

CLIENT ALERT: EEOC Issues Guidance on Accommodating Religious Dress and Grooming Practices in the Workplace

Title VII of the Civil Rights Act of 1964 ("Title VII") prohibits employers with at least 15 employees from discriminating on the basis of, among other characteristics, an applicant or employee's religion. (Some states provide broader protections. In Massachusetts, for example, the anti-discrimination laws apply to employers with six or more employees.)

Under the law, employers may not:

1. Treat an employee differently based on religious belief or practice, or lack of religious belief, in recruitment, hiring, promotion, benefits, training, job duties, termination, or any other aspect of employment;
2. Deny a reasonable accommodation for "sincerely held religious practices," unless the accommodation would cause an "undue hardship" for the employer;
3. Segregate employees based on religion;
4. Harass an employee based on religion; or
5. Retaliate against an employee for requesting a religious accommodation.

On March 6, 2014, the U.S. Equal Employment Opportunity Commission ("EEOC") issued new guidance for employers and employees regarding religious dress and grooming practices. The short **fact sheet** and question and answer guide, "**Religious Garb and Grooming in the Workplace: Rights and Responsibilities**," serve as useful tools to educate employers of their obligations under federal anti-discrimination laws.

The question and answer guide highlights the need for employers to be adequately trained on how to handle interactions with employees regarding religious dress and practices. Religious dress and grooming practices may include wearing religious clothing or articles (such as a cross, headscarf, turban, or wearing dresses or skirts instead of pants) or adhering to shaving or hair length observances.

The EEOC guidance provides that employers typically will be expected to accommodate the following:

- Non-traditional religious practices and beliefs;
- Newly observant current employees or observances that only occur at certain times of the year;
- Employees whose sincerely held religious belief, practice, or observance conflicts with a work requirement; or
- Employees who do not use specific phrases such as "reasonable accommodation" or "sincerely held belief" to put employers on notice to engage in an interactive process.

Also, employers may not:

- Limit or segregate employees from client contact because of customer preference in violation of Title VII's prohibition on limiting, segregating, or classifying employees based on religion;
- Use the excuse of their brand's image to deny a requested religious accommodation; or
- Require employees to cover religious symbols if it is contrary to the employee's religious beliefs.

According to the EEOC, an employer may bar an employee's religious dress or grooming practice based on workplace safety, security, or health concerns if and only if the practice poses an undue hardship on the operation of the business. For purposes of religious accommodation, "undue hardship" is defined as more than administrative costs or burden on the employer's business. While

this is a lower threshold than proving “undue burden” under the Americans With Disabilities Act, employers still must take care to ensure it is met before denying a religious accommodation.

Generally, the EEOC urges employers to err on the side of accommodating in cases of religion dress and grooming practices in the workplace. Employers are encouraged to contact their MJB attorneys with questions regarding handling religious accommodations in the workplace.

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