

Summary of Hearing on Proposed Rule on Hair Discrimination - October 15, 2020

Opening

Professor Wendy Greene, who is a Professor at Drexel University School of Law, founder of the #FreeTheHair campaign, and author of *#FreeTheHair: Locking Black Hair to Civil Rights Movements*, provided the opening to the hearing. Professor Greene's introduction provided an overview of the nature and extent of racial and religious discrimination based on hairstyle and hair texture in the employment, education, and places of public accommodation. Professor Greene detailed the unique economic, physical, and health impacts of hair discrimination and provided context around the pivotal role that the Commission's 2019 guidance and proposed rule play in acknowledging and addressing the legal, psychological, and physical harm caused by hair discrimination.

Grounding Exercise

Dr. Gillian Scott-Ward, a Clinical Psychologist and Director of *Back to Natural: A Documentary Film*, led a grounding exercise in which she described the biological impact of discrimination and marginalization and the human body's response to these stressors. She then provided tips to the audience for dealing with the physical symptoms of stress that might result when sharing one's trauma or bearing witness to the trauma of others during the course of the hearing.

Ground Rules

Following the introduction and grounding exercise, Deputy Commissioner for Strategic Initiatives, Brittany Saunders, outlined the ground rules for the hearing. Participants were reminded that written comments should be sent to policy@cchr.nyc.gov.

Summary of Oral Comments/Testimony Made During Hearing

The Commission received testimony from 10 people. Summaries are listed in the order of testimony.

Ria Tabacco Mar – Director of the ACLU Women's Rights Project

- Ria Tabacco Mar, who serves as Director of the ACLU Women's Rights Project, testified in support of the proposed rule. Tabacco Mar noted the dearth of protections against race-based hair discrimination prior to the Commission's trailblazing enforcement guidance released in early 2019. Tabacco Mar highlighted recent state and federal legislation banning hair discrimination as well as litigation in Louisiana and Texas federal courts that resulted in favorable outcomes for victims of race-based hair discrimination in schools. In one of the cases mentioned by Tabacco Mar, the judge noted that Black students were three times more likely to lose a day of instruction because they were suspended because of their hair, highlighting the educational impact of hair discrimination. Her testimony stated that the Commission's rule was timely in light of increased attention to and efforts to address the legacy of chattel slavery and racial justice in the United States.

Rabbi David Niederman – President and Executive Director of United Jewish Organizations of Williamsburg and North Brooklyn

- Rabbi David Niederman, who serves as President and Executive Director of United Jewish Organizations of Williamsburg and North Brooklyn, testified in support of the proposed rule. Rabbi Niederman stated that the rule provides much-needed clarity to the potentially abstract definition of religious discrimination and provides clear and bold protections for members of the Jewish community. Rabbi Niederman noted that such protections were appropriate and necessary in an era of increased anti-Semitism, where many Jewish people are identified and targeted for anti-Semitic violence and discrimination based on their hair and religious head coverings.

Dr. Gillian Scott-Ward, Clinical Psychologist and Director of *Back to Natural: A Documentary film*

- Dr. Gillian Scott-Ward, who is Clinical Psychologist and Director of *Back to Natural: A Documentary Film*, testified in support of the proposed rule. Dr. Scott-Ward's testimony shared a personal anecdote about her first chemical relaxer, which she used to illustrate the physical and emotional consequences that many Black women experience as a result of their attempts to conform with beauty and professional norms that are grounded in anti-Black racism. Dr. Scott-Ward praised the rules as a means to promote "bodily autonomy, integrity, identity, spirituality and history." Dr. Scott-Ward noted that the rule was an important, but not the only step, in tackling the injustices associated with hair discrimination and emphasized the importance of continued public education in combatting hair discrimination and its effects.

Robert Cornegy – City Council Member representing New York City's 36th District

- Robert Cornegy, a Council member representing New York City's 36th District, testified in support of the proposed rule. Council Member Cornegy's testimony noted that although many conversations surrounding race-based hair discrimination focus on Black women, the issue is also of importance to Black men. Council Member Cornegy detailed personal experiences with discrimination based on his locs and the negative stereotypes associated with natural hair and hairstyles for Black men. Council Member Cornegy stated that these protections were an important step towards dismantling the negative stereotypes that serve as barriers to opportunity and access for many people.

Rabbi Yeruchim Silber – Director of New York Government Relations at Agudath Israel of America

- Rabbi Yeruchim Silber, who serves as Director of New York Government Relations at Agudath Israel of America, testified in support of the proposed rule. Rabbi Silber addressed the importance of the rule for Orthodox Jews, whose religious beliefs often require certain head coverings or hairstyles. Rabbi Silber recalled times where many Jewish people were denied employment opportunities based on their hair or religious head coverings. Rabbi Silber noted that while such discriminatory incidents have

decreased over the years, the codification of legal protections for hair and religious head coverings still serves an important purpose. While supporting the rule, Rabbi Silber expressed concern about the potential liability of private religious institutions under the rule. Rabbi Silber stated that private religious institutions, such as private religious schools, should be allowed to require staff and students to wear hairstyles and coverings that conform with the religious beliefs and dress codes of those institutions without being exposed to liability under the New York City Human Rights Law.

Dr. Mireille Liong – Social entrepreneur, author, and natural hair advocate

- Dr. Liong, a social entrepreneur, author, and natural hair advocate, testified in support of the proposed rule. Dr. Liong’s testimony highlighted hair discrimination as both a human rights issue and an economic issue. Dr. Liong noted that the necessity of legal protections for natural hair underscores the unique human rights situation faced by Black people. The efforts to conform with societal expectations lead to a myriad of physical effects, including major hair loss. In addition to major hair loss, natural hair discrimination has significant financial impacts. Dr. Liong noted that the Black hair industry is worth \$2.5 billion, with Black people spending nine times more than any other ethnic group on hair. Dr. Liong concluded by stating that the serious physical and economic impact of hair discrimination necessitate the adoption of the Commission’s proposed rule.

Nikki Singh – Policy and Advocacy Manager at the Sikh Coalition

- Nikki Singh, who serves as Policy and Advocacy Manager at the Sikh Coalition, testified in support of the proposed rule. Singh’s testimony addressed the impact of hair and religious head covering discrimination on the Sikh community. In order to bolster the protections provided by the proposed rule, Ms. Singh presented four recommendations. 1) The rule should make clear that religious discrimination based on hair includes facial and bodily hair, as opposed to only the hair on one’s head. 2) The rule should be sure to make explicit that discrimination includes workplace segregation that results in workers being denied front-facing opportunities based on hair or religious head coverings. 3) Ms. Singh asked that the Commission mandate alternative methods to drug hair testing for individuals requesting religious accommodations. 4) Ms. Singh stated that employers and their agents should be prohibited from taking adverse employment actions based on an individual’s objection to drug hair testing, when that objection is based on the individual’s religious belief.

Adjoa Asamoah – Founder and CEO of ABA Consulting

- Adjoa Asamoah, founder and CEO of ABA Consulting, testified in support of the proposed rule. The oral testimony provided an overview of the historical discrimination faced by Black people over their decisions to wear natural hair, protective styles, and hair coverings. This discrimination impacts educational and employment opportunities for Black people. Highly publicized incidents of hair discrimination in Louisiana, Texas, and New Jersey demonstrate the need for a legislative solution such as the one proposed by the Commission. The Commission’s rule represents a widespread movement that seeks to shift policy and culture.

Nantasha Williams – Co-founder and President of the Nationhood/New York City Black Women’s Political Club

- Nantasha Williams, President and co-founder of the Nationhood, testified in support of the proposed rule. Ms. Williams highlighted the historical importance of hair and hairstyles in Black culture. Long-standing discrimination based on hair, skin, and other traits associated with Black people directly conflicts with the cultural importance of natural hair and hair styles and pressures many people to conform with white societal norms. The Commission’s proposed rule serves as an important step towards dismantling these longstanding systems of racial discrimination and oppression in employment and education.

Katurah Topps – Policy Counsel at the NAACP Legal Defense and Educational Fund, Inc. (LDF)

- Katurah Topps, who serves as Policy Counsel at LDF, testified in support of the proposed rule. The testimony detailed LDF’s extensive litigation of hair discrimination cases in education and employment at the state and federal levels. LDF’s involvement in these cases demonstrates its commitment to eradicating all forms of anti-Black discrimination. The reframing of anti-Black hair discrimination as neutral grooming policies minimizes its devastating effects and upholds white supremacy. LDF supports the Commission’s proposed rule and believes that it will improve the access to unbiased opportunities for Black New Yorkers. Topps concluded by advocating for data collection, public education, and public reporting related to enforcement of the rule.