Religious Accommodations: What Employers Need to Know

The U.S. Equal Employment Opportunity Commission (EEOC) received 3,721 charges alleging religious discrimination in fiscal year 2013. In partial response to these charges, earlier this month, the EEOC issued new technical assistance publications addressing religious dress and grooming in the workplace under Title VII of the Civil Rights Act of 1964 (Title VII). Given the heightened attention the EEOC will likely give to religious discrimination issues, the following is general guidance on Title VII’s religious garb, grooming requirements and best practices, which employers should keep in mind in order to help reduce the potential for Title VII violations.

Title VII generally requires most private-sector, and state and local government employers with 15 or more employees to allow applicants and employees to follow dress and grooming practices pursuant to their religious exercise, unless doing so would pose an undue hardship on the operation of the employer’s business.

EEOC - What You Should Know About Workplace Religious Accommodation

1. Are employers required to accommodate the religious beliefs and practices of applicants and employees?

Yes, Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion. This includes accommodating an employee's sincerely held religious beliefs or practices unless the accommodation would impose an undue hardship (more than a minimal burden on operation of the business). A religious practice may be sincerely held by an individual even if newly adopted, not consistently observed, or different from the commonly followed tenets of the individual's religion.

2. What does Title VII mean by “religion?”

Title VII defines "religion" very broadly. It includes traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism. It also includes religious beliefs that are new, uncommon, not part of a formal church or sect, or only held by a small number of people.

Some practices are religious for one person, but not religious for another person, such as not working on Saturday or on Sunday. One person may not work on Saturday for religious reasons; another person may not work on Saturday for family reasons. Under Title VII, a practice is religious if the employee's reason for the practice is religious.

Social, political, economic philosophies, or personal preferences, are not “religious” beliefs under Title VII.
3. What are some common religious accommodations sought in the workplace?

Applicants and employees may ask for exceptions to rules or policies in order to follow their religious beliefs or practices. Remember that employers may grant these requests for religious reasons but still refuse to grant them for secular reasons. Examples of common requests for religious accommodation include:

- a Catholic employee requests a schedule change so that he can attend church services on Good Friday;
- an employee requests an exception to the company's dress and grooming code for a religious practice, e.g., Pentecostal Christian woman who does not wear pants or short skirts;
- a Muslim woman who wears a religious headscarf (hijab), or a Jewish man who wears a skullcap (yarmulke);
- an atheist asks to be excused from the religious invocation offered at the beginning of staff meetings;
- a Christian pharmacy employee asks to be excused from filling birth control prescriptions, or a Jehovah's Witness seeks to change job tasks at a factory so that he will not have to work on producing war weapons;
- an adherent to Native American spiritual beliefs seeks unpaid leave to attend a ritual ceremony, or a Muslim employee seeks a break schedule that will permit daily prayers at prescribed times;
- an employee requests accommodation of a religious belief that working on his Sabbath is prohibited.

4. How does an employer determine if a religious accommodation imposes more than a minimal burden on operation of the business (or an "undue hardship")?

Examples of burdens on business that are more than minimal (or an "undue hardship") include: violating a seniority system; causing a lack of necessary staffing; jeopardizing security or health; or costing the employer more than a minimal amount.

If a schedule change would impose an undue hardship, the employer must allow co-workers to voluntarily substitute or swap shifts to accommodate the employee's religious belief or practice. If an employee cannot be accommodated in his current position, transfer to a vacant position may be possible.

Infrequent payment of overtime to employees who substitute shifts is not considered an undue hardship. Customer preference or co-worker disgruntlement does not justify denying a religious accommodation.

It is advisable for employers to make a case-by-case determination of any requested religious accommodations, and to train managers accordingly.

5. What other protections might apply, and where can I get more information?

Title VII also prohibits disparate treatment, job segregation, or harassment based on religious belief or practice (or lack thereof), as well as retaliation for the exercise of EEO rights.

EEOC publications on religious discrimination and accommodation are available at: www.eeoc.gov/laws/types/religion.cfm.