

# The C.R.O.W.N. Act

Understanding Hair Discrimination and  
its Current Protections

March 8, 2023

# What We Will Address Today

Today's discussion has four parts:

1. Background and societal context for current legislation, which protects hair textures and styles commonly associated with race or national origin;
2. Federal, state, and local anti-discrimination laws and the impact on hair discrimination challenges;
3. Employer "best practices" to ensure inclusion and equity; and
4. Question and answer session with our panel.

# Creating a Respectful and Open World for Natural Hair

- CROWN Acts have been enacted in numerous states and cities to date. The legislation prohibits national origin and race-based hair discrimination.
- These Acts provide legal protections against the denial of employment, educational, and housing opportunities because of hair texture or hair style. (Today we will focus on these issues in the employment context.)
- Similar national legislation has been presented to Congress, but it has not been passed.
- An understanding of these issues is enhanced by looking at the historical perspective and social context.



# Historical and Social Context

## Part I

# The Origins of Hair Discrimination

- A historical review shows a long-standing belief that tightly coiled or “natural” hair was not acceptable in some portions of society and was perceived as a “problem” that should be fixed, if possible.
- Historian Evelyn Brooks Higginbotham wrote about historical societal expectations about physical presentation, including hair, and its link to opportunity.
- As a result, some Black people changed or straightened their hair to conform with mainstream styles and to avoid any loss of job opportunities or potential discrimination.

# Hair Discrimination and the Civil Rights Movement

As part of the Civil Rights movement in the 1950s and 1960s, the “Black is Beautiful” movement arose throughout the United States.



- The movement embraced natural hairstyles – like the “Afro” – as a means for celebrating the Black identity and culture. It sought to dispel the notion that natural features of Black people – such as hair and skin color variation – were inherently less desirable.
- This movement was part of the impetus for the Civil Rights Act of 1964, which includes Title VII.

# Hair Discrimination Today



**I use[d] to interview and start a job with my hair in a style that I thought would be the most acceptable [such as] straightened or slicked back in a bun. I've always worked in primarily white spaces and felt as if I needed to play the part to make sure my appearance was not a distraction.**

DEI Consultant and Clinical Psychologist  
Donna Dockery, Ph.D.



**One of our VPs told me that if I wanted to move up in the organization, I needed to be in good graces with the CEO, which may require sacrificing my desire for natural hair.**

Equity Equation CEO  
Sacha Thompson

# Sociological Impact of Hair Discrimination

- Reinforces a hierarchy of social “norms” with negative impact on employees of color.
- Encourages harmful and outdated stereotypes.
- Seeks to encourage persons of color to tailor their appearances to comply with majority cultural norms.



# Federal, State, and Local Anti-Discrimination Laws and Hair Discrimination Challenges

## Part II

# Title VII of the Civil Rights Act

## UNLAWFUL EMPLOYMENT PRACTICES

SEC. 2000e-2. *[Section 703]*

(a) Employer practices

It shall be an unlawful employment practice for an employer -

- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
- (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

# Title VII

- Covers all aspects of the employment relationship from:
  - applications and the hiring process;
  - compensation;
  - all terms and conditions of employment (which include promotions, bonuses, benefits, harassment)
  - performance reviews; discipline and terminations; and
  - Title VII also contains an explicit “no retaliation” provision for employees who make complaints or engage in protected conduct.

# Title VII – EEOC Guidance 2006

In 2006, the EEOC issued comprehensive guidance on race and color discrimination, which states in part:

## Appearance and Grooming Standards

Appearance standards generally must be neutral, adopted for nondiscriminatory reasons, consistently applied to persons of all racial and ethnic groups, and, if the standard has a disparate impact, it must be job-related and consistent with business necessity. The following are examples of areas in which appearance standards may implicate Title VII's prohibition against race discrimination:

Hair: Employers can impose neutral hairstyles rules – e.g., that hair be neat, clean, and well-groomed – as long as the rules respect racial differences in hair textures and are applied evenhandedly. For example, Title VII prohibits employers from preventing African American women from wearing their hair in a natural, unpermed “afro” style that complies with the neutral hairstyle rule. Title VII also prohibits employers from applying neutral hairstyle rules more restrictively to hairstyles worn by African Americans.

However, this guidance, like all EEOC guidance documents is considered by the court to be “instructive,” but it did not have the force of law.

# Catalysts for the CROWN Act

## EEOC v Catastrophe Management Solutions (11<sup>th</sup> Circuit; 2017 – denial of en banc review)

- Chasity Jones was denied employment by Catastrophe Management Solutions (“CMS”) after she refused to cut her dreadlocks per the CMS grooming policy.
- The EEOC filed a suit on her behalf but lost the suit. Chief Judge Carnes’ concurrence: “CMS’ prohibition against dreadlocks, by contrast, is based on a race-neutral policy that applies with equal force to men and women (and hairstyles) of all races. So, unlike the situation in *Price Waterhouse*, the policy against the allegedly stereotypical characteristic (dreadlocks) is unmoored from the protected category (Ms. Jones’ race).”
- Judge Martin’s dissent: “[T]he very purpose of [T]itle VII is to promote hiring on the basis of job qualifications, rather than on the basis of race or color.” *Griggs vs Duke Power Co.*, 401 U.S. 424, 434, 91 S. Ct. 849, 855 (1971) (quotation omitted). Although instances of open and obvious racial discrimination in the workplace still exist, intentional discrimination may now take on more subtle forms. In many cases, an employer’s racial preference will be camouflaged by policies that appear facially neutral. That is what the EEOC alleged happened to Ms. Jones. A ban on “all” applicants with dreadlocks is about as race-neutral as a ban on “all” applicants with dark-colored skin.

# Recent Examples of Hair Discrimination at Work

- Brittany Nobles Jones, a news anchor, was fired in 2019 after switching from straight to natural hairstyles. She was told her natural hair was too “unprofessional” for TV.



- Imani Jackson was fired in 2021 after she stopped wearing a wig and instead wore her natural hair to work .
- Until new regulations were announced on January 26, 2021, the U.S. Armed Forces barred natural hairstyles commonly worn by Black service members.

# How the C.R.O.W.N. Act Addresses the Gap

- “Racial and national origin discrimination can and do occur because of longstanding racial and national origin biases and stereotypes associated with hair texture and style.” The C.R.O.W.N. Act of 2022.
- The Acts all focus on prohibiting discrimination based on “natural hair” or hairstyles, although the language of the statutes may differ.
- The Philadelphia Fair Practices Ordinance was amended in October 2020 to clarify that it includes “discrimination based on hairstyle or hair texture.” (statement of the Philadelphia Commission on Human Rights)

# How the C.R.O.W.N. Act Addresses the Gap

Along with statutes, some government entities have drafted very specific “guidance documents” to assist in interpreting the broader language of the Acts. For example, Legal Enforcement Guidance from NY City Division of Human Rights includes the following examples of violations of NYC law:

- A grooming policy prohibiting twists, locs, braids, cornrows, Afros, Bantu knots, or fades, which are commonly associated with Black people.
- A grooming policy requiring employees to alter the state of their hair to conform to the company’s appearance standards, including having to straighten or relax hair through chemicals or heat.
- A grooming policy banning hair that extends a certain number of inches from the scalp, thereby limiting Afros.

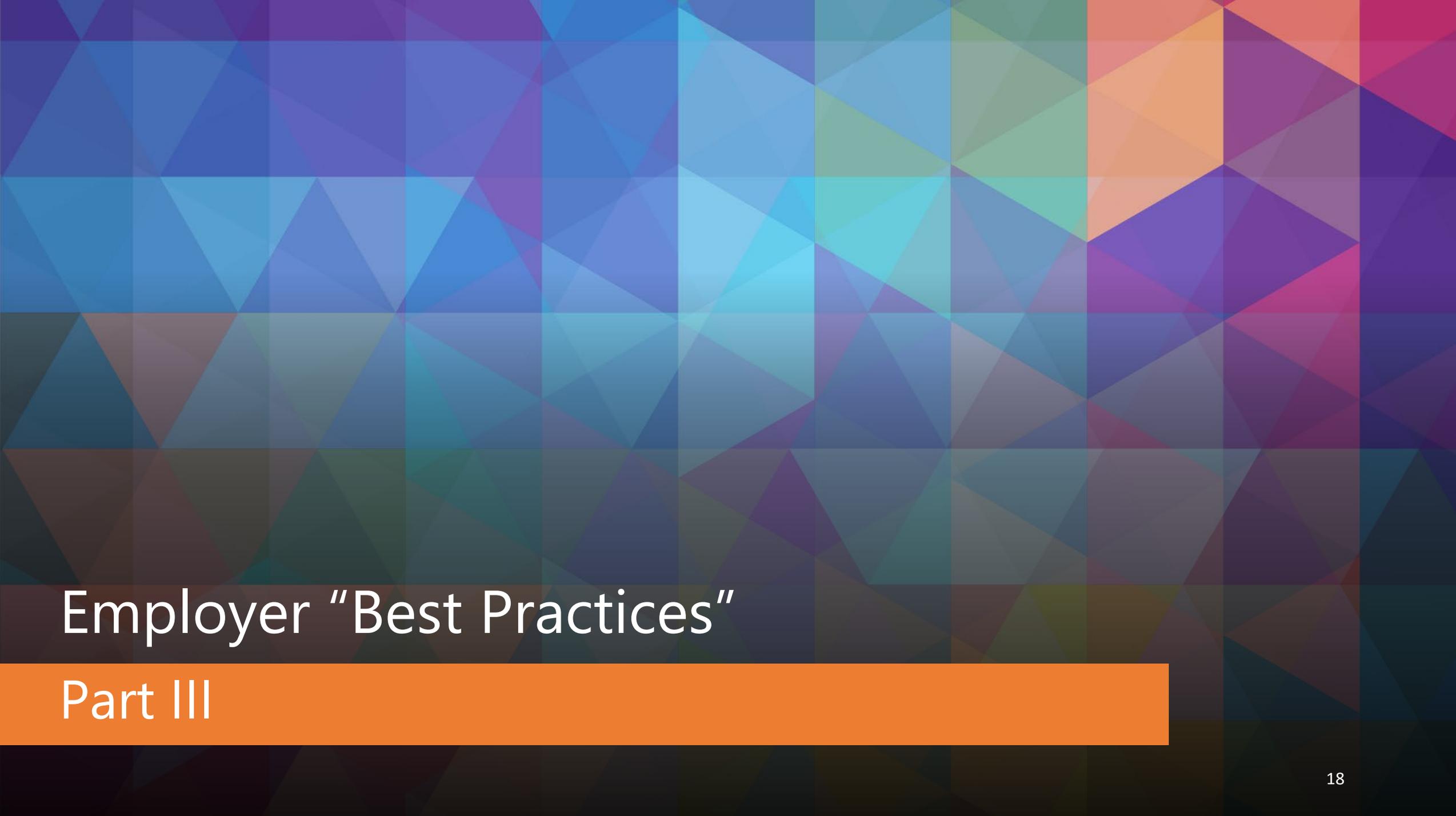
# Legislative History of the C.R.O.W.N. ACT

## State and Local

- First C.R.O.W.N. Act is enacted in California in 2019.
- Currently, 20 states and 44 cities have passed C.R.O.W.N. ACT legislation, including Philadelphia, New York, New Jersey, and Illinois.

## Federal

- Federal C.R.O.W.N. Act passes the House of Representatives in March of 2022.
- Federal C.R.O.W.N. Act fails to pass in the Senate in December of 2022.



# Employer “Best Practices”

## Part III

# How Hair Discrimination Appears in the Workplace

- Discriminatory policies;
- Bias in recruiting, hiring or promoting employees;
- Microaggressions; and/or
- Inequitable treatment

# “Best Practices” for Employers

## 1. Review Workplace Policies

- Review policies relating to “professional dress or appearance,” acceptable business clothing, or grooming.
- Review anti-discrimination and anti-harassment policies to make sure that these issues are covered.
- Confirm that the policies contain statements of “no retaliation” for complaints.

## 2. Review Employment Procedures

- Review hiring, recruiting, performance procedures and protocols to make sure that grooming issues are considered, where appropriate.

# “Best Practices” for Employers

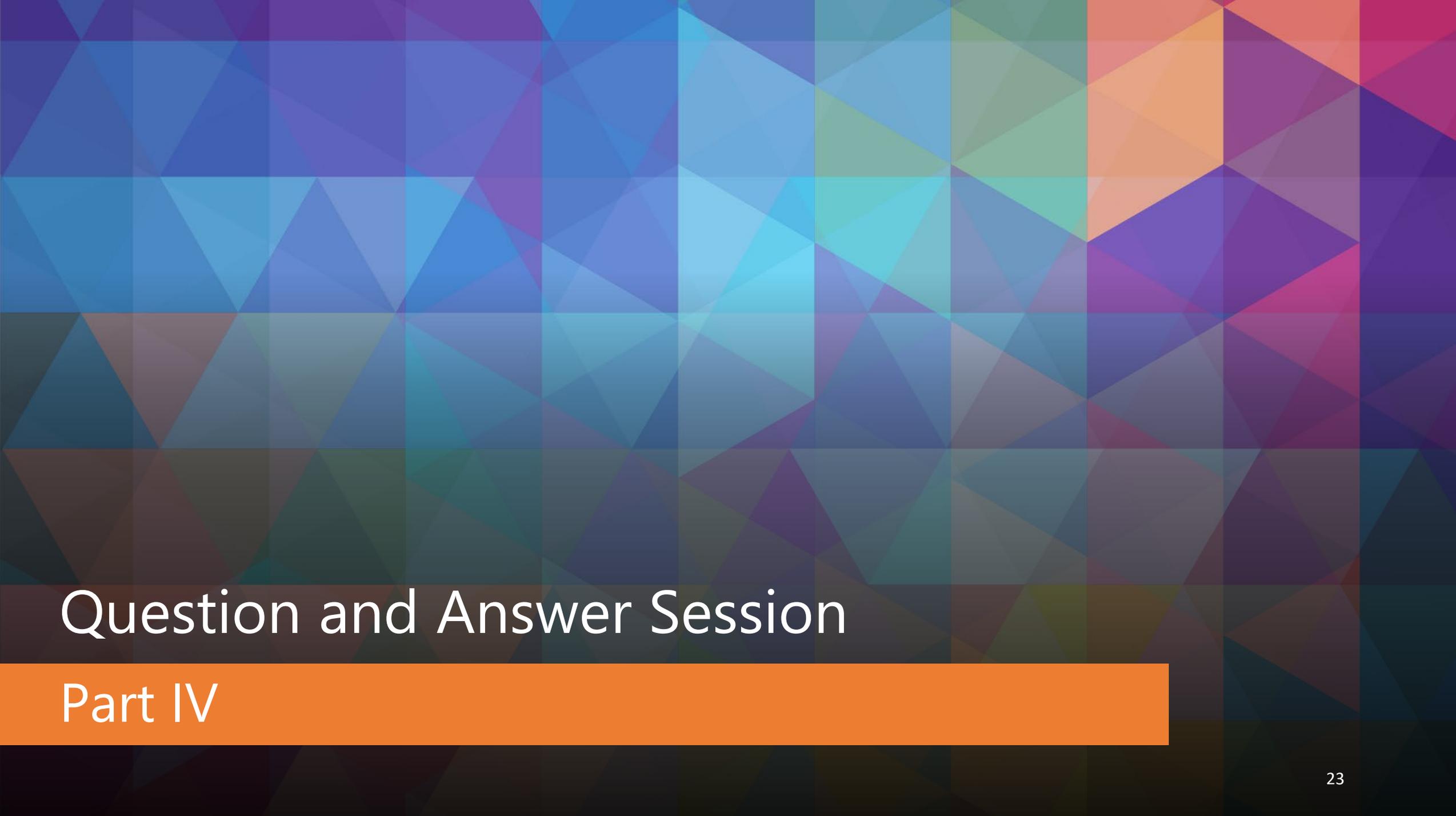
## 3. Training

- Ensure appropriate workplace training references grooming and hair discrimination.
- Educate employees, specifically Human Relations departments and supervisors, on how to discuss these issues and build a language of diversity around the topic.

# “Best Practices” for Employers

## 4. Some specific advice:

- If necessary, remind employees that physical boundaries apply here – no touching of someone’s hair.
- Hair is to be considered a personal characteristic – and employees should be careful in discussing any personal characteristic.
- Issue reminders, where appropriate, that hair styles are not related to competence or professionalism.
- Consider training your organization on common situations and how to deal with them.



# Question and Answer Session

## Part IV

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