

Virginia Passes Law Defining Racial Discrimination to Include Hairstyles, Other Historic Traits

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Virginia has become the fourth state (joining California, New Jersey, and New York) to define racial discrimination to include traits historically associated with race, such as hairstyles. The new Virginia law will go into effect on July 1, 2020.

On March 4, 2020, Governor Ralph Northam signed an amendment to the Virginia Human Rights Act, Virginia Code Section 2.2-3901. While the Virginia Human Rights Act defines “because of sex or gender” or “on the basis of sex or gender,” Section 2.2-3901 failed to define or elaborate on the meaning of “the basis of race.” The new law (SB 50) provides:

The terms “because of race” or “on the basis of race” or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists.

Significantly, while the new law specifically references hairstyle discrimination, it prohibits discrimination on the basis of race with regards to *any traits historically associated with race*.

With this change in the law, employers should review their employee handbooks, policies, and training for compliance. Employers should pay particular attention to anti-discrimination and anti-harassment policies, as well as grooming and appearance policies. Employers should review their accommodation policies based on religious or cultural beliefs for compliance with the new law.

In addition, employers should update their supervisory training to take into account the new law as part of any anti-discrimination and anti-harassment training.

Please contact a Jackson Lewis attorney with questions about this or other workplace issues.

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