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Religion in the Workplace

Under the First Amendment, Americans enjoy two freedoms with respect to religion: the right to be free from a government-imposed religion, and a right to practice any religion. While private employers are not bound by the Constitution's restrictions on government, they are subject to federal and state laws that ban religious discrimination in employment. Given the number of employed persons and the variety of religious faiths in this country, and the freedom we enjoy to express our views, the subject of religious discrimination continues to pose tough questions for employers and the courts.

Religion in the Workplace

Because of our country's great diversity, employers may hire employees from a great variety of countries and religious backgrounds. In an ideal work environment, the religious beliefs of a given employee, or of the employer, do not create conflicts. Either is free to believe as he or she chooses and, as long as the work gets done satisfactorily, neither will encounter difficulty on the basis of religion. Yet, in the real world, a number of issues can arise to create friction. An employer and employee may discuss, or even argue over, religious principles. What's more, religion is not simply a matter of belief. The faithful practice their religion through various actions -- styles of dress, manner of keeping or wearing one's hair, trying to recruit others to their faith, following certain diets, praying, fasting, avoiding certain language or behavior, and observing certain religious holidays. Put simply, the many characteristics of different religions provide ample ground for disagreement, conflict, or even harassment among employers and employees.

Religion, Employment, and Anti-Discrimination Laws

The First Amendment establishes certain boundaries in terms of government establishment of religion and the individual's right to free exercise of a chosen religion. In the private sector, the matter of religion is governed by state and federal civil rights laws. The primary statute in this area is [Title VII of the Civil Rights Act of 1964](#). Title VII prohibits private employers from discriminating on several bases, including race, color, religion, sex, or national origin. Various state laws also prevent discrimination. The courts have recognized various forms of prohibited discrimination, including disparate treatment, disparate impact, and a hostile environment.

Disparate Treatment Discrimination

Disparate treatment is an overt form of discrimination, involving unequal treatment on the basis of an employee's religion. An employer with a policy of refusing to hire or to promote (or only hiring and promoting) members of a particular religion would commit this form of discrimination. Some employers whose business purpose is religious in nature may be permitted to require certain employees to adhere to a particular faith. Courts will look closely, however, at the legitimacy of the employer's requirement for the position.

Disparate Impact Discrimination

A more subtle form of discrimination arises through disparate impact. An employer discriminating in this way has no express policy for treating one or more religious groups unequally. Instead, a policy that makes no mention of a particular religion still functions to discriminate by affecting only certain religious groups. For example, a rule that forbade men from wearing any form of hat or other clothing on their heads during the business day might conflict with the dress rules of a particular religion that requires headwear be worn in public.

Hostile Work Environment Discrimination

The third form of discrimination occurs when the employer maintains (or allows) a hostile environment for employees of particular faiths. Typically, this arises where co-workers harass an employee on the basis of his or her faith, to the point of creating an abusive or intimidating work environment. The harassment must be severe or pervasive in order to constitute

discrimination under a hostile work environment theory. Thus, a simple disagreement over religious principles would probably not constitute unlawful harassment. Severe insults or threats, or continuing words and actions meant to harass or intimidate an employee on the basis of religion, however, may cross the line of lawful conduct. The employer is culpable if it knew or should have known of the illegal harassment.

Duty to Accommodate an Employee's Religion

While employers have a duty to accommodate the religious beliefs of their employees, the employer does have some leeway in how it conducts its business. There is a point where the changes that are required to accommodate an employee become too burdensome on the employer. Most likely, a request by an employee to trade shifts when his or her faith prevents working on Saturdays is likely to be reasonable. However, less reasonable might be a request that an employee have a particular holy month off each year. Whether an employer's policy that limits the conduct of members of a particular faith is unreasonable depends on the circumstances. For example, a restaurant owner may require its cooks to wear hairnets or short hair, even if this creates an inconvenience for members of a faith that does not allow them to cut their hair. A job may also have certain qualifications or requirements that have the effect of limiting participation by a particular religious faith. A radio station that played rock and roll music, for example, would be allowed to fire a disc jockey who refused to play rock and roll because it was against his religion.

Religious Discrimination in the Workplace - Legal Help

Religion is a matter of belief and practice, and religious beliefs will rarely affect the duties of our employment. Yet the faithful also practice their religion, discussing it with others within and without their faith, and conducting themselves according to its principles. Federal and state law requires that employees not be treated unfairly on the basis of religion. If you feel that you may be the victim of religious discrimination in the workplace, contact an [employment law attorney](#) to discuss your situation and protect your legal rights.

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