

## **EEOC Issues Guidance on Religious Accommodations**

By Maureen E. Carr, Esq.

The Equal Employment Opportunity Commission (EEOC), the agency responsible for enforcing federal anti-discrimination and anti-retaliation laws, recently published helpful guidance for employers regarding religious dress and grooming in the workplace ([http://www.eeoc.gov/eeoc/publications/qa\\_religious\\_garb\\_grooming.cfm](http://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm)).

By way of background, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, prohibits public and private employers with at least 15 employees from discriminating against employees and applicants based on race, color, religious, sex, or national origin, or retaliating against persons who complain of discrimination on these bases. With respect to religion, Title VII requires an employer to provide a reasonable accommodation to an employee for a seriously held religious practice unless the accommodation would cause an undue hardship for the employer. The recent EEOC guidance clarifies an employee's rights and an employer's responsibilities with respect to religious dress and grooming (such as wearing religious clothing or articles, not wearing certain garments, and adhering to shaving or hair length restrictions).

The EEOC emphasizes that religious accommodations are individualized and must be evaluated on a case-by-case basis. Moreover, employers should not over-scrutinize whether an employee's religious beliefs are sincere, since religious practices can be sincere even if they "deviate from commonly-followed tenets of the religion," were recently adopted, and/or change over time.

The EEOC also cautions that undue hardship is a high standard, requiring more than inconvenience, customer preference, or employer image. In the context of religious discrimination claims, undue hardship is defined as a "more than de minimis" cost or burden on the operation of the employer's business, which is a lower standard than that applied to disability accommodations.

The EEOC guidance makes clear that an employer cannot discriminate against an employee or applicant based on discriminatory customer preferences (i.e. customers who would prefer not to buy coffee from a Muslim employee) or the employer's own stated "image" standard or marketing strategy (i.e. teen clothing store that requires employees to project certain image or wear only clothing purchased from employer's store). Significantly, an employer who makes an exception to its dress code as a religious accommodation to an employee may enforce its dress code against other employees, and any resultant employee disgruntlement or jealousy does not constitute an undue hardship for the employer.

An employer may bar an employee's religious dress or grooming practice based on *legitimate* workplace safety, security, or health concerns, but only where the practice "actually poses an undue hardship on the operation of the business" (i.e. prohibiting an employee from wearing loose-fitting clothing when working near machinery or preventing an employee from wearing long hair or beard when working with food).

The following are practical tips to ensure compliance with the new EEOC guidance:

- Be cautious when questioning the sincerity of an employee's religious beliefs and practices.
- Conduct an individualized review of each religious accommodation request, taking into account the individual, the position, and the circumstances.
- Dress code policies should state that the employer will accommodate religious-based grooming and dress practices unless doing so would constitute an undue hardship.
- Establish a clear and well-articulated procedure for employees to request religious accommodations, and document each step of this process once initiated.
- Providing training for employees and managers on religious discrimination and accommodations.

As always, the guidance provided in this article is general. Readers are encouraged to consult with their counsel to ensure full compliance with applicable law.

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