

Reminder to Employers on Rights and Responsibilities with Respect to Religious Garb and Grooming in the Workplace

The U.S. Equal Employment Opportunity Commission (“EEOC”) issued a reminder that employers subject to Title VII of the Civil Rights Act of 1964 (15 or more employees) have an obligation to allow applicants and employees to follow their religious grooming and dress practices. Title VII prohibits an employer from discriminating against an employee in hiring, promotion, termination or any other aspect of employment based on an employee’s religious preferences or lack of religious beliefs. Title VII protects all aspects of religious practices and beliefs which include practices and beliefs that are only followed by a small number of people or that are not linked to a formal religious organization. The definition is so broad that whether a belief or practice is “religious” is rarely challenged.

Title VII also prohibits an employer from engaging in workplace or job segregation based on religious preference. For instance, an employer cannot reassign employees if they wear a turban, beard or headscarf because of religious beliefs. Customer preference provides no defense to “discriminatory” actions.

Title VII prohibits workplace harassment based on religion, as it does based on sex or race. An individual compelled to abandon, alter or adapt a religious practice to keep a job or particular position, or who becomes the victim of offensive remarks or conduct may suffer discrimination under Title VII (as well as the state equal employment laws). If an employer knew or should have known about the harassment and fails to take prompt corrective action, then the employer can be held liable for the harassment. Further, an employer is always liable for harassment committed by a supervisor if it results in an employee’s financial loss or other significant employment losses.

Title VII prohibits employers from retaliating against an employee who engages in a protected activity - including requesting a religious accommodation. If an employee requests an accommodation such as to wear a long beard, which is typically against workplace policy, and the employer makes the accommodation but then demotes the employee, the employer could be liable under the law.

Importantly, Title VII requires that an employer make exceptions to workplace policies or preferences regarding grooming and dress once the employer learns that an employee needs a religious

If you have any questions about the issues addressed here, or any other matters involving Labor and Employment issues, please feel free to contact:

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accommodation unless the exception would pose an undue hardship on the employer. Even if an employee's beliefs or practices do not follow commonly held religious beliefs or if their religious practices or adherence to religious practices change over time, this does not mean that the employee's beliefs or practices are not "sincerely held." Much like the religious nature of the belief, the requirement that the belief be "sincerely held" is also rarely challenged.

Further, an exception must be made unless it poses an "undue hardship" on the employer. The employee has an obligation to inform the employer that their non-compliance with the dress/grooming code results from religious reasons. Employers are not deemed to be omniscient. However, if the employer believes the individual's practice may be religious, such as a woman wearing a headscarf, then the employer must ask the necessary questions to determine if it is a religious practice and an accommodation must be made.

In terms of accommodation, an employer can ask an employee to cover up a religious item or symbol while at work as long as it would not violate an employee's religious belief or practice. Employers do not have to accommodate practices which pose a risk to workplace safety, security or health and cause an undue hardship to the operation of the business. Employees must accept reasonable accommodations. For instance, a surgical instrument company can require employees to be clean shaven and wear a mask to ensure a sterile environment. The employer accommodates an employee who does not trim his facial hair because of his religious beliefs by allowing him to keep his facial hair but requiring that he wear two face masks to ensure the environment stays sterile. The EEOC would find the employer's accommodation reasonable in this situation.

The EEOC has published questions and answers and a fact sheet regarding how federal employment discrimination laws apply to religious dress and grooming which can both be found by clicking the following two links:

[Religious Garb and Grooming in the Workplace: Rights and Responsibilities](#)

[Fact Sheet on Religious Garb and Grooming in the Workplace: Rights and Responsibilities](#)

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