KAUFMAN DOLOWICH LLP

4 Ways Grooming, Dress Policies Can Be Legally Unkempt, *Law360, ft. Keith Gutstein*

Keith Gutstein, Esq., Co-managing Partner in the Long Island office of Kaufman Dolowich & Voluck, LLP, was quoted in an article written by Vin Gurrieri for *Law360.*

Law360 (February 22, 2019, 8:39 PM EST) — New York City's recent guidance warning businesses that bans on hairstyles commonly worn by African-Americans may run afoul of anti-discrimination laws should serve as a warning to employers that their appearance and grooming policies may contain hidden legal landmines, experts say.

The enforcement guidance issued Feb. 18 by the New York City Commission on Human Rights said in part that employers may face liability under the New York City Human Rights Law if their appearance or grooming policies subject black employees to disparate treatment by banning certain hairstyles like cornrows, Afros or fades. The commission said the premise also applied to schools' treatment of students and businesses' treatment of customers.

But while the guidance was narrowly focused on hairstyles, employment attorneys say it offers a good example of how businesses' broader appearance and grooming policies can land them in legal hot water if they aren't careful about how they create and enforce those policies.

Imposing a Harsher Dress Code for Women

While any failure to reasonably accommodate workers often stems from the way a policy is applied, employers sometimes set themselves up for legal trouble when they first craft a policy if it ends up imposing more onerous requirements on women than it does on men.

"Until there are specific regulations addressing that concern, if there are different requirements, it's probably the best practice [for employers] to tie them in to some legitimate business reason, and if you cannot find one … I would think employers … would think twice about creating different sets of criteria for different genders," said Keith Gutstein, a Long Island, New York-based partner at Kaufman Dolowich & Voluck LLP partner and co-leader of the firm's labor and employment practice.

Charging Workers for Uniforms

Besides issues of discrimination or potentially harassment based on factors like a worker's race or religion, employers could also be walking on legal quicksand if they have a policy that mandates the cost of required uniforms be borne by workers.

While the federal Fair Labor Standards Act does allow for the cost of uniforms to be pulled from workers' paychecks, employers can still run into trouble if the deduction amounts push workers' salaries below the federal minimum wage or cut into their overtime compensation, according to Gutstein.

Additionally, some states, like New York, don't allow employers to make workers pay for uniforms at all, Gutstein said, noting there are numerous threshold issues to determine whether a garment even qualifies as a uniform before the question of who pays for it becomes viable.

"If we get past the threshold and you require that an employee wear a uniform, the employer should provide the uniform free of charge," Gutstein said. "And the reason why I say that is because if you require your employees to wear a uniform and you have your employees pay for it, it could be a … New York state labor law violation."

© 2026 Kaufman Dolowich. All Rights Reserved. | www.kaufmandolowich.com