LexVid Celebrates Black History Month

Overview of the CROWN Act
February 5, 2025
February 19, 2025
12:00–1:00 PM EST

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Introduction

Autobiography

- Attorney
- Author
- Speaker

Overview

Class Covers:

- Black History Month Interesting Facts
- Learn more about race/culture, gender, and religion as related to employment law at the federal/state/local levels

Overview

Class Covers:

- Importance of dress and grooming codes in the workplace and schools
- Importance of prohibiting discrimination in the workplace and schools

Overview

Class Covers:

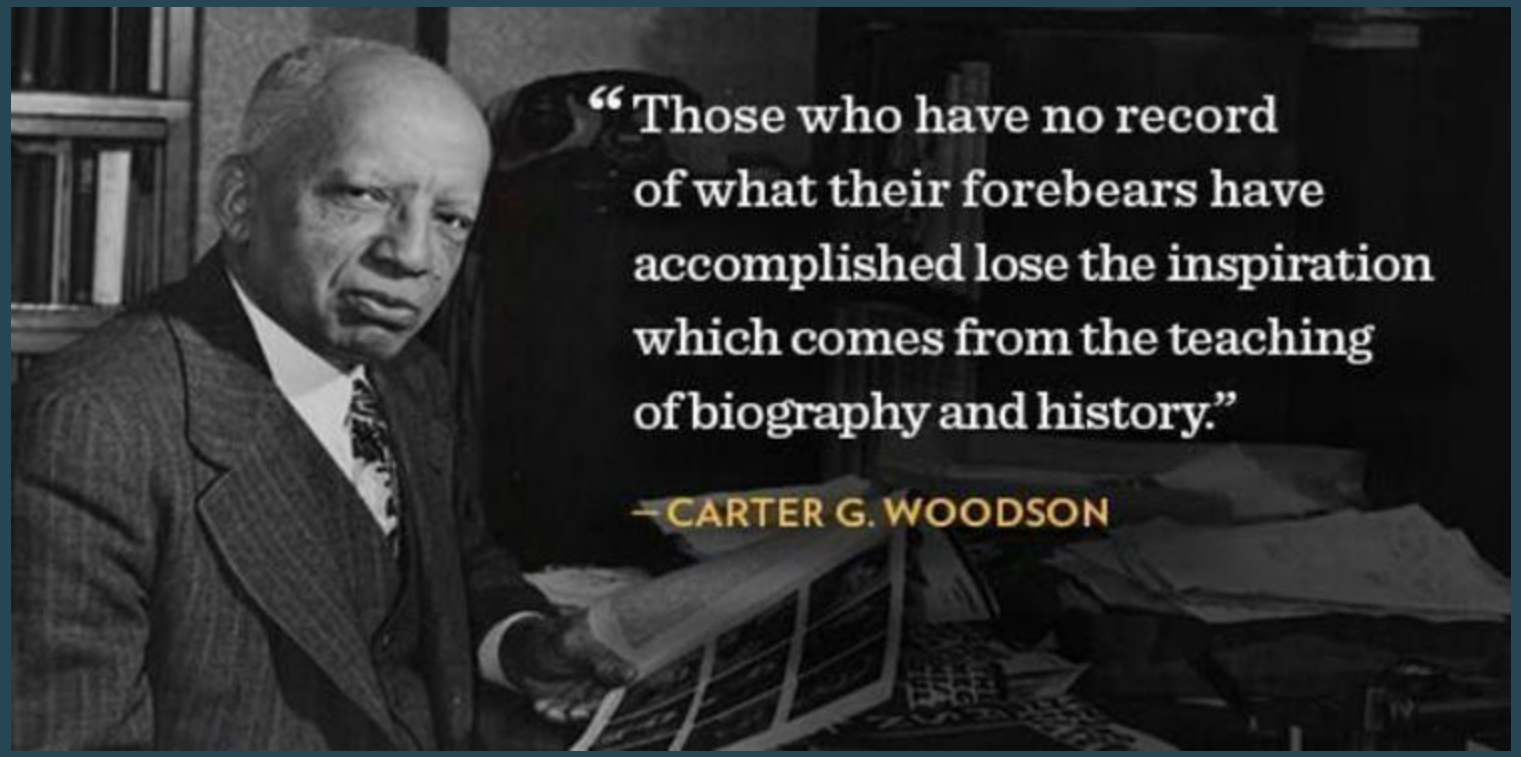
- Title VII – Federal Employee Protection
- Title IX – Federal Student Protection

Overview

Class Covers:

- Equal Protection Clause/14th Amendment /1st Amendment Federal Student Protection
- Senate Bill No. 188 /The CROWN Act
- Best practices to eliminate bias and discrimination

Founder of Black History Month



Black History Month Interesting Facts

Here are a few examples:

- In 1926, Carter G. Woodson launched a weeklong celebration of black history in the United States.
- In 1976, President Gerald Ford officially recognizes Black History Month.
- Black History Month is also celebrated by Canada, Ireland, The Netherlands, and the United Kingdom.
- What does Black History Month mean to me?

Legal Terms

- **Race:** “refers to a category of people who share certain inherited physical characteristics, such as skin color, facial features, and stature.”

- There is another school of thought with respect to race – as a social construct.

Legal Terms

- **Race:** “The reasons for doubting the biological basis for racial categories suggest that race is more of a social category than a biological one. Another way to say this is that race is a **social construction**, a concept that has no objective reality but rather is what people decide it is (Berger & Luckmann, 1963).” (Culture Identity/Aesthetics)

Legal Terms

- **Gender/Sex:** Equal Employment Opportunity Commission (EEOC) interprets Title VII protection to include pregnancy, gender identity, and sexual orientation.
- **Transgender:** EEOC defines (gender identity discrimination) as discrimination because of sex.
- **Religion:** includes all aspects of religious observance and practice, as well as sincerely held belief.

Legal Terms

- **Equal Employment Opportunity Commission (EEOC)(Federal Agency):** enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, and disability including genetic information.

Legal Terms

- **California Department of Fair Employment and Housing (CDFEH)(State Agency):** charged to protect the people of California from unlawful discrimination in employment, housing and public accommodations and from hate violence and human trafficking.

Dress and Grooming Codes in the Workplace and Schools



Title VII – Federal Employee Protection

- **Title VII (Federal Statue)** – prohibits employment discrimination based on race, color, sex, religion, and national origin based on certain conditions such as number of employees.
- **Case Law:** See **EEOC v. Catastrophe Management Solutions,** No. 14-13482 (11th Cir. Sept. 15, 2016, denying rehearing en banc Dec. 5, 2017).

Title VII – Federal Employee Protection

- The Eleventh Circuit rejected the EEOC's assertion that race is a social construct and should not be limited to immutable- unchangeable- characteristics. Although Title VII does not define "race," jurisprudence has defined it as immutable characteristics existing through ancestry, descent, or heredity--in other words, skin/natural hair/facial features.

Title VII – Federal Employment Protection

- The Eleventh Circuit reasoned that race should be interpreted according to the current legal standard. Any change to the meaning of race pursuant to Title VII must be enacted by Congress, not changed by a court. (Title VII does not define the term "race.") Since dreadlocks are a natural hairstyle that can be altered rather than an immutable characteristic tied to race (for example, natural hair). The Eleventh Circuit dismissed the plaintiff's race discrimination claim.

Title VII – Federal Employment Protection



Title VII – Federal Employment Protection



Title VII – Federal Employment Protection



Title VII – Federal Employment Protection



Title VII – Federal Employment Protection

- **Gender Expression:** ”A person's external appearance of gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors typically associated with being either masculine or feminine.”

Title VII – Federal Employment Protection

- **California Fair Employment and Housing Act has been amended as of April 1, 2016.**

Definitions Regarding Sex and Gender:

- "Transgender" refers to a person whose gender identity differs from the person's sex at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth.

Title VII – Federal Employment Protection

- Title VII prohibits discrimination based on sex

Case Example: **Bradley v. Pizzaco of Nebraska**, Inc. 7 F. 3d 795 - Court of Appeals, 8th Circuit (1993)No Beard Policy – A pizza delivery restaurant has an inflexible no-beard policy. The restaurant fires plaintiff, one of its African American drivers, for failing to remain clean shaven.

The plaintiff had a severe case of pseudofolliculitis barbae ("PFB"), an inflammatory skin condition that occurs primarily in Black men and that is caused by shaving. The severity of the condition varies, but many of those who suffer from PFB effectively cannot shave at all.

Title VII – Federal Employment Protection

- “We reverse the District Court's finding of business justification for Domino's no-beard policy as applied to PFB sufferers and remand to the District Court for entry of an injunction granting the EEOC the narrow prospective relief it seeks. The injunction shall be carefully tailored to place Domino's under the minimal burden of recognizing a limited exception to its no-beard policy for African American males who suffer from PFB and as a result of this medical condition are unable to shave.”

Title VII – Federal Employment Protection



Title VII – Federal Employment Protection

- Title VII prohibits discrimination based on religious practices.

Case Example: Refusal to Hire/Hijab

Muslim (Hijab) **EEOC v. Abercrombie & Fitch Stores, Inc.,**731 F. 3d 1106, reversed and remanded. (2015) (An employer may not make an applicant's religious practice, confirmed or otherwise, a factor in employment decisions).

Title VII – Federal Employment Protection

- Case Example: Muslim, Rastafarian, Christian Men employer's refusal to hire as drivers but offered a lower paid position/Beard (Beard/Long Hair/Dreadlocks) **EEOC v. United Parcel Service, Inc. (2004-2015)** (According to the EEOC, "Employers are not permitted to deny an individual equal opportunities because of that person's religion.")

Dress and Grooming Codes in the Workplace and Schools



Dress and Grooming Codes in the Workplace and Schools



Equal Protection Clause/14th Amendment

- “The equal protection clause of the 14th Amendment applies "to anyone, citizen or stranger" residing within a state's boundaries. The children in this case were within the jurisdiction of the state and were thus protected by the 14th Amendment.”

- The equal protection clause of the 14th Amendment requires states to provide free public schooling to the children on an equal basis with the other children in the state and school district regardless of immigration status.

Title IX – Federal Education Protection

- “The Title IX regulation states that "except for provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives federal financial assistance.”

Senate Bill No. 188:
The CROWN Act (**C**reating a **R**espectful and **O**pen **W**orld for **N**atural Hair)



Senate Bill No. 188:
The CROWN Act (**C**reating a **R**espectful and **O**pen **W**orld for **N**atural Hair)

- “Existing law states the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other specified characteristic, equal rights and opportunities in the educational institutions of the state.”

Senate Bill No. 188: The CROWN Act (**C**reating a **R**espectful and **O**pen **W**orld for **N**atural Hair)

- “Under the California Fair Employment and Housing Act, it is unlawful to engage in specified discriminatory employment practices, including hiring, promotion, and termination based on certain protected characteristics, including race, unless based on a bona fide occupational qualification or applicable security regulations. The act also prohibits housing discrimination based on specified personal characteristics, including race.”

Senate Bill No. 188: The CROWN Act (**C**reating a **R**espectful and **O**pen **W**orld for **N**atural Hair)

- "This bill provides that the definition of race for these purposes also include traits historically associated with race, including, but not limited to, hair texture and protective hairstyles, and would define protective hairstyles for purposes of these provisions."

✓ "Race" is inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.

✓ "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locks, and twists."

Senate Bill No. 188:
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1.
JAZMINN WALKER VS GARDENA HOSPITAL, L.P., Docket No. 20STCV20371 (Cal. Super. Ct. May 28, 2020), Court Docket
PARTIES
GARDENA HOSPITAL L.P., WALKER JAZMINN
DATE FILED
May 28, 2020

Wrongful Termination (General Jurisdiction)
On April 8, 2020, Ms. Walker then submitted a written complaint to Gardena Memorial about the alleged HIPAA violation and violation of the Crown Act. On April 13, 2020, Pat Lopez, Gardena Memorials Customer Service Supervisor informed Ms. Walker that her grievance had been forwarded to Performance Improvement/Risk Management. Plaintiff's termination was substantially motivated by Plaintiff's race, color, national origin, ancestry, engagement in protected activities, in retaliation for reporting what Plaintiff reasonably perceived to be unlawful activity.

See more at:
https://www.bloomberglaw.com/product/blaw/search/results/2bee8c92c64e2933c9504b7890c47849.

Senate Bill No. 188: The CROWN Act (**C**reating a **R**espectful and **O**pen **W**orld for **N**atural Hair)

2.

Effirama Quayson v. DFS Group L.P., Docket No. 20STCV14394 (Cal. Super. Ct. Apr 14, 2020), Court Docket

PARTIES
DFS Group L.P., Effirama Quayson
DATE FILED
Apr 14, 2020

Reprimanding her for issues that DFS tolerated of employees from other racial groups or ethnicities (i.e., selective enforcement of company policies); and c. Reprimanding her for issues that related to her hair and dress (this is pervasive enough that California recently found it necessary to enact the CROWN act to expressly make it illegal for employers to discriminate against employees who cannot maintain European standards for hair styles).

See more at:
https://www.bloomberglaw.com/product/blaw/search/results/2bee8c92c64e2933c9504b7890c47849.

DEI Legal Updates

- **Workplace**- President Trump Administration Executive Order: Ending Radical And Wasteful Government DEI Programs And Preferencing – The White House

- **Schools** – U.S. Supreme Court: STUDENTS FOR FAIR ADMISSIONS, INC. v. PRESIDENT AND FELLOWS OF HARVARD COLLEGE

DEI in Corporate America

Several U.S. Companies are rolling back on DEI such as:

- Target
- Meta Platforms
- Amazon
- McDonalds
- Walmart
- Ford
- Lowes

Best Practices for an Inclusive Workplace and Schools



Best Practices for an Inclusive Workplace and Schools

- Establish consistent, fair, and written dress and grooming codes
- Identify and mitigate legal issues by consulting HR organizations and employment law attorneys for updates
- Provide exceptions or accommodations for religion if not undue hardship on employer
- Do not establish dress and grooming codes based on gender stereotypes
- Modernize harassment-prevention training with realistic and representative scenarios
- Those who are not members of protected classes based on race, gender, or religion can become allies to promote an inclusive workplace and schools

Resources

See more at:

- **Source #1:** https://open.lib.umn.edu/sociology/chapter/10-2-the-meaning-of-race-and-ethnicity/

- **Source #2:** https://www.crf-usa.org/bill-of-rights-in-action/bria-7-4-c-education-and-the-14th-amendment#:~:text=While%20education%20may%20not%20be,denied%20equal%20access%20to%20schooling

Resources

See more at:

- **Source #3:**
- https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/title-ix-education-amendments/index.html
- **Source #4:** https://www.nytimes.com/2020/11/11/business/ups-black-natural-hair.html

Resources

See more at:

- **Source #5:** https://scholar.google.com/scholar_case?case=17364688373203618309&hl=en&as_sdt=6&as_vis=1&oi=scholarr
- **Source #6:** https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/creating-lgbtq-inclusive-workplace-policies.aspx

Resources

See more at:

- **Source #7:** https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB188
- **Source#8:** https://www.law.cornell.edu/supremecourt/text/14-86
- **Source #9:** See more at: https://www.bloomberglaw.com/product/blaw/search/results/2bee8c92c64e2933c9504b7890c47849

The CROWN Act – California, New York, and New Jersey



25 States Have Passed the CROWN Act

As of today, 25 states have passed the CROWN Act, which prohibits discrimination in the workplace or schools based on hair texture, natural hair, natural hairstyle, and protective hairstyle:

Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Texas, Vermont, Virginia, and Washington.

Federal Jurisdictions Have Passed the CROWN Act

U.S. Virgin Islands Governor Albert Bryan Jr. signed into law Act No. 8553, "The Creating a Respectful and Open World for Natural Hair Act of 2022" or "The Virgin Islands Crown Act of 2022," which prohibits discrimination based on hair texture or hairstyle.

The Virgin Islands Civil Rights Act (VICRA), which prohibits discrimination in employment, as well as with respect to public accommodations and with respect to rental transactions, on the basis of race, creed, color, or national origin.

Federal Jurisdictions Have Passed the CROWN Act

- VICRA states "[r]ace includes traits historically associated with race, including, but not limited to hair texture, hair type or and [*sic*] protective hairstyles." The act defines the term "protective hairstyle" as "hair characteristics, hair texture and hairstyles that include but are not limited to, such hairstyles as braids, locks, twists, cornrows, Bantu knots, Afros, and other styles in which the hair is tightly coiled or tightly curled."

Federal Jurisdictions Have Passed the CROWN Act

- Puerto Rico "signed Senate Bill 1282 (PS 1282), the Law Against Discrimination Over Hairstyles, into law on July 24, bringing new legislation that would ban public and private sector businesses from discriminating against Afro Puerto Ricans when they wear protective hairstyles like braids, cornrows, twists, or locs, or ...naturally curly crowned afro."

H.R.2116 – CROWN Act of 2022
Federal CROWN Act Bill

Committees:	House - Judiciary; Education and Labor; Budget | Senate – Judiciary.
Committee Meetings:	09/29/21 10:00AM
Committee Reports:	H. Rept. 117-252
Committee Prints:	H.Prt. 117-36
Latest Action:	Senate - 03/21/2022 Received in the Senate and Read twice and referred to the Committee on the Judiciary.
Tracker: Tip	H.R. 2116 has the status Passed House but not the Senate.

Natural Hair Discrimination Law in Washington, D.C.

- Washington, D.C. banned natural hair discrimination decades ago with the passage of the D.C. Human Rights Act (HRA) in 1977. HRA has long been one of the strongest civil rights laws in the country, prohibiting discrimination based on protected traits in employment, housing, educational institutions, and public accommodations (businesses and other facilities that are generally open to the public). There are 21 protected traits covered by the HRA, including race (natural hair), religion, national origin, sexual orientation, gender identity or expression, and personal appearance (natural hairstyles).

Natural Hair Discrimination Law in Washington, D.C.

Are hair styles protected under the HRA? Yes! Under the HRA, personal appearance is a protected trait, which includes hair styles and beards. This means you cannot be discriminated against for having a beard, curls, locs, Bantu knots, fades, twists, afros, braids, wigs, or other hair styles.

Natural Hair Discrimination Law in Washington, D.C.

What are some examples of hair discrimination? Some examples of natural hair discrimination can include, but are not limited to, the following:

- An employer not hiring a qualified applicant because they wear their hair in braids
- An employer requiring Black employees to obtain approval before changing hair styles, but not requiring approval for other employees
- A restaurant refusing to serve a patron because they wear their hair in locs
- A school sending a student home because they have a beard

Natural Hair Discrimination Law in Washington, D.C.

Exceptions to natural hair style as not protected by the HRA?

Employers or places of public accommodation can set requirements for cleanliness, uniforms, or other standards, so long as they are for a reasonable purpose and are applied consistently to everyone.

Also, hair styles are not protected if they present danger to the health, welfare, or safety of any individual. For example, this means that an employer can require food service workers to wear hair nets or assembly line workers to use hair ties that hold hair away from machinery.

Questions
Contact Information

Social Media Handlers: Facebook/Instagram
#naturalhairandthelaw



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www.naturalhairandthelaw.com

Conclusion


BLACK
HISTORY
MONTH
Know the past, shape the future.
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