



Policy Modification/Dress Code Accommodation

The information, below, is extracted from the EEOC Compliance Manual. Sections and examples retain the same numbers as within the manual.

Excerpt from EEOC Compliance Manual

(Published July 22, 2008)

Section 12: Religious Discrimination

C. Common Methods of Accommodation in the Workplace

Under Title VII, an employer or other covered entity may use a variety of methods to provide reasonable accommodations to its employees. The most common methods are: (1) flexible scheduling; (2) voluntary substitutes or swaps of shifts and assignments; (3) lateral transfer and/or change of job assignment; and, (4) modifying workplace practices, policies, and/or procedures....

4. Modifying Workplace Practices, Policies and Procedures

a. Dress and Grooming Standards

When an employer has a dress or grooming policy that conflicts with an employee's religious beliefs or practices, the employee may ask for an exception to the policy as a reasonable accommodation. Religious grooming practices may relate, for example, to shaving or hair length. Religious dress may include clothes, head or face coverings, jewelry, or other items. Absent undue hardship, religious discrimination may be found where an employer fails to accommodate the employee's religious dress or grooming practices.

EXAMPLE 46 **Facial Hair**

Prakash, who works for CutX, a surgical instrument manufacturer, does not shave or trim his facial hair because of his Sikh religious observance. When he seeks a promotion to manage the division responsible for sterilizing the instruments, his employer tells him that, to work in that division, he must shave or trim his beard because otherwise his beard may contaminate the sterile field. When Prakash explains that he cannot trim his beard for religious reasons, the employer offers to allow Prakash to wear two face masks instead of trimming his beard. Prakash thinks that wearing two masks is unreasonable and files a Title VII charge. CutX will prevail because it offered a reasonable accommodation that would eliminate Prakash's religious conflict with the hygiene rule.

Some courts have concluded that it would pose an undue hardship if an employer was required to accommodate a religious dress or grooming practice that conflicts with the public image the employer wishes to convey to customers. While there may be circumstances in which allowing a particular exception to an employer's dress and grooming policy would pose an undue hardship, an employer's reliance on the broad rubric of "image" to deny a requested religious accommodation may in a given case be tantamount to reliance on customer religious bias (so-called "customer preference") in violation of Title VII.



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EXAMPLE 47 **Religious Garb**

Nasreen, a Muslim ticket agent for a commercial airline, wears a head scarf, or hijab, to work at the airport ticket counter. After September 11, 2001, her manager objected, telling Nasreen that the customers might think she was sympathetic to terrorist hijackers. Nasreen explains to her manager that wearing the hijab is her religious practice and continues to wear it. She is terminated for wearing it over her manager's objection. Customer fears or prejudices do not amount to undue hardship, and the refusal to accommodate her and the termination, therefore, violate Title VII. In addition, denying Nasreen the position due to perceptions of customer preferences about religious attire would be disparate treatment based on religion in violation of Title VII, because it would be the same as refusing to hire Nasreen because she is a Muslim. *See supra* § II-B.

There may be limited situations in which the need for uniformity of appearance is so important that modifying the dress code would pose an undue hardship. However, even in these situations, a case-by-case determination is advisable.

b. Use of Employer Facilities

If any employee needs to use a workplace facility as a reasonable accommodation, for example use of a quiet area for prayer during break time, the employer should accommodate the request under Title VII unless it would pose an undue hardship. If the employer allows employees to use the facilities at issue for non-religious activities not related to work, it may be difficult for the employer to demonstrate that allowing the facilities to be used in the same manner for religious activities is not a reasonable accommodation or poses an undue hardship.

EXAMPLE 48 **Use of Employer Facilities**

An employee whose assigned work area is a factory floor rather than an enclosed office asks his supervisor if he may use one of the company's unoccupied conference rooms to pray during a scheduled break time. The supervisor must grant this request if it would not pose an undue hardship. An undue hardship would exist, for example, if the only conference room is used for work meetings at that time. However, the supervisor is not required to provide the employee with his choice of the available locations, and can meet the accommodation obligation by making any appropriate location available that would accommodate the employee's religious needs if this can be done absent undue hardship, for example by offering an unoccupied area of the work space rather than the conference room.

c. Tests and Other Selection Procedures

An employer has an obligation to accommodate an employee or prospective employee when scheduling a test or administering other selection procedures, where the applicant has informed the employer of a sincerely held religious belief that conflicts with a pre-employment testing requirement, unless undue hardship would result. An employer may not permit an applicant's need for a religious accommodation to affect its decision whether or not to hire the applicant unless the employer can demonstrate that it cannot reasonably accommodate the applicant's religious practice without undue hardship.



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d. Providing Social Security Numbers

It will typically pose an undue hardship for an employer to accommodate an applicant or employee's asserted religious belief against providing or using a social security number.