

Religious Discrimination and Accommodation in the Federal Workplace



Title VII of the Civil Rights Act of 1964 (Title VII) prohibits federal agencies from discriminating against employees or applicants for employment because of their religious beliefs in hiring, firing and other terms and conditions of employment. Additionally, Title VII requires federal agencies to reasonably accommodate the religious beliefs or practices of employees or applicants unless doing so would impose an undue hardship upon the agency.

Religious Discrimination

The Equal Employment Opportunity Commission (EEOC) defines “religious beliefs” to include theistic beliefs (i.e. those that include a belief in God) as well as non-theistic moral or ethical beliefs about right and wrong that are sincerely held with the strength of traditional religious views. In most cases, whether or not a practice or belief is religious is not an issue. However, generally, religion typically concerns “ultimate ideas” about “life, purpose and death,” while social, political and/or economic philosophies and mere personal preferences are not “religious” beliefs. It is important to consider that an individual’s religious beliefs may change over time. Additionally, individuals may choose to adhere to some tenets of their religion but not others, and/or individuals may have a sincere belief in a religious practice that is not observed by other followers of their religion. Title VII also protects employees or applicants from discrimination if they do not subscribe to a particular religious view and/or are atheist. Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group. An employee cannot be forced to participate (or not participate) in a religious activity as a condition of employment.

Religious Accommodation

Title VII requires federal agencies, upon notice of a request, to reasonably accommodate employees whose sincerely held religious beliefs, practices or observances conflict with work requirements, unless the accommodation would create an *undue hardship*.

What is a religious accommodation?

A religious accommodation is any adjustment to the work environment that will allow an employee or applicant to practice his or her religion. The need for religious accommodation may

arise where an individual's religious beliefs, observances or practices conflict with a specific task or requirement of the position or an application process. Accommodation requests often relate to work schedules, dress and grooming, or religious expression in the workplace. If it would not pose an undue hardship, the employer must grant the accommodation.

What is an undue hardship?

An agency may justify a refusal to accommodate an individual's religious beliefs or practices if the agency can demonstrate that the accommodation would cause an undue hardship. An accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their share of potentially hazardous or burdensome work. Undue hardship also may be shown if the request for an accommodation violates the terms of a collective bargaining agreement or job rights established through a seniority system. Undue hardship based on cost requires that the agency show more than a *de minimis* (minimal impact upon the agency's business) cost to the agency. The hardship upon the agency must be genuine and cannot be merely speculative.

How does a religious accommodation process work?

In requesting an accommodation, an employee or applicant is not required to use "magic words" (such as indicating that he or she is seeking "an accommodation"). However, an employee or applicant must make the agency aware of the need for an accommodation based on a conflict between the individual's religious belief or practice and their work duties or the agency's application process. The request for an accommodation may trigger an interactive process, particularly if the employer reasonably needs more information, between the responsible management official and the individual making the request to discuss the request and assess available options. Examples of religious accommodations may include: scheduling changes (arrivals, departures, floating/optional holidays, flexible work breaks and any other scheduling changes); voluntary shift substitutions and/or swaps; job reassignments, such as changes of position tasks and lateral transfers; and modifications to workplace practices, policies and procedures. An accommodation may also involve designating an unused or private location in the workplace where a religious observance or practice can occur if it is disrupting other workers. The need for accommodations may also apply to such things as dress or grooming practices that an employee has for religious reasons. These might include, for example, wearing particular head coverings or other religious dress (such as a Jewish yarmulke or a Muslim headscarf), or wearing certain hairstyles or facial hair (such as Rastafarian dreadlocks or Sikh uncut hair and beard). It also includes an employee's observance of a religious prohibition against wearing certain garments (such as pants or miniskirts).

Religious Discrimination & Harassment

It is illegal to harass a person because of his or her religion.

Harassment can include, for example, offensive remarks about a person's religious beliefs or practices. Although the law does not prohibit simple teasing, offhand comments, or isolated

incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the Department, such as a contractor.

Employee Best Practices

- Employees who are the recipients of unwelcome religious conduct should inform the individual engaging in the conduct that they wish it to stop. If the conduct does not stop, employees should report it to their supervisor or other appropriate agency official in accordance with the procedures established in the Department's anti-harassment policy.
- Employees who seek to proselytize in the workplace should cease doing so with respect to any individual who indicates that the communications are unwelcome.
- Employees who are not comfortable confronting the individual in question should report the conduct to their supervisor or a member of management in their supervisory chain of command or, if necessary, the agency's EEO Manager or the Civil Rights Center.
- Employees requiring an accommodation should advise their supervisors of the nature of the conflict between their religious needs and their work environment or duties. Employees should provide enough information to enable the employer to understand what accommodation is needed, and why it is necessitated by a religious practice or belief. Likewise, supervisors should follow-up with employees to request any relevant information before making a determination regarding an accommodation request.

Contact Information

If at any time you think that you have been subjected to discrimination and/or denied an accommodation based on religion, contact an EEO Counselor (or the Civil Rights Center) within forty-five (45) days of the alleged discriminatory event in order to preserve your right to file an EEO complaint.