

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL AND
HUMAN RIGHTS

Jointly with the

COMMITTEE ON STATE AND
FEDERAL LEGISLATION

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Tuesday, February 28, 2023

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HELD AT: Committee Room, City Hall

B E F O R E: Nantasha M. Williams, Chairperson
Shaun Abreu, Chairperson

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Jennifer Gutiérrez
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1 COMMITTEE ON CIVIL AND HUMAN RIGHTS Jointly with
the COMMITTEE ON STATE AND FEDERAL LEGISLATION

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2 SERGEANT AT ARMS: Good morning and welcome to
3 today's New York City Council hearing for the
4 Committee on Civil and Human Rights jointly with
5 State and Federal Legislation. At this time, we ask
6 that you silence all cell phones and electronic
7 devices. Silence all cell phones and electronic
8 devices. If you have testimony you wish to submit
9 for the record, you may do so via email at
10 testimony@council.nyc.gov. Once again, that is
11 testimony@counsel.nyc.gov. We thank you for your
12 cooperation. Chairs, we're ready to begin.

13 CHAIRPERSON WILLIAMS: Good morning everyone. My
14 name is Nantasha Williams, and I serve as Chair to
15 the Committee on Civil and Human Rights. Our hearing
16 today covers a topic that affects so many different
17 aspects of everyday life: appearance-based
18 discrimination. While common and rampant, it is
19 often overlooked in its impact.

20 Appearance based discrimination occurs when
21 someone is treated differently based on how they
22 look. This can include but is not limited to height,
23 weight, hair, facial features, tattoos, or even how a
24 person dresses or chooses to dress. This type of
25 discrimination can also be linked to a person's

2 racial, ethnic, or cultural background. But without
3 the protections attached to categories of race,
4 ethnicity, and religion that are ubiquitous in both
5 federal and local regulations. I'm excited to be
6 joined by my colleague, Councilmember Shawn Abreu,
7 who's been a great champion on this issue and making
8 sure we held this very important hearing. He's also
9 chair to the committee on state and federal
10 legislation.

11 Today, we'll be hearing two bills that he is
12 sponsoring. The first bill is Intro 209, which would
13 prohibit discrimination on the basis of a person's
14 height or weight in opportunities of employment,
15 housing, and access to public accommodations. The
16 second bill, Intro 702A, would prohibit employment
17 discrimination on the basis of having a tattoo. This
18 legislation could serve to protect against a
19 roadblock to employment that is both a nuanced and
20 complex form of discrimination. Those who have lost
21 out on things like employment opportunities or
22 promotions due to their appearance can attest to the
23 long term ramifications of such unfair treatment.
24 Anyone who was unable to enjoy a public space, or
25 received inadequate medical treatment due to their

size knows firsthand the mistreatment that we are trying to prevent here today.

In my role as chair of the Civil and Human Rights Committee, I am also stressing the importance of equity. So I'd be remiss not to point out the economic inequity of this very common form of discrimination.

People whose appearance does not fit certain societal standards of attractiveness, appropriate size, and personal style can also be negatively impacted by appearance-based discrimination.

I welcome everyone's feedback, testimony and personal experiences that are being shared today, and look forward to continued discussion surrounding this issue.

I'll now turn it over to my colleague and Co-Chair, Councilmember Shaun Abreu, for his opening statement.

CHAIRPERSON ABREU: Thank you, Chair Williams. All things bright and beautiful. All creatures great and small. All things wise and wonderful. The Lord God made them all. I'm councilmember Shaun Abreu, Chair of the Committee on State and Federal Legislation, and I'm here this morning to declare

1 that we're all bright and beautiful. And even if
2 someone else doesn't think so, it still shouldn't
3 make any difference to whether somebody can get a
4 job, or an apartment, or do anything else they damn
5 well, please.
6

7 New York City is ready to ban appearance-based
8 discrimination. Now that we know why we're here, I'd
9 like to thank my colleague, Co-Chair, Councilmember
10 Nantasha Williams, for working with me on this
11 hearing.

12 As she just mentioned, appearance-based
13 discrimination can really impact an individual's life
14 in many ways. Not only can it affect their mental
15 health, but it can also impact their livelihood. And
16 while some appearance-based discrimination can be
17 based on a person's self expression, like clothing or
18 tattoos, it can also be based on features and
19 physical traits and attributes that would otherwise
20 be protected against discrimination. In my capacity
21 as Chair of the Committee on State and Federal
22 Legislation, I am always looking at what our
23 counterparts in other jurisdictions are working on.

24 Last session Congress consider passing the CROWN
25 Act, a bill that would prohibit discrimination based

2 on a person's hair texture, or hairstyle if that
3 style is commonly associated with a particular race
4 or national origin.

5 In 2019, a version of this bill was passed at the
6 state level here in New York. Additional efforts to
7 put an end to appearance-based discrimination are
8 underway in Albany. Two bills at the state level
9 have been reintroduced this session. These bills
10 would protect New Yorkers who have experienced weight
11 or high discrimination in employment or housing, and
12 would make it illegal for them to be denied service
13 in any place of public accommodation, such as a hotel
14 or restaurant, due to their weight. While I applaud
15 the state and federal efforts, we cannot always wait
16 for their passage to make change right here in New
17 York City. This is why I'm proud to be sponsoring
18 Intro 209, protecting people from height and weight-
19 based discrimination, where they are not part of an
20 essential job function.

21 We've heard and will hear today many instances of
22 discrimination where employees are relegated to the
23 back of a clothing store to stock shelves instead of
24 being at the cash register for example. Our bill
25 importantly also protects height and weight

1 COMMITTEE ON CIVIL AND HUMAN RIGHTS Jointly with
the COMMITTEE ON STATE AND FEDERAL LEGISLATION 9

2 discrimination in housing and public accommodations.

3 I think we can all agree that someone's appearance
4 should not impact something so basic as their right
5 to housing, or being able to access public space.

6 I am also proud to introduce Intro 708A,
7 protecting people from discrimination on the basis of
8 having tattoos. A recent poll reported that one in
9 three people have a tattoo. Even with their
10 popularity, there are currently no laws in the local,
11 state, or federal level regarding this type of
12 discrimination. I am proud to have this bill being
13 heard today as it similarly impacts service workers
14 and other public facing employees who may face
15 appearance-based discrimination due to the stigma
16 around tattoos.

17 I look forward to the feedback and testimony will
18 be receiving today on these bills and hope that they
19 will one day make a difference in the lives of New
20 Yorkers that have experienced appearance-based
21 discrimination.

22 I like to wrap up by saying thank you to the
23 members of the Civil and Human Rights Committee that
24 have joined us today as well as committee staff

25

1 COMMITTEE ON CIVIL AND HUMAN RIGHTS Jointly with
the COMMITTEE ON STATE AND FEDERAL LEGISLATION 10

2 Jayasri Ganapathy and Wiam Diori, and my staffer,
3 Jalissa Quigley.

4 I'll now turn it over to our moderator for some
5 procedural items.

6 COUNSEL GANAPATHY: Thank you chairs. Good
7 morning and welcome. My name is Jayasri Ganapathy,
8 and I am counsel to the Committees on Civil and Human
9 Rights and State and Federal Legislation.

10 I would first like to acknowledge the
11 Councilmembers that are joining us today. We have
12 Councilmember De La Rosa and Councilmember Marte.

13 Before we begin testimony, and we'd like to
14 remind everyone that is joining us via Zoom that you
15 will be on mute until you are called to testify. I
16 will be calling on public witnesses to testify after
17 the conclusion of the administration's testimony and
18 Councilmember questions, so please listen carefully
19 for your name to be called.

20 Councilmembers you will be called on for
21 questions after the full panel has testified.

22 Please note for the purposes of this hearing,
23 Councilmembers will have three minutes for questions
24 and we will be allowing a second round of
25 questioning.

2 For the public witnesses, once your name is
3 called, if you are joining us via Zoom, a member of
4 our staff will unmute you and the Sergeant At Arms
5 will give you the cue to begin. If you are here in
6 person, once your name is called please come up to
7 the table and you can begin your testimony when
8 everyone has been situated. I will now swear in the
9 administration.

10 We have representatives today from the New York
11 City Commission on Human Rights, and panelists if you
12 could please raise your right hands.

13 Do you affirm to tell the truth, the whole truth
14 and nothing but the truth before this committee and
15 respond honestly to Councilmember questions?

16 DEPUTY COMMISSIONER KAMUF WARD: I do.

17 I do.

18 Thank you. Deputy Commissioner Kamuf Ward, you
19 can go ahead.

20 DEPUTY COMMISSIONER KAMUF WARD: Great. Thank
21 you. Thank you Chair Williams, Chair Abreu,
22 committee members and committee staff, as well as
23 members of the public who are here today. I'm Joanne
24 Kamuf Ward. I'm Deputy Commissioner of Policy and
25 External Affairs at the New York City Commission on

1 Human Rights. And I'm joined for questions by
2 Hillary Scrivani, who's Senior Policy Counsel at the
3 Commission. Thank you first for convening today's
4 important hearing. Before turning to Intro 209,
5 which as was already stated would make it unlawful
6 for employers, housing providers, and providers of
7 public accommodation to discriminate against
8 individuals based on height and weight, and Intro
9 702A, which would make it unlawful for employers to
10 discriminate against individuals on the basis of
11 having a tattoo, I will highlight some of the
12 Commission's history and recent work that's relevant
13 to the topics that we're talking about.

14 So I think as many people know, the New York City
15 Commission on Human Rights is the agency that
16 enforces the city's human rights law, one of the
17 broadest and most protective civil rights laws in the
18 country. And the Commission interprets the law's
19 protections expansively, consistent with the statute
20 itself. The Human Rights law prohibits
21 discrimination in the areas that are referenced in
22 Intro 209 -- housing, employment, and public
23 accommodations -- and currently covers 27 protected
24 categories which include age, gender, religion,
25

1 disability, race, national origin, gender, gender
2 identity, and sexual orientation.
3

4 To fulfill our dual mandate of enforcement and
5 fostering intergroup relations, the Commission's two
6 largest units are law enforcement and community
7 relations. The Community Relations Bureau is
8 responsible for outreach and education, and partners
9 with a wide array of community groups, sibling
10 agencies and stakeholders across the city. In fiscal
11 year 22, we engaged more than 100,000 New Yorkers
12 through our community relations work.

13 Our Law Enforcement Bureau conducts testing,
14 launches investigations, initiates complaints, enter
15 settlements that address individual and structural
16 discrimination, and also takes cases to trial at
17 OATH.

18 The Commission's own roots can be traced back to
19 the Depression era. During the 1940s, Mayor
20 LaGuardia established the Mayor's Commission on
21 Conditions in Harlem in response to uprisings in
22 Harlem, and to better understand the issues facing
23 residents of our city. This committee eventually
24 became the Committee on Unity, and was guided by the
25 goal of making New York City a place where people of

1 all races and religions may work and live side by
2 side. Subsequently called the Commission on
3 Intergroup Relations in 1955, our agency gained the
4 ability to investigate complaints. And really at its
5 inception, the Commission was tasked with studying
6 the problems of prejudice, intolerance, and bigotry,
7 as well as discrimination in New York, while
8 promoting intergroup relations.
9

10 From 2001 through 2014, City Council amended the
11 law 12 times. Since 2015, City Council has amended
12 the human rights law 38 times.

13 The law's expansive protections already reached
14 some forms of discrimination that relate to
15 appearance. This includes where appearance
16 intersects with protected categories such as race,
17 religion, and disability.

18 In 2019, the Commission issued guidance affirming
19 that grooming policies targeting natural hair
20 constitute unlawful discrimination under the Human
21 Rights Law. The guidance focuses on the significant
22 negative impact of such policies on black New Yorkers
23 and highlights the links that race, religion, and
24 culture have with hair.
25

2 The guidance notes that there may be some
3 circumstances where legitimate health or safety
4 concerns justify certain grooming policies. But
5 where a legitimate health or safety concern exists,
6 there are often more tailored ways to alleviate the
7 concern rather than just having blanket bans on
8 natural hair or head coverings. For restrictions on
9 hairstyles the Commission considers them
10 discriminatory and less there's a legitimate and non
11 speculative basis for the restrictions and such
12 restrictions are narrowly tailored. The Commission
13 will also assess whether no alternative policies
14 would achieve a similar aim.

15 I want to just mention one case in this area that
16 illustrates the Commission's efforts to address
17 discriminatory practice.

18 So the Law Enforcement Bureau resolved a case
19 involving a salon that faced allegations of
20 discrimination because its grooming policies targeted
21 black employees with natural hair and hairstyles
22 associated with black people. In the settlement, the
23 salon agreed to pay a penalty as well as to establish
24 a natural hair program, training employees on cutting
25 and styling natural hair and to create a

2 multicultural internship program to develop and
3 mentor students stylists from underrepresented
4 groups, and to increase employee representation from
5 those groups as well. And the natural hair
6 protections that I'm talking about are now
7 memorialized in the Commission's rules.

8 The commission has also addressed discrimination
9 that includes an individual's size. The agency has
10 settled one case where an employer who discriminated
11 against a pregnant employee where the employer mocked
12 the individual's weight and criticized her diet.

13 The employer paid compensatory damages and
14 educated its employees about their rights as a result
15 of the settlement in that case. And in another
16 example where an employee alleged his supervisor made
17 derogatory comments regarding his weight and race,
18 the employer paid emotional distress damages civil
19 penalties, and also educated employees about the
20 human rights law.

21 The Human Rights laws prohibitions on
22 discrimination based on disability and religion also
23 reach some appearance-based discrimination.

24 For example, obesity may constitute a covered
25 disability. And disability just as a reminder is

2 defined in the human rights law as a physical,
3 medical, mental, or psychological impairment. So it
4 includes a wide array of identities. Additionally,
5 where a physical characteristic that's part of a
6 religious practice or observance, it would be a
7 violation of the human rights law to discriminate
8 against an individual based on that characteristic.

9 For both disability and religion, the human
10 rights law requires employers to provide what we call
11 reasonable accommodations to enable an individual to
12 fulfill the essential functions of their job, as long
13 as the accommodation does not place an undue hardship
14 on the employer.

15 An accommodation that interferes with safe or
16 efficient operations may constitute an undue hardship
17 for an employer.

18 In addressing the prohibitions on discrimination
19 in the human rights law, the law seeks to balance
20 individual rights and the health and safety of
21 members of the public, whether that's in employment
22 and housing or in public accommodations, and that's
23 reflected in the Reasonable Accommodations framework
24 I just mentioned.

2 Intro 209 would add height and weight as
3 protected categories under the human rights law, it
4 would forbid discrimination based on actual or
5 perceived height and weight in employment, housing,
6 and public accommodations. Michigan adopted weight
7 and height protections in 1976, and since then, a
8 handful of cities have followed suit.

9 The administration supports the intent of the
10 bill to ensure that New Yorkers do not face
11 discrimination based on the physical attributes of
12 height and weight while taking into account health
13 and safety consistent with the existing framework of
14 the human rights law.

15 The administration is also continuing to review
16 Intro 7-- Intro-- Sorry. The administration is
17 continuing to review Intro 209, which is height and
18 weight and looks forward to hearing from stakeholders
19 and reading testimony submitted for today's hearing,
20 as well as working with City Council to identify the
21 most effective approach to addressing discrimination
22 based on height and weight.

23 Turning to Intro 702, which would make it
24 unlawful for employers to discriminate against
25 individuals on the basis of having a tattoo, the

1 administration looks forward to learning more about
2 this issue from stakeholders and continuing to work
3 with city council to explore the most effective ways
4 to ensure that individuals are not discriminated
5 against because of who they are and what they look
6 like.
7

8 In closing, the commission is committed to
9 addressing discrimination and identifying gaps in
10 protections that limit the ability of New Yorkers to
11 live work and thrive in our city. We look forward to
12 working with council to ensure that suitable
13 approaches are taken to address unfair discrimination
14 based on one's physical attributes. We appreciate
15 the Council's attention and commitment to combating
16 discrimination in New York City. And I look forward
17 to your questions.

18 CHAIRPERSON ABREU: Well, thank you for your
19 testimony. My first question is: With regard to
20 Introduction 209 and 702A, does CCHR foresee any need
21 for additional resources in its capacity as the
22 enforcement agency?

23 And with regard to enforcement, what hurdles, if
24 any, does CCHR anticipate should these bills be
25 enacted?

2 DEPUTY COMMISSIONER KAMUF WARD: Thank you. I
3 think our commission is very proud of our staff and
4 the work of our agency. I've mentioned the number of
5 times our law has been amended. And I think every
6 time that happens we have-- no matter how many staff
7 we've had, we have proven to take a results-oriented
8 approach that is first and foremost about educating
9 New Yorkers about their rights. Because prevention
10 of discrimination is always our number one goal. We
11 work closely with City Councilmembers, with sibling
12 agencies who often also have jurisdictions in the
13 areas we're talking about, and really closely with
14 community groups, both to get the word out, through
15 trainings, days of outreach, and days of visibility,
16 as well as through social media and print media
17 campaigns that are always in multiple languages to
18 ensure we're meeting all New Yorkers who might
19 benefit from the protections as well as housing
20 providers, and employers and providers, of public
21 accommodations.

22 I think one thing I am proud to report at this
23 hearing is that we have been staffing up during this
24 administration. And we think we can hit the ground
25 running to educate New Yorkers about these

1
2 protections, and also to-- to enforce them in areas
3 where we are already quite familiar.

4 And the second part of the question was around
5 enforcement, right?, and what, if any, things-- can
6 you repeat that second question, Chair?

7 CHAIRPERSON ABREU: With regard to enforcement,
8 what hurdles, if any, does CCHR anticipate should
9 these bills be enacted?

10 DEPUTY COMMISSIONER KAMUF WARD: Sure. So I
11 think every time our law is enacted, there's an
12 education and awareness barrier, and that's for all
13 New Yorkers. So we always start first with our
14 staff. You know, we have internal trainings about
15 what these things look like, and how to enforce
16 cases, how to identify discrimination, and how to
17 educate New Yorkers about their rights.

18 Every time our law is amended, we also hear that
19 it's a burden on housing providers and public
20 accommodations, and businesses, because areas of law
21 are complex, and there's lots of intersecting rules
22 and regulations. But that is always the case. I
23 think our goal and hope for these bills is that if
24 they are passed, that they are well-aligned with our
25 existing enforcement framework. And I mentioned a

1 few elements of what we look at, in the instance of
2 hair discrimination, what we look at in instances of
3 disability, right?, balancing the goal of equity,
4 which I think this administration and the Commission
5 and all of you share, with ensuring that those with
6 obligations understand what they are and New Yorkers
7 can vindicate their rights.
8

9 CHAIRPERSON ABREU: Thank you for that. I'd like
10 to acknowledge Councilmember Rita Joseph, who is
11 joining us.

12 Has CCHR ever received inquiries or complaints in
13 relation to appearance-based discrimination?

14 MS. SCRIVANI: Thank you for that question, Chair
15 Abreu. Appearance-based discrimination, as Deputy
16 Commissioner Ward stated in her testimony, does come
17 under the city human rights law, if it is linked to a
18 category that's already protected. So we have 27
19 protected categories in our laws. So one example
20 that Deputy Commissioner Ward mentioned, is in the
21 instance of hair discrimination. So discrimination,
22 based on natural hair can fall under race
23 discrimination. There's also instances of
24 discrimination related to hair falling under
25 religion, which is another protected category. So

1 our-- we have had instances where appearance-based
2 discrimination has come to the commission and, in
3 fact been related to violations of our law. So,
4 yeah, if it's if it's related to an already protected
5 category, then it has come to the commission.
6

7 CHAIRPERSON ABREU: So is it fair to say that
8 complaints for appearance-based discrimination are
9 often linked to other types of discrimination, or...?

10 MS. SCRIVANI: So I would say, what appearance-
11 based discrimination-- how-- how the Commission
12 captures it, those instances, it's linked to already-
13 protected categories. But I will note that because,
14 you know, for, you know, example, like height and
15 weight, which are, you know, the issues in Intro 209,
16 since those are not protected categories, currently,
17 under the law, you know, they-- our data wouldn't
18 capture, you know, those issues if they're not linked
19 to an already-protected category.

20 CHAIRPERSON ABREU: Great. And you kind of went
21 into this in your testimony a bit, but if you can
22 expound upon it a little more: What is your feedback
23 on Intro 209? I see that the Commissioner supports
24 the intent behind the bill, which is really exciting
25 news.

2 DEPUTY COMMISSIONER KAMUF WARD: Sure. So I
3 think there are a couple of pieces that were keen to
4 really think about. Really, also, after hearing and
5 reading the testimony from today, to understand how
6 these issues are playing out in New York City today
7 for residents.

8 But I think in general, going back to the
9 question you asked about enforcement, we think it is
10 helpful when the terms and kind of protections in our
11 law are aligned, so that there's a parallel structure
12 between what might exist for race and religion and
13 national origin, and what might exist for height and
14 weight, both to clarify the law again, for impacted
15 New Yorkers, but also for the housing providers and
16 employers that that will have obligations when-- when
17 the law is changed.

18 And so some of that is about, again, balancing
19 equity with-- with clarity and legitimate business
20 operations.

21 So as I said, kind of in the hair context, we
22 look at what is the policy and whether there's a
23 legitimate health or safety rationale for what the
24 policy at place would be. And I think we would take,
25 ideally, the same approach to height and weight. If

1 there's a height and weight threshold for a position,
2 is that connected to the essential functions of a job
3 in the employment context, right? Are there health
4 and safety rationales for a particular requirement
5 for-- for a job. And I can imagine in businesses or
6 in public accommodations, there's also going to be
7 health and safety regulations, and building codes and
8 things like that, that we need to consider. So from
9 the administration's perspective, it's really about
10 balancing those-- those objectives.

12 CHAIRPERSON ABREU: To your knowledge, has CCHR
13 received any complaints related to height and weight
14 discrimination?

15 MS. SCRIVANI: Thank you for your question. So I
16 think Deputy Commissioner Ward mentioned two
17 examples, where there were cases where weight
18 discrimination was linked to a category that's
19 already protected in the law. So for example, one of
20 the examples involved a pregnant employee who was
21 told derogatory comments about her weight. There was
22 also an employee who experienced discrimination--
23 race discrimination, and that included derogatory
24 comments about-- about weight. So in those
25 instances, there have been cases. As far-- but

1 again, because they're linked to-- to race and
2 pregnancy, which are already protected in the law.

3
4 As far as height, we haven't had that issue, come
5 to us, specifically, that we're aware of. You know,
6 again, our data, you know, wouldn't necessarily
7 capture that, since it's not already protected in the
8 law. But I will note that when it comes to weight
9 discrimination, you know, we're aware of that, you
10 know, body-type discrimination, there might be an
11 intersection between, you know, height and weight.
12 And what I mean by that is, you know, a taller
13 individual of a certain weight might not experience
14 discrimination the same way as someone at the same
15 weight who's not as tall. So it certainly can come
16 into play there.

17 But as far as tattoos, again, that you know, if
18 it-- it would be protected if it relates to a
19 category that's already in the law, but we are not
20 aware of any instances of tattoo discrimination.

21 DEPUTY COMMISSIONER KAMUF WARD: And I think the
22 only thing I'll add to that, and I mentioned this a
23 little bit in the-- in the testimony as well, that
24 both height and weight can, in certain instances,
25 fall within what is defined as a disability under our

2 law. I know there's controversy about that
3 framework. But I just wanted to clarify that that
4 would come under some of our protections. But as my
5 colleague said, we're not aware of any tattoo or
6 height-related cases.

7 CHAIRPERSON ABREU: Thank you. Speaking about
8 disability-- disability under the ADA. If obesity is
9 classified as a disability, how does that impact the
10 perception of people who are overweight and disabled?

11 DEPUTY COMMISSIONER KAMUF WARD: So I think-- I'm
12 not going to speak to the ADA. And I don't know if
13 I'm the right person to answer this question. I
14 think we look at parallels though from pregnancy,
15 which is a protected class in our law, and under
16 federal law. In some jurisdictions is considered a
17 disability. There was a move to change that
18 perception. And I understand at least anecdotally,
19 from-- from advocates, that there can be stigma
20 associated with disability that doesn't relate to
21 their own experience.

22 The other thing I will say, though I'm no expert
23 on the case law on disability, there are
24 jurisdictions where it's required to show an
25 underlying condition to benefit from that protection.

2 And that's at the federal level. Our law is much
3 more expansive, and we read it more expansively.
4 But-- But that would be something from the legal
5 side.

6 CHAIRPERSON ABREU: Yeah. And you may provide a
7 similar answer here with my next question, since it's
8 very ADA-- maybe ADA specific. Are there thresholds
9 for overweight people to meet in order to be
10 classified as disabled? Because the accommodations
11 aspect is very important.

12 DEPUTY COMMISSIONER KAMUF WARD: So there are no
13 set thresholds under our law. I think this goes to
14 my colleague Hillary's points. It's in our
15 experience, and what we've read and heard. Body size
16 can-- It's-- There's no number, right?, or no
17 specific height that might bring that into play.
18 It's often individualized and related to other
19 identity characteristics. I'm also just not aware of
20 what the threshold might be under-- under federal
21 law.

22 And then the last piece, I'll say, is the
23 disability framework that exists with reasonable
24 accommodations. Just to be clear for the folks who
25 may not have read in detail the legislation, we have

2 that-- that's not included in this version of-- of
3 the law. So it's something that exists in our law
4 for disability, domestic violence, religion, and
5 pregnancy.

6 Thank you. I have no further questions.

7 Chair Williams?

8 CHAIRPERSON WILLIAMS: Thank you. So you know,
9 I'm always thinking about how we actually educate
10 people on our laws. Because so many people don't
11 even know we have such an expensive title A, and they
12 could come to your agency for support.

13 So does CCHR plan to provide any trainings or
14 workshops to educate and raise awareness if these
15 bills were to pass?

16 DEPUTY COMMISSIONER KAMUF WARD: I rarely can
17 offer an emphatic yes. But anytime our law is
18 amended, we really, as I was saying, our number one
19 priority is that people know about the protections in
20 the law. So we would, at a minimum, develop written
21 materials in multiple languages and do days of
22 outreach. And likely-- I mean, we would definitely
23 incorporate the changes into our training, which we
24 do several hundred, at least, a year all over New
25 York City.

2 But if we look at just the way we approached the
3 hair guidance, which wasn't even a change in the law,
4 it was an articulation and interpretation of what our
5 law already said, we have a legal guidance, which is
6 for lawyers and judges, and anyone else who has time
7 to spend reading legal guidance. But we also have a
8 fact sheet, and we have FAQs, and we've done
9 campaigns and videos on-- on that. And I think we
10 evaluate who needs to know about the change, both
11 from a business perspective side and from an impacted
12 individual side. And we do our best to target at the
13 start of a campaign, those groups, and then to ensure
14 that everyone in New York City knows about these
15 protections.

16 CHAIRPERSON WILLIAMS: Thank you. And you
17 actually just mentioned the hair discrimination
18 guidance. That was back in 2021? 2019?

19 DEPUTY COMMISSIONER KAMUF WARD: 2019. Correct.

20 CHAIRPERSON WILLIAMS: You guys did something in
21 2021.

22 MS. SCRIVANI: Yeah, so-- [crosstalk] I'm sorry.
23 Yeah. So the rules were amended in 2021 to add hair
24 discrimination. So they were added to the rules in
25 2021.

2 CHAIRPERSON WILLIAMS: Okay. No, I remember
3 participating in like a public hearing thing you all
4 did.

5 DEPUTY COMMISSIONER KAMUF WARD: Yeah. So we had
6 a hear-- Every time we amend our rules, we do a
7 public hearing. And then when we're thinking about
8 legal guidance, we often do roundtables with experts.
9 And I mean that in the widest way possible, people
10 who have experienced the type of discrimination
11 we're-- we're addressing to ensure that the
12 information that we're putting out there is accurate,
13 and helpful, and resonates with New Yorkers.

14 CHAIRPERSON WILLIAMS: Okay, so since the initial
15 guidance in 2019, revised guidance in 2022, to hair
16 discrimination and the passage of the New York CROWN
17 Act, how often has CCHR received or investigated
18 complaints of natural hair discrimination? I know
19 you mentioned the one case but...?

20 MS. SCRIVANI: Yeah. So we've had six cases
21 total since the-- since the guidance. That's
22 including the case that we settled. And, you know,
23 I'll also mention that hair discrimination, it's a
24 type of race discrimination or discrimination based
25

1 COMMITTEE ON CIVIL AND HUMAN RIGHTS Jointly with
the COMMITTEE ON STATE AND FEDERAL LEGISLATION 32

2 on religion, typically. So it is part of that, you
3 know, larger category and dataset of discrimination.

4 CHAIRPERSON WILLIAMS: Got it. Does CCHR believe
5 height or weight-based discrimination are covered
6 under protective categories? I think you already
7 answered that. [TO CHAIR ABREU:] Did you ask this
8 question?

9 CHAIRPERSON ABREU: You can ask it again.

10 CHAIRPERSON WILLIAMS: No, it's okay. I think
11 you talked about how it could potentially be covered
12 under disability rights. Okay.

13 I don't have any other questions. I just want to
14 acknowledge that Councilmember Joseph is here. Do
15 you have any questions?

16 Okay. I think you guys answered everything.

17 MS. SCRIVANI: Thank you.

18 CHAIRPERSON WILLIAMS: Thank you.

19 COUNSEL GANAPATHY: We'll give this panel a few
20 minutes to clear up and then move on to public
21 testimony. So bear with us for a moment.

22 Thank you. We will now call-- We will now call
23 the first panel of public witnesses.

24 If you have not registered and you wish to
25 testify, please speak to the Sergeant At Arms and

2 fill out a witness slip. If you registered in
3 advance online, please also make sure to fill out a
4 witness slip so we have a record of your attendance.

5 On this first panel we have Eno Awotoye, Josh
6 Kellerman, and Tigress Osborn. You can come to the
7 table and once everyone is situated you can get
8 started.

9 Panelists just so you are aware you do have two
10 minutes to testify once the Sergeant starts the
11 timer. And Councilmembers if you have any questions
12 for a particular panelist, please let me know, and I
13 will call on you when the panelist panelists have
14 completed their testimony.

15 Okay.

16 MS. AWOTOYE: Good morning. My name is Eno
17 Awotoye. I'm the Coordinator for the Retail Action
18 Project, and this is the worker center for New York
19 City Retail Workers who are in retail and other
20 industries, allied industries.

21 The Retail Action Project rallies non-union
22 workers in New York City to improve opportunities
23 mostly for workers here. Our membership is diverse,
24 consists of workers and job seekers from immigrant,
25

1 low wage, LGBTQ+, and other marginalized communities
2 who already face a lot of job insecurities.

3
4 Now when size discrimination is added, the impact
5 is devastating.

6 We asked our members if they or someone they knew
7 had experienced size discrimination. Most of them
8 answered yes.

9 Today I'd like to share the experiences of two
10 women who would have liked to be here. But because
11 of childcare and concerns about their privacy, they
12 asked that I share the experience without their names
13 attached.

14 The first one, initial TM, is a luxury brand
15 specialist, and she shares,

16 "After enjoying over three years of highly
17 rewarding job opportunity, I had gotten pregnant and
18 started to put on some baby weight. Weight did not
19 affect my productivity at all. At first I got some
20 friendly advice to watch my weight, to remember that
21 I was representing a luxury brand. By the time I got
22 back from having my baby, I got moved around so much
23 eventually, I ended up in the stock area. I lost my
24 commission because of this, and because I no longer
25 fit the image of the company.

1
2 It's very hurtful to be judged unfit or incapable
3 just because I put on weight."

4 CF is a sales associate, and she shares,

5 "I had added some weight when I took time off to
6 raise my family. On my return, I found it very hard
7 to secure a job. At screenings or interviews, there
8 would be questions or comments about fast-paced work
9 environments, and if I could cope. I started to
10 realize that my weight had something to do with my
11 difficulty in finding a job. It was very stressful.

12 Eventually, I did a phone interview. And it was
13 successful. I was hired and given a start date. At
14 the orientation, I was told that I would get a
15 schedule. It never came.

16 Each time I called, I was told that they were
17 waiting for a position to open up. I am still
18 looking for full-time work, and it's been three
19 years."

20 It's unfair that we have no protection from this
21 kind of treatment. We all have heard these kind of
22 stories about size discrimination. It's wrong, and
23 it should be banned. The New York City Council
24 should pass this bill, the height and weight bill,
25 and make sure they protect workers, give workers

1 equal access to opportunities, and to ensure respect
2 and dignity of labor. Thank you.

3
4 MS. OSBORN: Good morning. I'm Tigress Osborn.
5 I'm the Chair of the National Association to Advance
6 Fat Acceptance.

7 As the Chair of the world's oldest fat rights
8 group, I'm here to speak on behalf of thousands of
9 people who have been part of NAAFA, The National
10 Association to Advance Fat Acceptance, over the last
11 54 years. And also on behalf of millions of fat
12 people in New York City today, whose lives will
13 become better because of Councilmember Abreu's bill
14 to ban height and weight discrimination. You may not
15 be used to hearing the word fat in the matter-of-fact
16 way that we use it at NAAFA. Those who support fat
17 rights are the F-word practically, even
18 enthusiastically, as a descriptor instead of an
19 insult. Fat people are people. That should go
20 without saying but sometimes it does not. We are
21 disrespected or ignored in far too many aspects of
22 life. And too many people believe nasty stereotypes
23 about us.

24 There are uncountable ways that the world harms
25 fat people. And that harm is even greater when we

1 are also black or brown people, LGBTQIA+ people, or
2 disabled people.
3

4 Anti-fatness doesn't just break our hearts. It
5 drains our wallets, steals our opportunities, and
6 limits our lives. We're prevented from doing jobs
7 we're skilled at, from living in communities we love,
8 and from participating fully in the lives of our own
9 hometowns, because people don't make space for us.
10 And that has to stop.

11 As the chair of NAAFA, I get asked about size
12 discrimination a lot. And often people are very
13 surprised to learn how few places in the world have
14 legal prohibitions against size discrimination.
15 People are especially surprised about this about New
16 York City, which prides itself as a beacon of
17 worldwide welcome, of opportunity of equality. Yet
18 we know that at least 2 million people experienced
19 size discrimination in 2019 in New York City.

20 Sometimes it's just malicious, like the person
21 who spit on my friend on the-- on the bus in the
22 Bronx, and then screamed in her face about how she
23 was taking up too much space. Sometimes, though,
24 it's simple oversight, like a city council chamber
25 without enough seats that are safe for larger bodies.

2 Either way, New York can do better and you're
3 about to. When the rest of the city council joins
4 the 30 co-sponsors of INT0209 to pass this bill. New
5 York will become the most populous city in the world
6 to protect its residents and visitors from size
7 discrimination. I traveled over 2000 miles to be
8 with you today because like so many other generations
9 of fat people, I had to be in New York when this city
10 was making history for equality at every size.

11 When the Central Park Fat-In was held here in
12 1967, or when the first national NAAFA conference was
13 held here over 50 years ago, this is exactly what
14 those advocates were working towards.

15 The beacon of freedom will shine even brighter in
16 New York City when it includes the freedom to thrive
17 at any size. Thank you very much.

18 Good morning and thank you for the opportunity to
19 testify. My name is Josh Kellerman. I'm the
20 Director of Public Policy at the Retail Wholesale and
21 Department Store Union, RWDSU. We represent
22 approximately 40,000 workers in New York. Our
23 members work in retail, including grocery and
24 pharmacy, food service, food processing,
25 distribution, cannabis, building services,

2 warehouses, carwashes, agriculture, and we also
3 represent workers in apparel, retail, and fashion
4 retail.

5 I sit before you today to testify in support of
6 ending discrimination against people based on their
7 body size. In the industries we organize in,
8 particularly in fashion retail, this problem is
9 rampant.

10 Workers are routinely punished for not fitting
11 the image perceptions set by employers, causing both
12 financial and personal challenges for workers. We
13 know that making this sort of conduct illegal won't
14 change these discriminatory practices overnight, but
15 it will provide workers with a route to fight back
16 against the most egregious forms of discrimination,
17 and will also help to shift the culture around body
18 shaming. If we can achieve these goals through this
19 bill, this bill will be viewed as an important step
20 in the march towards the equality.

21 As a union whose members are majority women of
22 color, it is important to highlight the ways that
23 body image discrimination often goes hand-in-hand
24 with racial discrimination and bias against women.

2 Height and weight discrimination is intertwined
3 with social justice and racial discrimination.
4 Studies show that people of color in the US, black
5 and Latino, are more are more likely to be of a
6 higher weight than white people. Black Americans are
7 likely to be on average one inch shorter than white
8 Americans, and Asian and Latin Latino Americans
9 average about three inches shorter in height than
10 their Caucasian counterparts. Women in America are
11 more likely than men to be considered, quote unquote
12 "obese," and studies show that women are more likely
13 to be discriminated against men due to their
14 appearance. And this discrimination undermines New
15 Yorkers ability to earn a living. One study showed--
16 One study on the issue showed that worker -- [BELL
17 RINGS] I'll finish quickly -- showed that larger
18 workers earn lower wages and are more likely to be
19 viewed negatively by hiring managers. Larger
20 people's performance is more likely to be viewed
21 negatively by supervisors. Weight bias hurts
22 workers' overall compensation, performance
23 evaluations, and even in the quality of the training
24 that they receive.

2 One thing to note is that in unionized businesses
3 overt appearance-based discrimination is much, much
4 less common than in non unionized workplaces. This
5 is because with the union, workers have a built in
6 grievance mechanism to protect themselves from
7 arbitrary employer decisions. In non-union
8 workplaces however, there are no similar protections.
9 In fact, employers at non union workplaces can fire
10 or discipline a worker simply for failing to meet the
11 store's vanity size requirements. This is not right.

12 Intro 0209 will protect countless New Yorkers
13 from blatant appearance-based discrimination. Every
14 single New Yorker deserves the right to a workplace
15 free of prejudice and discrimination. And every
16 industry in New York needs to recognize that good
17 workers come in all shapes and sizes. Please pass
18 this bill now. Thank you.

19 COUNSEL GANAPATHY: Thank you. Any questions?

20 Thank you. We'll move on to the next panel. We
21 have-- Oh.

22 COUNCILMEMBER JOSEPH: I just wanted to find out.
23 Good morning. Thank you for this. This is
24 important. How has appearance-based discrimination
25 affected your day to day life?

2 MS. OSBORN: I want to say that it is based on
3 our appearance, but also there are a lot of actual
4 accessibility things about size and space that affect
5 my daily life. I traveled here from Phoenix to be
6 here today. I know this is not your purview as City
7 Council to change airline policies, but I had to
8 purchase two seats in order to travel safely and
9 comfortably on the plane.

10 I traveled from the plane to the airport in-- in
11 an Uber, and I had to travel without a seatbelt
12 because they did not have a seatbelt extender that
13 would fit me.

14 When I checked into my hotel, I am fat and
15 disabled, which means that I need an accessible room.
16 But not everything in the accessible room is weight
17 rated for a person of my size.

18 So in addition to the sort of daily ways that I
19 just experienced judgment, I've been a retail worker.
20 I know some of the things that Josh is talking about.

21 In addition to the daily ways that it's affected
22 me in my work and in interpersonal interactions,
23 there are things like when we go out to lunch after
24 this meeting to hopefully celebrate the good
25 reception that we received here, we'll have to choose

2 a restaurant according to whether we can all fit the
3 seats, and whether we can all pass through the spaces
4 inside the restaurant, and whether there are public
5 bathroom stalls there that are large enough for us to
6 sit in without the toilet paper digging into our hips
7 on the sides.

8 So really, everywhere we go, we have to think
9 about our size differently than our smaller
10 counterparts, if we're wide people. And then of
11 course, our friends of short stature have the same
12 issue in the opposite direction, in terms of having
13 to just think differently about literally everything
14 we do in life, because we can't get there and take
15 for granted that someone else has thought about us.

16 Today, we had to work with the Equal Opportunity
17 Office to arrange for special chairs. The testimony
18 chairs are great for fat people, thank you. But the
19 chairs for people who are coming to witness testimony
20 are not always great for fat people. Those white
21 folding chairs are our nemesis.

22 And so, like, so just everything we do, we have
23 to do extra planning, we have to seek extra
24 accommodations, and we have to often do that with
25

2 limited financial resources because of the employment
3 discrimination that we face.

4 COUNCILMEMBER JOSEPH: Wow. Well, thank you for
5 that. And the unions: How can this be helpful?

6 MR. KELLERMAN: We spend a lot of time dealing
7 with grievances based on all sorts of issues that are
8 worker faces in their in their day-to-day experience,
9 where the employer has unilateral decision-making
10 authority over what happens in the workplace.

11 And so in unionized workplaces, we have a
12 grievance procedure set up to deal with that.
13 Anything that we can take off the table, where we're
14 not having to grieve over it is a benefit ultimately
15 to the overall functioning of a successful workplace.
16 So if we don't have to deal with appearance-based
17 discrimination anymore, because City Council's
18 legislated it, ultimately, that's exceptionally
19 helpful to us. It's also something we don't often
20 negotiate in further contracts to deal with. This
21 wouldn't be an issue we'd necessarily put it, but,
22 you know, there-- there are resources that go every
23 single contract towards-- towards the grievance
24 procedures. And if we just have less of a sort of
25 onerous procedure because these things have been

1 COMMITTEE ON CIVIL AND HUMAN RIGHTS Jointly with
the COMMITTEE ON STATE AND FEDERAL LEGISLATION 45

2 taken off the table by Council, it's helpful. And so
3 that's something that's just a day to day impact that
4 would be very beneficial to us.

5 COUNCILMEMBER JOSEPH: Thank you so much. And
6 welcome to New York.

7 MS. OSBORN: Thank you.

8 CHAIRPERSON ABREU: Thank you, Rita, for your
9 thoughtful questions.

10 COUNSEL GANAPATHY: Thank you and we have been
11 joined by Councilmember Gutiérrez. You-- You're all--
12 - Yeah, thank you. We will now call the next panel.

13 We have Victoria Abraham, Dr. Gregory Dodell, and
14 Stephanie Lexis.

15 You can get started whenever you're ready.

16 Hi. Sorry. My name is Victoria, thank you for
17 letting me have the opportunity to speak.

18 I just graduated from college in New York this
19 past year, and while I loved my New York experience,
20 I couldn't help but compare it to the experience of
21 my peers.

22 People walking past me with their quick New York
23 stride, hearing the snide comments about how I walk
24 too slow and I take up too much space on the
25 sidewalk. The quick sideways glances as I enter the

1 bus, bags placed on the seat next to them, their
2 biggest fear of being touched by fat flesh, forcing
3 my body through turnstiles at the train station,
4 turning sideways just barely squeezed through those
5 metal bars, having to contact the Center for
6 Disabilities at my school requesting a special
7 accommodation for a desk capable of containing my
8 body.
9

10 My choice is being sit at the special desk at the
11 back of the class, serving as a reminder to the room
12 that I don't fit, or suffer in silence wood digging
13 into my side hoping that I remember the lecture,
14 because at that angle, there's no way I would get a
15 pen to paper.

16 Something as simple as being able to sit in my
17 seat and take notes like my peers, I did not have the
18 privilege of doing. I had to get accommodations
19 because my school didn't once consider my needs, and
20 I was put at a disadvantage. I wasn't the only
21 student that couldn't fit in those seats. I was just
22 one of the few that knew I deserved better and asked
23 for it.

24 I am consistently doing little things every
25 single day to survive in a city that does not take

1 fat people into consideration. I'm reminded every
2 day that this world, this city that I love so dearly,
3 is built without my body in mind. And that's what's
4 so insidious about anti-fatness, it's everywhere.
5 Sometimes it's not even malicious. It's just in the
6 little things that you would never even notice if you
7 aren't fat.
8

9 But for people like me, I live my life taking
10 extra steps, making the necessary accommodations just
11 to survive.

12 Every time I squeeze my body into a chair or
13 turnstile that is clearly made for a different body,
14 a smaller body, I'm reminded that I am not
15 considered.

16 I feel like an intrusion and inconvenience like I
17 don't belong here. Passing this bill tells fat
18 people that we aren't alone, we're not unwanted. And
19 having the government behind us make sure that we
20 will no longer feel as though we're a mere
21 inconvenient afterthought. Thank you.

22 DR. DODELL: Good morning, everyone. My name is
23 Greg Dodell. I'm an endocrinologist here in New York
24 City. Thank you for the opportunity to speak here
25 today. As a physician, this issue is important to me

2 because weight-based discrimination is not only a
3 human rights issue, but also a healthcare issue.

4 Research clearly demonstrates the negative health
5 consequences of discrimination. Discrimination is
6 associated with an increased risk of high blood
7 pressure, high blood sugar, inflammation, and has
8 impacts on mental health. I see this every day in my
9 medical practice. My hope is that passing this bill
10 will alleviate the stress that many of my patients
11 face on a day-to-day basis, so they have the
12 opportunity to lead healthy lives.

13 Among the things that I try to discuss with my
14 patients are stress management, nutrition, movement
15 and sufficient sleep. When you look at the far-
16 reaching impacts of weight based discrimination,
17 wages, housing, access to health care, these
18 behaviors become much more cumbersome. We know that
19 weight stigma causes people to avoid going to the
20 doctor, and having preventive health screenings.
21 Unfortunately, much of the research regarding health
22 and weight don't account for this important variable
23 that is highly prevalent.

24 To put the magnitude of size discrimination into
25 perspective. Here are some staggering statistics.

1 Size discrimination affects 34 million people in the
2 United States. Nearly 84% of adults living in larger
3 bodies report being shamed at least once in their
4 lifetime because of their body size. 65% of adults
5 in larger bodies have experienced discrimination at
6 least once.
7

8 As a doctor and more importantly, as a human
9 being this matters. Enough is enough. Get this
10 done.

11 MS. LEXIS: As a child, I would periodically
12 travel from New Jersey to midtown Manhattan to be
13 dazzled and inspired by Broadway musicals. It
14 brought me much needed escapism and joy that I wanted
15 to pursue the Great White Way myself. I dedicated
16 years of studying musical theater and making myself
17 the best performing artists I could be. I played
18 everything from Cinderella and Into The Woods, to
19 Gretel in Hansel and Gretel. However, as my body
20 grew bigger, my opportunities grew smaller.

21 I found myself being passed over for leading lady
22 and ingenue roles in favor of actresses in slimmer
23 bodies. I particularly remember asking an instructor
24 at a New York City musical theater intensive why I
25 couldn't play a certain Disney princess, and she

1 stuck up her pinky and said, You need to be this. My
2 proficiency and talent didn't matter. I didn't have
3 the so called "Broadway body".
4

5 In 2019, I founded Broadway Body Positivity
6 Project to advocate for theater actors of
7 marginalized body types like myself. The past four
8 years I've met so many incredible fat actors who have
9 faced size discrimination in the theater industry,
10 yet they have so much to offer it. They're so eager
11 to work, yet find themselves having significantly
12 less job opportunities. If INT 0209 is passed, fat
13 actors will be able to audition for roles on Broadway
14 or national tour because they won't be required to
15 fit the previous actors' costume. Actors Equity
16 could better protect their members and fat theater
17 goers would see themselves represented on stage.

18 I hope you vote for this bill for people like me
19 and anyone who has big Broadway dreams and a big
20 body.

21 CHAIRPERSON WILLIAMS: I don't have any
22 questions. I just had a comment. I was just going
23 to say that resonated with me because I grew up in
24 dance school, and, yeah, that was a thing for like
25 ballerinas just to be really-- I mean, you know even

1 I'm, like, overweight for like what the size of
2 ballerinas are. And that has always been a current
3 theme that I kind of grew up with. So I just wanted
4 to tell you that that resonated with me, and like I
5 completely understand like as a performing artist,
6 the many discriminations that still exist to this
7 day. So thank you for sharing your story.

9 COUNSEL GANAPATHY: Thank you. I'd like to
10 acknowledge we've been joined by Councilmember
11 Salamanca.

12 We now will call Lydia Green, Kimberly Singh, and
13 Tracy Cox.

14 My name is Kimmie Singh, and I'm an eating
15 disorder dietitian and a fat activist based here in
16 New York City.

17 I'm going to ask you all to take a moment and
18 wonder why fat discrimination is so accepted. I'm
19 sure that you all have your own relationship with
20 fatness, even if you are thin. I'm sure you all know
21 what it's like to fear gaining weight, to fear being
22 in a larger body, maybe not related to your body
23 image issues, but maybe because of the access issues.

24 It's important for me to note that there's a lot
25 about weight that you might not understand. All of

2 the research shows that it's incredibly easy to put
3 weight on but significantly proven to be very
4 difficult to lose weight. Over 90% of diets result
5 in weight regain within two to five years. This
6 means that although you might have been told that
7 weight is entirely in your control, the research
8 shows that that's not the case.

9 When the majority of people diet, their bodies
10 actually respond to diets like they are in famine.
11 So this means that their body is holding on to that
12 fat, just kind of protecting themselves from
13 experiencing famine again. I had all of that to say
14 that it's really common that weight is under
15 someone's control. So in that case, they-- it's okay
16 if they face discrimination, right?

17 Well, no. Even if that were the case, it's
18 definitely not. But I should name that for somebody
19 my size, the chances of me being in a quote unquote
20 "normal sized body" is 0.15%. Just to repeat 0.15%.
21 So if I have to wait to be at that size to be treated
22 equally, I'll probably waiting-- be waiting my entire
23 life.

24 People assume that if you shame fat people, it
25 will cause them to hate their bodies enough to lose

1 weight. And so in that case, weight discrimination
2 should be legal, right? Well, actually, as Dr.
3 Dodell pointed out, what we find is that the research
4 suggests that not only is this inhumane, but
5 experiencing anti-fat stigma increases the likelihood
6 of binge eating, increased caloric consumption, and
7 less engagement and physical activity.
8

9 In summary, this means that when somebody is fat
10 shamed, they are far less likely to engage in healthy
11 behaviors. Experiencing weight stigma also increases
12 the risk for depression, anxiety, suicidal ideation,
13 low self esteem, and increases the risk of mortality
14 by 60%.

15 For me, as a dietitian, I experienced an
16 unfortunate amount of weight stigma throughout my
17 trading. When I was in graduate school, I had a 4.0
18 GPA, I had glowing recommendations from all of my
19 professors, but I could not find any volunteer
20 experience. So this is unpaid volunteer experience,
21 that all of my peers were receiving, the same
22 positions that I would apply for, everything would
23 move along until they met me in person.

24 When I went on to complete my rotations, my
25 supervisor told me that she was shocked that she was

2 able to place me at my sites, because people in far
3 smaller bodies than mine were sent back because of
4 their weight. They were explicitly told that they
5 were too big to be in that position. Here at New
6 York City hospitals. This is completely
7 unacceptable.

8 I'm going to remind you that these are all unpaid
9 positions.

10 In my work as a fat positive eating disorder
11 dietitian, I see this happening day to day. I work
12 with individuals that experience weight
13 discrimination on a very daily basis. I hold space
14 for people to offload the pain that they experience.
15 This is a pain that oftentimes goes unseen or is even
16 mocked by society. It's a pain that isn't seen as
17 worthy of recognition or action. That's why it's
18 unfortunately legal in most of the country. And this
19 is also why most people stay silent and don't report
20 such cases.

21 I see the impact that this has on people. It
22 wears away on their-- on their will to live. It
23 makes them feel utterly alone and unwanted by
24 society. I hope that by voting to pass this bill,
25

1 you will take a stand against this harmful form of
2 legal discrimination.

3
4 MS. GREEN: Hello, my name is Lydia Green. I'm a
5 resident of Brooklyn and Democratic District Leader.
6 I've been working to pass this legislation since
7 2019, and I'm grateful to the Council for holding
8 this hearing and giving us all the opportunity to
9 speak on the deeply personal issue of weight
10 discrimination.

11 Existing in public in a fat body means always
12 feeling like I'm physically in the way. There's one
13 time I was taking the subway home from Penn Station
14 that especially reinforced that feeling for me. The
15 train was so crowded from rush hour that I was forced
16 to squish up against a closed door and couldn't move.
17 At one stop the doors started opening on the side
18 where I was standing. An elderly man with a cane was
19 trying to get on. I looked to my side to check that
20 he had room to get in, and he did, but he paused as
21 if he was waiting for me to move out of his way. I
22 pushed myself further against the side and sucked in
23 my stomach. Instead of walking onto the train, he
24 picked up his cane and started tapping my body with
25 it. I felt absolutely humiliated. Since then, I've

1
2 become hyper aware of the space I take up in relation
3 to others, because I'm afraid of being assaulted
4 again for having a body that takes up too much space.

5 If public spaces had to be designed to
6 accommodate all bodies. Perhaps this man I
7 encountered on the subway might not have felt so
8 entitled to my personal space.

9 Unfortunately, my experience with anti-fatness in
10 public accommodations isn't unique. Between December
11 2019 and January 2020, I conducted a survey to gather
12 stories around weight discrimination. I received
13 over 150 responses with stories about all aspects of
14 life, from healthcare to employment to education. I
15 published the results in a policy brief with the help
16 of the Office of then Councilmember Brad Lander that
17 you can find online.

18 Here's one story relevant to this bill.

19 "My most memorable experience of discrimination
20 was when I was at an amusement park on a ride. I was
21 14, and the seat belt barely fit me, which is not
22 fair in and of itself. Seat belts and chairs should
23 definitely support everyone, and we should be able to
24 sue for not being serviced. The ride worker kept
25 asking my weight and actually harassed me for it. I

1 cried during the entire ride and when I met up back
2 up with my friends, no one understood the trauma I
3 went through. I haven't been to an amusement park
4 because of it since then."

6 Clearly, fat people do not get fair or equal
7 treatment to thin people in public spaces, housing,
8 employment and more. And it is high time that the
9 law recognize the damage that this treatment causes
10 us.

11 MS. COX: Hi, good morning. My name is Tracy
12 Cox, I am an opera singer and currently on a contract
13 with the Metropolitan Opera. So many of my fat
14 comrades have spoken eloquently as to the insidious
15 nature of anti-fat bias. It is quite literally
16 everywhere as we are hearing from infrastructure, to
17 healthcare, to employment to housing. I would also
18 like to speak to my experience as a fat performer.
19 If you were privy to the blatant and normalized body
20 shaming and discrimination faced by fat performing
21 artists, you would be rightly appalled. Fat opera
22 singers in particular face a difficult dichotomy.
23 The general public associates opera itself with
24 fatness, and yet buy a ticket to anything at the mat.
25 And you will clearly see that a fat singer is the

2 rare and remarkable exception, not the rule. It's
3 not an accident. It's not a secret.

4 Weight stigma and discrimination is a sanctioned
5 strategy in the performing arts. On behalf of all of
6 the fat artists in New York City, I asked for our
7 basic right to be able to show up at work without our
8 bodies being fair game for criticism and derision.

9 Let me do my job without being casually
10 encouraged to develop an eating disorder or have
11 bariatric surgery, which has happened to me countless
12 times in the workplace.

13 I ask why should such a thing be illegal in the
14 workplace? New York city attracts the best artists
15 in the world because there is no better place to make
16 art. Please use your leadership to continue to show
17 the rest of this country how it should be done, and
18 how the humanity of fat people matters, and should be
19 protected. Thank you.

20 CHAIRPERSON ABREU: Thank you for testifying.
21 All three of you. Lydia, I know you've been involved
22 as an author of the of the bill was introduced a few
23 years ago. I want to commend you again for your
24 involvement with this bill. It's because of the
25

1 advocates and people like you that we're pursuing
2 this. Thank you.

3
4 CHAIRPERSON WILLIAMS: It's not a plus-plus, I
5 just saw a post from Michelle Obama during Black
6 History Month, and she posted this.

7 MS. COX: Limmie.

8 CHAIRPERSON WILLIAMS: Yeah. And I like went
9 down a rabbit hole of his whole story. So yeah,
10 again, I appreciate you sharing. And for those of
11 you don't know, it was a black guy who was on Obama's
12 first campaign election. He was overweight. And he
13 was a singer. And he kind of, like, decided not to
14 do anything with his career. And then he did this
15 amazing song one day. And then he decided to go back
16 and now he's like singing everywhere. So...

17 MS. COX: He just made his debut at the Met.
18 Yeah, yeah.

19 CHAIRPERSON WILLIAMS: He's like the first black
20 guy to do--

21 MS. COX: He's the first black Radamès in Aida,
22 ever, which was ridiculous.

23 CHAIRPERSON WILLIAMS: Yeah. So, it's a thing.
24 It's a thing. Thank you.

2 COUNSEL GANAPATHY: Thank you. We will now move
3 over to testimony from our Zoom panelists.

4 If you are joining us via Zoom, please wait for
5 the Sergeants to call time before you begin. And you
6 will have two minutes. The timer should be up on the
7 screen. Our first Zoom panelist is Brandie Solovay.

8 SERGEANT AT ARMS: Starting time.

9 MS. SOLOVAY: I received a call for help from
10 someone I'll call Claire. I'm here to tell her story
11 because she can't be. Claire needed a kidney
12 transplant. She had her doctor's support, and her
13 own friend was willing to donate. But Claire was
14 fat. Not that fat actually, not as fat as I am, but
15 fat enough to have a BMI higher than 35, the blanket
16 cut off to be approved to receive a transplant. I am
17 Brandie Solovay. The Fat Legal Advocacy, Rights and
18 Education Project is a project also known as FLARE,
19 and a project of my law office.

20 Discrimination based on weight happens in all
21 aspects of a person's life. Kids are bullied in
22 schools. They may not be able to find school
23 uniforms that fit them. They literally don't fit in.
24 As teenagers, they may be denied spots on a cheer or
25 dance team. In college, they may not fit into school

2 desks. They may have a hard time socializing because
3 public venues like theaters and stadiums also do not
4 have seats that fit. Fat adults have more limited
5 job opportunities, because we don't look the part.
6 Even thin people face weight discrimination. Like
7 the woman who wore a size four, when the norm in her
8 New York City office was the size zero.

9 Fat people face discrimination even in housing,
10 possibly being denied housing or charged higher
11 prices for housing. They may face direct hostility
12 due to landlord stereotypes. The worst and most
13 common cases are fat people who face discrimination
14 because of the combination of their weight and their
15 race. Black and brown people are disproportionately
16 impacted by weight discrimination.

17 This also unfairly impacts groups like
18 transgender people who may be denied medical care,
19 like gender affirming surgery due to weight bias.
20 Laws that protect fat people don't cost much. And
21 the great thing is, laws make it very clear what--

22 SERGEANT AT ARMS: Time expired.

23 CHAIRPERSON ABREU: You may finish.

24 MS. SOLOVAY: Thank you. --what people's rights
25 and responsibilities are. Right now, some people are

1 already protected under disability law. But it's not
2 clear who and when, and adding height and weight
3 protections make it obvious that this discrimination
4 is not allowed.

5
6 Passing legislation in New York City won't fix
7 all of the wrongs, but it is an important start.
8 It's about time that fat people have a little justice
9 in the Big Apple. Thank you.

10 CHAIRPERSON ABREU: Thank you for your testimony.

11 COUNSEL GANAPATHY: Thank you. Next we will call
12 Katelin Penner. You can go ahead and the Sergeants
13 call time.

14 SERGEANT AT ARMS: Starting time.

15 MS. PENNER: Hi, good morning Commissioners and
16 City Councilmembers. My name is Katelin Penner, and
17 I want to preface this with a content warning for
18 eating disorders. When I was 11 years old, I was
19 diagnosed with binge eating disorder, which is
20 currently the most common eating disorder in the US.
21 However, at the time, the landmark treatment for this
22 was arguably a shame-based weight loss treatment that
23 didn't teach me how to build a healthy relationship
24 with food. And instead it taught me a lot of
25 disruptive tools, like intense restriction of

1 calories that instead led me to lead-- led me towards
2 the development of a decade of restrictive eating
3 disorders. Yet despite the fact that now as a 22-
4 year-old, I've spent the last four years in recovery
5 from bulimia nervosa. I would be considered a
6 success story by many professionals due to the mere
7 fact that I'm smaller than I was when I was 11. This
8 should not be the case.
9

10 The collateral damage from the war on obesity is
11 clear. Policies by governments to address what is
12 really a moral panic has worsened stigma against fat
13 people, led to greater discrimination, and so much
14 worse. Studies have consistently shown that this
15 discrimination impacts low-income women specifically.
16 Fat women earn as much as 12 percent less than thin
17 women, and are more likely to be in low wage jobs.

18 This discrimination can lead to negative health
19 implications ranging from higher blood pressure to
20 the development of restrictive eating disorders, a
21 condition that is often underdiagnosed and
22 undertreated in individuals.

23 As a thin person, I have few problems finding
24 employment, housing, or suitable public spaces for
25 myself, but for fat New Yorkers, this is not the

1 case. Navigable public spaces, subway seats, or even
2 chairs are frequently inaccessible, which can cause
3 great distress for fat New Yorkers, as they have to
4 take a myriad number of extra steps to get by every
5 single day.
6

7 This bill is about basic human dignity. And we
8 need to do so much more to take care of our
9 communities in New York City. But this is one big
10 step in the right direction. Thank you.

11 COUNSEL GANAPATHY: Thank you. Yeah, we have
12 Councilmember De La Rosa-- Sorry, Gutiérrez. I'm
13 sorry.

14 COUNCILMEMBER GUTIÉRREZ: I will take that as a
15 compliment. It is not a question. Katelin, I love
16 you so much, and thank you for testifying today and
17 thank you to all of our panelists for testifying
18 today. Katelin texted me early this morning,
19 basically saying "get on this bill" and I'm happy to
20 support it, because so much of this testimony and the
21 advocacy work that all of you have done. I love you,
22 Boo. Thank you

23 COUNSEL GANAPATHY: Thank you. I'm sorry about
24 that.

2 COUNCILMEMBER GUTIÉRREZ: It's a compliment.
3 Truly, don't worry about it.

4 COUNSEL GANAPATHY: Seeing no additional
5 panelists, if there's anyone we inadvertently missed
6 who would like to testify please either speak to the
7 Sergeant At Arms, or-- I don't see anyone on our Zoom
8 at this point.

9 Bear with us moment I think we'll have-- we have
10 one more panelist.

11 77:25

12 we are ready to call our last witness.

13
14 Andrew Rigie-- Rigie, you can go ahead when the
15 Sergeants--

16 SERGEANT AT ARMS: Starting time.

17 MR. RIGIE: Thank you. Oh, I'm so glad I was
18 able to get on here just at the end. My name is
19 Andrew Rigie. I am the Executive Director of the New
20 York City Hospitality Alliance. We represent
21 restaurants and bars and nightclubs throughout the
22 five boroughs. Many of our owners and workers in our
23 establishments have lots of tattoos. Nonetheless, we
24 are very concerned about Intro 702 that would
25 prohibit discrimination on the basis of having a

2 tattoo for a few different reasons. I'm going to
3 touch on two really quickly and appreciate your
4 consideration.

5 One is kind of a more high level reason we
6 believe that adding tattoos to the list of protective
7 characteristics covered by the human rights law in a
8 sense trivializes the importance of the HRL as a
9 vital tool against discrimination in the workplace.
10 You know, with few exceptions, protected
11 characteristics currently cover immutable traits like
12 race, color, national origin, sexual orientation,
13 that individuals cannot change. A person can't
14 change their race, color or national origin.

15 There are some additional areas when it comes to
16 domestic violence that also do deserve their own
17 special protections because of longstanding
18 challenges people suffer if they have such
19 characteristics or have experienced such situations.

20 But more specifically, from a practical matter in
21 the hospitality and small business community, adding
22 tattoos to a list of protected characteristics is
23 going to provide a lot of liability for small
24 business owners around some really difficult issues.

2 I understand the bill has been amended or
3 updated, that would allow a provision for an employer
4 to require an employer to cover up their tattoo. But
5 sometimes tattoos cannot be--

6 SERGEANT AT ARMS: Your time has expired.

7 MR. RIGIE: Can I finish?

8 CHAIRPERSON ABREU: One more minute.

9 MR. RIGIE: --cannot cover up their tattoos.

10 This means that if an employer decided not to hire or
11 to terminate an employee with a swastika tattoo on
12 their neck, or the N word on their knuckles, or as a
13 news article just had a big story, genitalia tattooed
14 on their face, they would be subject to legal action
15 by these potential employees or former employees that
16 they terminated. And that provides a lot of
17 liability, and a lot of concern for small businesses
18 that are often the target of many types of frivolous
19 lawsuits. And we will put that into the record.

20 I've also submitted additional written comments
21 for your consideration. We'd be happy to follow up
22 with any of the members on any additional comment,
23 but certainly something that raises concerns even in
24 an industry that often welcomes personal expression
25 with tattoos. This comes down to an operational and

2 liability concern for restaurants, bars, and
3 nightclubs. Thank you.

4 CHAIRPERSON WILLIAMS: Thanks. Do you have any
5 opinions on the restaurant industry on Intro 209,
6 which is based on height or weight-based
7 discrimination?

8 MR. RIGIE: You know, we didn't submit comments.
9 We can get back to you with some additional comments.
10 I did speak with some of our attorneys that
11 specialize in this area, and they did feel that there
12 were certain laws that perhaps do protect folks on
13 matters like that. But I really wanted to focus the
14 comments today just on 702.

15 CHAIRPERSON WILLIAMS: Okay, and then on the
16 tattoo bill.

17 MR. RIGIE: Mm-hmm.

18 CHAIRPERSON WILLIAMS: I think the example--
19 Yeah, I'm trying to formulate my question.

20 MR. RIGIE: Got it.

21 CHAIRPERSON WILLIAMS: I'm gathering my thoughts.
22 So the example that you gave, which was like a pretty
23 egregious example, which is like a swastika on
24 someone's neck. You know, I'm sure there are people
25 walking around with swastika tattoos, but I'm just

1 trying to understand like the subjectivity in that in
2 terms of like, everybody wearing-- having tattoos
3 versus like tattoos that might be discriminatory in
4 themselves. And so I feel like we should
5 disassociate those two things. Like, you gave an
6 example, which was like, a very extreme example, and
7 we all can say, "Well, yeah, of course, as a
8 business, you wouldn't want someone that has some
9 type of discriminatory tattoo on their body to
10 essentially be representing you." But that doesn't
11 mean that everybody with a tattoo shouldn't be
12 protected under the law.

14 MR. RIGIE: Well, I mean, traditionally, and
15 historically, I understand what you're saying. And I
16 think that's why, especially in our industry, where
17 so many people do have tattoos, it's an issue that we
18 are sensitive to. And we're talking about the human
19 rights law and immutable traits. Tattoo is a choice
20 that an individual makes. So there's a question, I
21 don't want to say it's a philosophical question, but
22 somewhat about, you know, human rights laws
23 protecting what kind of traits, because if it's a
24 tattoo, then you could certainly say anything. But I
25 think there's many examples where people have face

1 tattoos, neck tattoos, tattoos, you know, on their
2 hands, and what is offensive or not, is subjective.
3 But people have tattoos that, subjective to different
4 people, are offensive. And if a family wants to go
5 in, or you want to go out, and your parents, your
6 grandparents, and they have a tattoo, someone can
7 find it quite offensive. And as the law is drafted,
8 it's my understanding that any one of those examples,
9 I gave, swastikas, N-words, genitalia, middle
10 fingers, I mean, the list goes on and on. If you
11 didn't hire someone because of that you could be
12 sued. Or if you had a current employee, and they got
13 one of these tattoos and came in, they could sue you,
14 if you terminated them. That's a real issue.

15 I'm not sure if there's a way you're able to
16 further amend the bill to address the subjectivity on
17 it, because that gets quite complicated in itself.
18 But I think that's, in part, what makes making a
19 tattoo a protected trait problematic, because I'm not
20 sure how you draw the line on the subjectivity.

21 CHAIRPERSON ABREU: Yeah, Andrew?

22 MR. RIGIE: Yes.
23
24
25

2 CHAIRPERSON ABREU: You have my number. But
3 anyway, I have a point to make. Have you read 702A,
4 which has been amended?

5 MR. RIGIE: Yes. And that's the allowance for
6 covering the tattoo, correct?

7 CHAIRPERSON ABREU: Correct. So if you have a
8 tattoo on your hand or on your face, it can be
9 covered.

10 MR. RIGIE: I mean, a bandage on your neck? You
11 know, if something is inappropriate it also creates a
12 challenging work environment among colleagues.
13 Someone could have something that would be offensive
14 or problematic, and it creates a culture within the
15 workplace, and that creates conflict.

16 CHAIRPERSON ABREU: And nothing stops an employer
17 or restaurant owner from asking someone if they have
18 something offensive, nothing is stopping you from
19 asking the person, prospective employee or not,
20 whether or not-- what the intention of the-- what's
21 behind the tattoo, right? Nothing is stopping an
22 employer from doing that. So just want to put that
23 out there. Thank you.

24 MR. RIGIE: Yeah. Yeah. No, listen, I just know
25 that I've seen tattoos that, you know-- and there's--

2 I won't get into now, I can send you the article.
3 But you know, the person with this tattoo on their
4 face. And I, you know, I guess you could ask someone
5 to wear a huge bandage covering their neck covering
6 their face, you know, putting Band Aids or something
7 over their knuckles, [crosstalk] but again, it just--
8 I'm sorry. Go ahead?

9 CHAIRPERSON ABREU: There's also makeup.

10 MR. RIGIE: Yes, I mean, to put makeup on, you
11 know, face, and neck and all this. Yep. It is just
12 another thing that, you know, if you're running a
13 business and you're hiring people, and you're dealing
14 with this, it creates another liability for
15 employers. And again, it's enshrining a personal
16 choice into a human rights law that is addressing
17 immutable characteristics that people are born with,
18 or in the more, you know, other examples like
19 domestic violence that I that I cited, so...

20 CHAIRPERSON ABREU: I have a followup. If
21 someone has a butterfly tattoo on their face, should
22 they should they not have a job?

23 MR. RIGIE: Well, no. But that's not what this
24 bill says. There's many places that I said that, you
25 know, encourage people to show off their, you know,

1 their tattoos and there's many different places that
2 people can work. But that's also a personal choice
3 of the individual. And sometimes in case of a
4 restaurant, this may be more of like a fine dining,
5 but-not-always example, they want the focus to be on
6 the cuisine on the service, not on the individual
7 expressing themselves, where in another restaurant,
8 they may want and encourage people to express
9 themselves. And just because they had a tattoo, it
10 doesn't mean that they wouldn't be getting the job.
11 Like I said, there's many people that show their
12 tattoos off all the time, and it's a non-issue.

14 I think we're just talking about the liability
15 that exists as the law is drafted. Because I don't
16 think the examples that I gave, while they are real,
17 anyone would want to deal with a situation where
18 someone had one of those very offensive tattoos
19 there, and then the business to be sued if they were,
20 you know, terminated them or didn't hire them.

21 I just don't I just don't know how you amend the
22 bill further to draw that distinction.

23 CHAIRPERSON ABREU: Thank you.

24 MR. RIGIE: You're welcome.

25

2 COUNSEL GANAPATHY: Thank you. Again, if we have
3 inadvertently missed anyone that wishes to testify,
4 please speak to the Sergeant at Arms.

5 Being no additional witnesses, Chair, would you
6 like to-- would either if you'd like to offer closing
7 remarks and rap?

8 CHAIRPERSON WILLIAMS: Sure, we can both offer
9 closing remarks. I want to just thank my Chair here,
10 Councilmember Abreu, for his leadership. I should
11 probably snag that bill before him. This is a really
12 good piece of legislation, and I think it'll help so
13 many New Yorkers who have faced discrimination. And
14 really listening to the stories resonated with me on
15 so many different occasions, just in terms of my own
16 upbringing, particularly as a dancer. So I
17 appreciate everyone's testimony. And hopefully, we
18 can pass these laws expeditiously and just also urge
19 and encourage, you know, different industries to
20 think about how their decisions or what society says
21 is appropriate appearances, affects everyday people
22 who are trying to make a living for their families
23 and themselves. And so I will turn it over to
24 Councilmember Abreu to close us out.

2 CHAIRPERSON ABREU: Well, I just wanted to thank
3 all of the advocates who are here today, and provided
4 your powerful testimony on banning height and weight
5 discrimination. I'm most optimistic than ever today
6 that with your testimonies, your experiences that
7 it's going to push this council forward to do the
8 right thing. And we're going to ban appearance-based
9 discrimination.

10 I don't care what you have, or whether you have a
11 butterfly tattoo or not. We're going to make sure
12 that we're going to be fighting for all of you.

13 You know we support fat acceptance here in this
14 Council, and the city accepts it as well. Let's
15 bring it home. Thank you.

16 I have to gavel out, which I forgot.

17 [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date 03/07/2023