



Religion in the Workplace



Title VII of the Civil Rights Act of 1964 prohibits religious discrimination and harassment in the workplace. This means that employers cannot use someone's religion as a reason to hire, not hire or fire them. It also means that employers must accommodate their employees' sincerely held religious, ethical and moral beliefs or practices – unless doing so would pose an undue hardship on the employer.

What types of religion are protected?

Title VII defines religion to include "all aspects of religious observance and practice as well as belief."

Under Title VII, "religion" doesn't just include traditional organized religions such as Christianity, Judaism, Islam, Hinduism and Buddhism. It also encompasses religious, ethical and moral beliefs that are new or uncommon; not part of a formal or organized religion or sect; or only subscribed to by a small number of people.

The Equal Employment Opportunity Commission (EEOC) states that an employee's belief or practice can be considered "religious" under Title VII even if it is not followed by others in the same religious sect, denomination or congregation, or even if the employee is unaffiliated with a formal religious organization.

Those who profess to have no religious beliefs are also protected under Title VII.

What beliefs do not count as religion?

The EEOC states that social, political and economic philosophies, as well as mere personal preferences, are not religious beliefs protected under Title VII. Rather, religion typically concerns “ultimate ideas” about “life, purpose, and death.”

What religious practices are protected?

Examples of religious practices commonly protected by Title VII include:

- Praying and attending religious worship services
- Wearing religious attire or symbols such as:
 - Hijabs
 - Turbans
 - Yarmulkes
 - Rosary beads
- Religious expression, including
 - Proselytizing
 - Displaying religious objects and symbols
- Following religious dietary rules
- Refraining from certain activities, such as working during the Sabbath

What constitutes religious discrimination?

Title VII prohibits a broad range of discriminatory employer conduct based on an individual’s religious beliefs or practices, including:

- Refusing to hire an applicant
- Terminating an employee
- Refusing to promote an employee
- Demoting an employee
- Using religion as a basis for determining an employee’s compensation, terms, conditions or privileges of employment, such as transfer, access to training, or access to equipment
- Classifying or segregating employees in a way that
 - Deprives them of employment opportunities

- Adversely affects their status as employees
- Making statements in job advertisements that indicate a preference or limitation based on religion
- Refusing or failing to prevent or eliminate harassment
- Incorporating religious practices in work, such as holding a prayer before a work meeting

Title VII also prohibits retaliation against an applicant or employee because the individual:

- Opposed religious discrimination
- Filed a charge of religious discrimination
- Testified, assisted or otherwise participated in an investigation or proceeding relating to a claim of religious discrimination

What is considered a reasonable accommodation for religion?

Title VII requires employers to provide reasonable accommodations to applicants and employees for their sincerely held religious beliefs, unless it would cause an undue hardship.

A reasonable religious accommodation is any adjustment to the work environment that allows employees to practice their religion or sincerely held ethical or moral beliefs.

Generally, an applicant or employee must notify the employer of a need for a religious accommodation. An individual's religion may not be obvious to the employer or the employer may not be familiar with the beliefs and practices associated with a particular religion.

To request an accommodation, the individual is not required to use special terminology or specifically refer to an accommodation. However, they must provide enough information that the employer knows there is a conflict between the individual's religion and their work environment, and an accommodation is needed.

Employers can meet their obligation by:

- Changing the working conditions that conflict with the individual's beliefs or practices
- Transferring the employee to a reasonably comparable position where conflicts are less likely to arise

The reasonableness of an accommodation is determined on a case-by-case basis, but an accommodation is generally not considered reasonable if it either:

- Fails to resolve the conflict
- Unnecessarily disadvantages the individual's terms, conditions or privileges of employment

Examples of reasonable accommodations are:

- Modified schedules that allow employees to engage in or observe religious practices, such as
 - Permitting voluntary schedule swaps between employees
 - Reassigning employees to a different shift or schedule
- Permitting religious expression in the workplace, such as allowing employees to display religious symbols at their work stations
- Making exceptions to a dress code policy to allow employees to wear religious attire or symbols

When is a religious accommodation considered an undue hardship?

According to the EEOC, a religious 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."

Relevant factors for determining whether an undue hardship exists include:

- The type of workplace
- The nature of the employee's duties
- The identifiable cost of the accommodation in relation to the size and operating costs of the employer, including the monetary cost and burden on the employer's business, such as:
 - Decreased efficiency
 - Whether the accommodation infringes on the rights of other employees or compromises workplace safety
 - Whether other employees have an increase in potentially hazardous or burdensome work
- The number of employees who need a particular accommodation
- Whether the accommodation violates or conflicts with another law

The employer has the burden of showing an undue hardship. The employer must demonstrate an actual cost to its business operations, such as:

- Economic or financial cost
- Disruption to the workplace
- Impositions on other workers

Examples of accommodations that pose an undue hardship are:

- Allowing an employee to proselytize or impose their religious beliefs in a manner that discriminates against or harasses other employees
- Violating a bona fide security provision in a collective bargaining agreement

- Making an exception to a dress code policy that would allow an employee to wear clothes inconsistent with applicable safety requirements

What is an employer's liability under Title VII?

Under Title VII, employers are liable for religious discrimination where there is:

- Disparate treatment – This is intentional discrimination, e.g., refusing to hire a Muslim solely because of their religious beliefs.
- Disparate impact – This is when a seemingly neutral policy or practice unduly disadvantages an individual based on their membership in a protected class, e.g., prohibiting head coverings when there is no workplace safety rationale for the rule.
- Pattern or practice – These cases may allege disparate treatment or disparate impact (or both), but they always allege widespread violations.
- "Cat's paw" liability – An employer may be liable for discrimination when a biased supervisor or manager influences an employment decision, even if the biased supervisor or manager did not make the ultimate employment decision.
- Harassment – This includes both quid pro quo and hostile work environment harassment based on religion.
- Retaliation – An employer may be liable for an adverse employment action taken against an individual for asserting their rights under Title VII.

How can an employer avoid religious discrimination claims?

An employer can implement preventive measures to reduce the risk of liability for religious discrimination in the workplace.

- Train supervisors and managers involved in interviewing applicants to avoid asking questions related to religious beliefs or practices.
- Implement an effective equal employment opportunity policy that incorporates:
 - The employer's commitment to comply with all federal, state and local employment laws
 - A statement that the employer does not discriminate based on religion
 - A statement that the employer provides reasonable accommodations for religious beliefs or practices, absent undue hardship
 - A prohibition against discrimination or harassment of employees and applicants based on religion
 - Specific procedures for reporting violations of the policy

- A statement that the employer investigates any complaints promptly and takes any necessary corrective actions
- A prohibition against retaliation for reporting any complaints
- A signed acknowledgement by each employee that they have received and understand the policy (or handbook, if the policy is included in an employee handbook)
- Ensure dress codes do not infringe on employees' clothing or appearance, to the extent that their clothing or appearance is part of their religious practices.
- Train all managers and supervisors on the employer's obligations to provide reasonable accommodations, including:
 - Procedures for requesting, evaluating and providing reasonable accommodations
 - How to recognize when an employee is requesting an accommodation
 - How to recognize when an employee's religious beliefs and practices may conflict with their work requirements
- Train all personnel responsible for handling internal complaints on proper response techniques.

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