health or safety concerns justify certain personal grooming policies, but where a legitimate health or safety concern exists, there are often more tailored ways to alleviate the concern rather than blanket bans on natural hair or head coverings. For restrictions on hair styles, the Commission considers them discriminatory unless there is a legitimate – and non-speculative – basis for the restrictions, and such restrictions are narrowly tailored. The Commission also assesses whether no alternative policies would achieve a similar aim.

One case in this area illustrates the Commission’s efforts to address discriminatory practices. The Law Enforcement Bureau resolved a case involving a salon that faced allegations of discrimination because of a personal grooming policy that targeted Black employees with natural hair and/or hairstyles associated with Black people. In its settlement, the salon agreed to pay a penalty; establish a “Natural Hair Program” training employees on cutting and styling natural hair; and create a “Multi-Cultural Internship Program” to develop and mentor student stylists from underrepresented groups; as well as to increase employee representation from these groups. Natural hair protections are now memorialized in the Commission’s Rules.⁶

The Commission has also addressed discrimination that included an individual’s size. The agency settled a case with an employer who discriminated against a pregnant employee, which included mocking her weight and criticizing her diet. The employer paid compensatory damages and educated its employees about their rights under the Law. In another example, where an employee alleged that his supervisor made derogatory comments regarding his weight and race, the employer paid emotional distress damages, civil penalties, and educated employees about their rights.

The Human Rights Law’s prohibitions on discrimination based on disability and religion also reach some appearance-based discrimination. For example, obesity may constitute a covered disability. Disability is defined as “a physical, medical, mental or psychological impairment.” Additionally, where a physical characteristic is part of a religious practice or observance, it would be a violation of the Human Rights Law to discriminate against an individual based on that characteristic. For both disability and religion, the Human Rights Law requires employers to provide reasonable accommodations to enable the individual to fulfill the essential functions of their job as long as it is not an undue hardship. An accommodation that interferes with safe or efficient operations may constitute an undue hardship for an employer.

In addressing the prohibitions on discrimination in the Human Rights Law, the Law seeks to balance individual rights and health and safety of members of the public, whether in employment settings, housing, or public accommodations. That is reflected in the reasonable accommodations framework I just mentioned.

Intro. 209 would add “height” and “weight” as protected categories under the Human Rights Law. It would forbid discrimination based on actual or perceived height or weight in employment, housing, and public accommodations. Michigan adopted weight and height protections in employment in 1976, and since then a handful of cities have followed suit. The

Administration supports the intent of the bill to ensure that New Yorkers do not face discrimination based on the physical attributes of height and weight, while taking into account health and safety consistent with the existing framework of the Human Rights Law. The Administration is continuing to review the bill and looks forward to hearing from stakeholders and working with City Council to identify the most effective approach to addressing discrimination based on height and weight.

Intro. 702-A would make it unlawful for employers to discriminate against individuals on the basis of having a tattoo. The Administration looks forward to learning more about this issue from stakeholders and continuing to work with City Council to explore the most effective ways to ensure that individuals are not discriminated against because of who they are.

In closing, the Commission is committed to addressing discrimination and identifying gaps in protections that limit the ability of New Yorkers to live, work, and thrive in our city. We look forward to working with Council to ensure that suitable approaches are taken to address unfair discrimination based on one's physical attributes.

We appreciate the Council's attention and commitment to combating discrimination in New York City. I look forward to your questions.