

Dress Codes and Religious Discrimination, EEOC Answers Questions

In an online forum sponsored by the Society for Human Resource Management (SHRM), representatives from the EEOC Office of Legal Counsel answered key questions on the challenging issue of employee appearance colliding with religious and cultural practices.

Q: Can a public sector employer establish a dress code that does not allow tongue studs, facial jewelry (not ears), and revealing clothing (exposing midsection)?

EEOC: Private or public sector employers are permitted to have dress codes; however, the codes must not discriminate on the basis of race, national origin, etc., and must make exceptions where an individual has a sincerely held religious belief that conflicts and no undue hardship would be posed. This rule applies regardless of what type of dress or grooming practice is involved.

Q: If your organization does not currently have a dress code policy in place, are you free to address relative issues or concerns that may arise during the interview stage on a case-by-case basis?

EEOC: Yes. In fact, in some circumstances in which a particular employee or applicant is dressing inappropriately, it may be preferable to address the issue with that employee rather than imposing an across-the-board rule that may have unintended consequences.

Is The Religious Belief Real?

The issue of religious dress has come to the fore in recent years. This issue has two components: the issue of the legitimacy of the claimed religious belief, and the issue of safety vs. religious garb. Here are the EEOC's answers to questions on this issue.

Q: What constitutes a legitimate religious/cultural belief? If a worker says he belongs to a sect I've never heard of before, is it my obligation to research its legitimacy or his responsibility?

EEOC: If an employer has a reasonable basis for questioning either the religious nature or the sincerity of a particular belief or practice, it would be justified in seeking additional information from the employee.

Q: What happens when religious dress clashes with the need for safety, for example, hard hats, vest, shoes, or other protective gear requirements?

EEOC: While religious needs should be accommodated, employers should not compromise legitimate safety concerns. An employer can legitimately refuse a request when there is a genuine safety risk.

For more information, contact CTSI at 303-861-0507.