



# United States Equal Employment Opportunity Commission

## A Question of Faith: Managing Religious Diversity at Work

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# Title VII of the Civil Rights Act of 1964, as amended.

## ■ Statutory Provisions

- Section 701j defines religion broadly, to include all aspects of religious observance, practice and belief. Also provides for reasonable accommodation.
- Section 703 states it is unlawful for employers, employment agencies, labor organizations, and joint labor-management committees to discriminate against an employee or applicant for employment.
- Section 717a applies the provisions of Title VII to the federal government .

# Religious Practice or Belief:

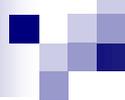
- The EEOC defines the concept of religious practice in a broad way that includes moral or ethical beliefs as to what is right and wrong that are sincerely held by the individual person with the strength of traditional religious views. The fact that no religious group espouses such belief, or the fact that the religious group to which the individual professes to belong may not accept such belief, will not determine whether the belief is a religious belief of the employee or the applicant.





# What does that really mean?

- This means that the EEOC defines the term “religion” broadly, to include ALL aspects of religious observance, practice and belief.
- This also means that the EEOC recognizes that an individual may practice religion in a unique way and still be protected from discrimination



# What Religious Belief or Practice Is Not:

- Practice or espousal of social, political or economic philosophy.



# Exemptions or Exceptions

- Exception for Religious Institutions
- Exception for Educational Institutions



# Religious Expression

- Employers must permit employees to engage in religious expression if employees are permitted to engage in other personal expression at work, unless the religious expression would impose an undue hardship on the employer.

# Where Does Expression End and Harassment Begin?

- When expression about a religion changes from positive to negative
- When expression changes from general to specifically targeted (proselytizing)
- Must meet the harassment standards of proof

# Religious Harassment

- While Title VII permits religious expression by employees, supervisors and managers, it prohibits religious harassment.
- Although it can take on many forms, religious harassment frequently takes the form of:
  - Coercion of employee participation or non-participation in religious activities; and
  - Abusive conduct toward an individual because of their religious beliefs.

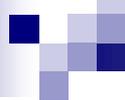
# Coercion of Religious Participation or Non-Participation

- A supervisor may not, explicitly or implicitly, insist that an employee participate in religious activities or hold particular religious views as a condition of employment, promotion, preferred job assignments, or any other benefit or privilege of employment.
- Examples:
  - Mandatory prayer meeting during work hours
  - Requirement to answer phones with a religious greeting.
  - Require church attendance.
  - Require that an employee not attend church or not be “religious”.



# Abusive Conduct

- Verbal comments, jokes, slurs, name calling
- Written comments, jokes, slurs, name calling, graffiti
- Electronic communication



During a conversation about weekend activities, Supervisor Dan tells Rick that he very much enjoyed his Saturday morning synagogue services, that religion is an important part of his life, and that he is planning to invite Rick to his daughter's upcoming bat mitzvah. The conversation then moves on to the Sunday football game before work resumes. Has Supervisor Dan engaged in religious harassment?

# Examples of Religious Harassment

## ■ Example 1:

- Supervisor Jane, a born-again Christian, tells an employee who is not born-again that she considers the office to be a “place of God,” and that if the employee is unwilling to shape up and “play by God’s rules” the employee will be terminated.

# Examples of Religious Harassment

## ■ Example 2:

- Jean is a Methodist and makes no secret of her beliefs or of the fact that she attends church on a regular basis. Bob, her supervisor, is not religious at all. He routinely calls her “holy-roller” in front of other staff members, makes comments about her “prude religious ways” and hung a joke on the bulletin board making fun of a Christian lady. He wrote Jean’s name on the lady. On his email list he has nicknamed Jean “Sister Jean” but addresses everyone else by just their first name.



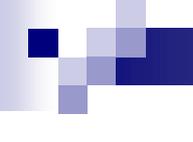
# Disparate Treatment

- It is unlawful for employers to discriminate against an individual on the basis of his/her religion. This means the employer cannot make a decision or take an action because the individual holds or does not hold a particular religious belief.
- Disparate treatment is a difference in treatment.

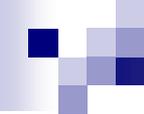


# Unlawful to discriminate in the following areas :

- Hiring
- Discharge
- Job Assignments
- Promotions
- Wages
- Benefits
- Training
- Layoff
- Discipline, and
- Other terms and conditions of employment



Ira and Jeanne are physicians with a University Medical School. They are both Jewish. A surgical team was sent to staff a hospital in Saudi Arabia and Ira and Jeanne were not included on the team, although that is their area of practice. The college said that their "requirement" for non-Jewish staff was necessary because of the location of the assignment, Saudi Arabia. Is this a valid reason for excluding Ira and Jeanne?



Robby wants to work at ABC Lawn Care. The owner, Chuck, asks him where he attends church. Robby says he does not attend church and is an atheist. Chuck, who is Southern Baptist, bristles at this and counsels Robby that he should accept the lord as his savior. He also tells Robby that he runs a “Christian operation” and wants like-minded employees. Can Chuck do this?

# Reasonable Accommodation & Undue Hardship

- An employer is required to **reasonably accommodate** an individuals' sincerely held religious beliefs or practices *unless* doing so would impose an **undue hardship** on the employer.

# What is Reasonable Accommodation?

- Any adjustment to the work environment that will allow the employee or applicant for employment to practice his/her religion.
- For example:
  - Flexible scheduling
  - Voluntary substitutions or swaps
  - Job reassignments and lateral transfers
  - Modifying workplace practices, policies and/or procedures

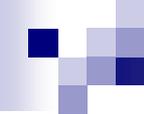
# What constitutes Undue Hardship?

- An employer can show undue hardship in accommodating an individual's religious practice if:
  - Requires more than ordinary administrative costs
  - Diminishes efficiency in other jobs
  - Infringes on other employees' job rights or benefits (Seniority Rights)
  - Impairs workplace safety
  - Causes co-workers to carry the individual's share of burdensome or potentially hazardous work, or
  - If the proposed accommodation conflicts with another law or regulation.



# Reasonable Accommodation Process

- Individual obligated to inform employer of need for accommodation.
- Employer obligated to provide accommodation unless to do so would be an undue hardship
- Individual obligated to cooperate with the accommodation efforts
- Preferred accommodation does not have to be granted. Individual cannot insist on choice.

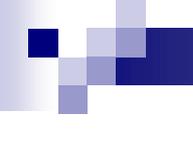


# Areas for Reasonable Accommodation

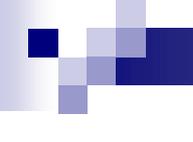
- Common areas:
  - Selection processes/practices.
  - Dress and Grooming Standards
  - Work scheduling, assignments and events

# Modifying Selection Practices

- Testing or other selection procedure is scheduled at a time when a prospective employee cannot attend because of his or her religious practices. The employer has an obligation to accommodate unless undue hardship would result.
- For example:
  - An employment exam is regularly given on Saturday mornings. An applicant observes his Sabbath on Saturday and cannot attend. The employer should look at allowing the applicant to take the test on another day.



Terence goes to the Acme Employment Agency seeking referrals to job vacancies. He informs Acme that his religious beliefs prohibit him from working on Saturday, which is his Sabbath. Acme refuses to refer Terence to any employers that have Saturday work schedules. Is this a violation?



Digger Mining Company operates a mine on a 24 hour basis utilizing three shifts of workers. After being offered a job, but before beginning work, Peter informed Digger that he is a member of the World Wide Church of God and could not work his Sabbath, sundown Friday until sundown Saturday. Digger Mining Company withdrew its offer of employment stating that it would be too much trouble to try to arrange Peter's work schedule to accommodate that request. Has Digger violated the law?

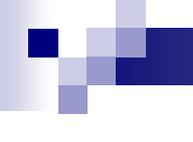


# Work scheduling, assignments and events

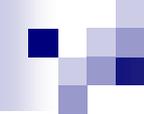
- Often times, employers are asked to accommodate the religious beliefs or practices of individuals in the above areas. Employers have an obligation to accommodate the individual unless it can show an undue hardship.

# Examples

- Individual observes a Sabbath and cannot work during specific hours.
- Individual is required to pray during work hours.
- Individual observes a religious holiday on a work day.
- Individual refuses an assignment based on a conflict with religious beliefs
- Individual refuses to attend a “new age” training session citing a conflict with her beliefs
- Individual declines to attend mandatory company picnic because food being served does not comply with his religious requirements.



Jenny is Jehovah's Witness. She was hired by Well-Fed Restaurant as a food server. Shortly after her hire, Well-Fed adopted a new policy regarding patron's birthdays. Any patron celebrating a birthday receives a free piece of birthday cake and the food servers sing "Happy Birthday" to the patron. Jenny refuses citing her religious beliefs. The manager told her that he was not about to give her preferential treatment and that all Food Servers were required to participate. Jenny continued to refuse and was fired for her refusal to participate. Is this a violation?

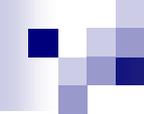


Ahmed is a computer specialist at a software company downtown. As a devout Muslim, he is required to attend afternoon prayer services at his mosque for a short period on Friday afternoons. He asks for time off to attend these services. Does the employer have to grant him the time off?



# Dress and Grooming Standards

- Obligation to accommodate applies to religion-oriented dress and grooming practices.
- Individual who requires a dress or grooming accommodation must adhere to such religiously required practices and notify the employer of the need for the accommodation.



Narinder's religion, Sikh, requires him to wear a turban. He applies for a position as a Cashier at XYZ Discount Goods. XYZ fears that his religious attire will make customers uncomfortable so they refuse to hire him. Has XYZ violated the law?

# EEOC: Religious Garb and Grooming Standards – 2014

Eli has been working at the Burger Hut for two years. While in the past he has always worn his hair short, he has recently let it grow longer. When his manager advises him that the company has a policy requiring male employees to wear their hair short, Eli explains that he is a newly practicing Nazirite and now adheres to religious beliefs that include not cutting his hair.

# EEOC: Religious Garb and Grooming Standards – 2014

Afizah is a Muslim woman who has been employed as a bank teller at the ABC Savings & Loan for six months. The bank has a dress code prohibiting tellers from wearing any head coverings. Although Afizah has not previously worn a religious headscarf to work at the bank, she shows up to work on the first day of Ramadan wearing one.

# EEOC: Religious Garb and Grooming Standards – 2014

Adarsh, who wears a turban as part of his Sikh religion, is hired to work at the counter in a coffee shop. A few weeks after Adarsh begins working, the manager notices that the work crew from the construction site near the shop no longer comes in for coffee in the mornings. When the manager makes inquiries, the crew complains that Adarsh, whom they mistakenly believe is Muslim, makes them uncomfortable in light of the anniversary of the September 11th attacks.

# EEOC: Religious Garb and Grooming Standards – 2014

Nasreen, a Muslim applicant for an airport ticket counter position, wears a headscarf, or hijab, pursuant to her religious beliefs. Although Nasreen is qualified, the manager fears that customers may think an airport employee who is identifiably Muslim is sympathetic to terrorist hijackers. The manager, therefore, offers her a position in the airline's call center where she will only interact with customers by phone.

# EEOC: Religious Garb and Grooming Standards – 2014

Tahera, an applicant for a retail sales position at a national clothing company that carries current fashions for teens, wears a headscarf in accordance with her Muslim religious beliefs. Based on its marketing strategy, the company requires sales personnel to wear only clothing sold in its stores, and no headgear, so that they will look like the clothing models in the company's sales catalogues. Although the company believes that Tahera wears a headscarf for religious reasons, the company does not hire her because it does not want to make an exception.

# EEOC: Religious Garb and Grooming Standards – 2014

Prakash, who works for CutX, a surgical instrument manufacturer, does not shave or trim his facial hair because of his Sikh religious observance. When he seeks a promotion to manage the division responsible for sterilizing instruments, his employer tells him that he must shave or trim his beard because it may contaminate the sterile field. All division employees are required to be clean shaven and wear a face mask. When Prakash explains that he does not trim his beard for religious reasons, the employer offers to allow Prakash to wear two face masks instead of trimming his beard. Prakash thinks that wearing two masks is unreasonable and files a Title VII charge.

# EEOC: Religious Garb and Grooming Standards – 2014

Mirna alleges she was terminated from her job in a factory because of her religion (Pentecostal) after she told her supervisor that her faith prohibits her from wearing pants as required by the company's new dress code. Mirna requested as an accommodation to be permitted to continue wearing a long but close-fitting skirt. Her manager replies that the dress code is essential to safe and efficient operations on the factory floor.

# EEOC: Religious Garb and Grooming Standards – 2014

Harvinder, a Sikh who works in a hospital, wears a small (4-inch), dull, and sheathed kirpan (symbolic miniature sword) strapped and hidden underneath her clothing, as a symbol of her religious commitment to defend truth and moral values. When Harvinder's supervisor, Bill, learned about her kirpan from a co-worker, he instructed Harvinder not to wear it at work because it violated the hospital policy against weapons in the workplace.



# QUESTIONS