# Employment Law Update: CROWN Act

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On December 19, 2019, Governor Phil Murphy signed the CROWN Act ("Create a Respectful and Open Workplace for Natural Hair Act") into law in New Jersey. The CROWN Act amended the New Jersey Law Against Discrimination in order to emphasize that racial discrimination on the basis of "traits historically associated with race, including but not limited to, hair texture, hair type, and protective hairstyles" is prohibited under the law. The law defines the term "protective hairstyles" to include "such hairstyles as braids, locks, and twists."

The Act was introduced in the New Jersey Legislature following a widely publicized incident in December 2018, when Andrew Johnson, an African-American high school wrestler at Buena Regional High School in Atlantic County, was forced to cut off his dreadlocks in order to compete in a wrestling match. In recent years, this was the latest of a number of incidents both in New Jersey and across the nation, in which students and employees have faced issues with grooming or appearance rules due to their natural hair/hairstyle, and raising concerns of implicit and explicit discrimination.

## Ensuring Natural Hair & Hairstyle Policies Are Compliant

The New Jersey Division on Civil Rights ("DCR") had previously issued guidance in September 2019 regarding race discrimination based on hairstyle, that explains some of the practical implications of how the CROWN Act will likely be applied. In particular, the guidance explains how many hair-related, or grooming policies in the workplace that require a "professional" or "neat" or "tidy" appearance, although intended to be facially neutral, may in fact be in violation of the law when it is discriminatorily applied or selectively enforced against specific groups of people. The DCR specifically noted that traditionally, one of the persistent forms of discrimination against Black people is that many policies in employers, schools, and other places of public accommodation, have banned or limited traditionally Black hairstyles as "unprofessional" or "unkempt" while permitting traditionally white or European hairstyles. Employers must be careful to ensure that their policies remove any implicit or explicit bias

based on race. Employers should review their policies relating to appearance, hairstyle, and grooming and ensure that they do not prohibit or limit any specific hairstyles that might be associated with any specific racial group, such as twists, braids, cornrows, Afros, locs, Bantu knots, fades or other associated hairstyles.

Employers must also ensure that even with neutral workplace policies, such policies are being applied in a manner consistently and equally amongst all employees. For example, while a policy may permissibly require a "professional" appearance, such a requirement may be in violation of NJLAD and the CROWN Act, if a manager informs a black employee that shoulder-length locs or braids are "unprofessional" while allowing white employees with shoulder-length hair to maintain a shoulder-length hairstyle. Additionally, any health or safety issues that might ban or limit hairstyles must not be speculative, but must be rooted in objective factual evidence, and even then such policies must not exclusively ban, limit, or restrict hair or hairstyles against any specific group of people, and must be equally applied to employees. Employers should train their staff regarding the above issues, and incorporate these lessons into any anti-discrimination or anti-harassment training that is provided to employees.