

EEOC Issues Guidance on Religious Garb in the Workplace

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based, among other things, upon religion. Religious discrimination charges have steadily increased in recent years. In fiscal year 2013, the Equal Opportunity Commission (EEOC) received 3,721 such charges, more than double the 1,709 charges received in fiscal year 1997. An employer's duty under Title VII includes making exceptions to its usual rules or preferences to permit applicants and employees to follow religiously-mandated dress and grooming practices. An employer is excused from this duty only if an undue hardship to the operation of its business would be created by the accommodation.

For purposes of Title VII, religion is very broadly defined. It includes traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, Buddhism, and Sikhism. It also encompasses religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, and/or illogical or unreasonable to others. Protected religious practices may also be based on theistic beliefs or non-theistic moral or ethical beliefs as to what is right or wrong that are sincerely held with the strength of traditional religious views. Title VII even protects those who are discriminated against or need accommodation because they profess no religious beliefs.

The new EEOC guidance contains practical examples of factual situations commonly faced by employers where they must be sensitive to their obligation to make reasonable accommodations regarding religious garb and grooming. Those situations include religion-based exceptions to uniform and dress code policies, covering of religious symbols, hair and facial hair standards, and head covering requirements.

Cases should always be discussed immediately with Human Resources and the Office of Counsel as soon as an employee asserts that a garb or grooming requirement creates a conflict with religious beliefs, theistic beliefs, or non-theistic moral or ethical beliefs.