

Religious Discrimination in the Workplace

What is the federal law relating to religious dress and grooming in the workplace?

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended ("Title VII"), prohibits employers with at least 15 employees (including private sector, state, and local government employers), as well as employment agencies, unions, and federal government agencies, from discriminating in employment based on race, color, religion, sex, or national origin. It also prohibits retaliation against persons who complain of discrimination or participate in an EEO investigation. With respect to religion, Title VII prohibits among other things:

- disparate treatment based on religion in recruitment, hiring, promotion, benefits, training, job duties, termination, or any other aspect of employment (except that "religious organizations" as defined under Title VII are permitted to prefer members of their own religion in deciding whom to employ);
- denial of reasonable accommodation for sincerely held religious practices, unless the accommodation would cause an undue hardship for the employer;
- workplace or job segregation based on religion;
- workplace harassment based on religion;
- retaliation for requesting an accommodation (whether or not granted), for filing a discrimination charge with the EEOC, for testifying, assisting, or participating in any manner in an EEOC investigation or EEO proceeding, or for opposing discrimination.

OTHER RESOURCES RELATED TO THIS TOPIC

- **Questions and Answers About Employer Responsibilities Concerning the Employment of Muslims, Arabs, South Asians, and Sikhs**
<http://www.eeoc.gov/eeoc/publications/backlash-employer.cfm>
- **Questions and Answers About the Workplace Rights of Muslims, Arabs, South Asians, and Sikhs Under the EEO Laws**
<http://www.eeoc.gov/eeoc/publications/backlash-employee.cfm>
- **Questions and Answers on Religious Discrimination in the Workplace**
http://www.eeoc.gov/policy/docs/qanda_religion.html
- **Best Practices for Eradicating Religious Discrimination in the Workplace**
http://www.eeoc.gov/policy/docs/best_practices_religion.htm
- **Compliance Manual on Religious Discrimination**
<http://www.eeoc.gov/policy/docs/religion.html>
- **Guidelines on Discrimination Because of Religion, 29 C.F.R. Part 1605**
<http://www.gpo.gov/fdsys/pkg/CFR-2013-title29-vol4/xml/CFR-2013-title29-vol4-part1605.xml>
- **Guidelines on Religious Exercise and Religious Expression in the Federal Workplace** (Aug. 14, 1997),
<http://clinton2.nara.gov/WH/New/html/19970819-3275.html>

1 For further discussion about the definition of "religion" under Title VII, see EEOC Compliance Manual on Religious Discrimination (2008) at 12-I-A-1.

Scenarios

1. Afizah is a Muslim woman who has been employed as a Financial Aid counselor at a college for six months. The college has a dress code prohibiting tellers from wearing any head coverings. Although Afizah has not previously worn a religious headscarf to work at the bank, her personal religious practice has been to do so during Ramadan, the month of fasting that falls during the ninth month of the Islamic calendar. The fact that Afizah adheres to the practice only at certain times of the year does not mean that her belief is insincere. (EEOC v. Ilona of Hungary, Inc., 108 F.3d 1569, 1575 (7th Cir. 1997); EEOC v. IBP, Inc., 824 F. Supp. 147, 151 (C.D. Ill. 1993)).

2. Aatma, an applicant for an adjunct professor position who is an observant Sikh, wears a chunni (religious headscarf) to her job interview. The interviewer does not advise her that there is a dress code prohibiting head coverings, and Aatma does not ask whether she would be permitted to wear the headscarf if she were hired. There is evidence that the manager believes that the headscarf is a religious garment, presumed it would be worn at work, and refused to hire her because the company requires adjuncts and residential faculty to wear a uniform with no additions or exceptions. This refusal to hire violates Title VII, even though Aatma did not make a request for accommodation at the interview, because the employer believed her practice was religious and that she would need accommodation, and did not hire her for that reason. Moreover, if Aatma were hired but then instructed to remove the headscarf, she could at that time request religious accommodation.

3. Nasreen, a Muslim applicant for an airport ticket counter position, wears a headscarf, or hijab, pursuant to her religious beliefs. Although Nasreen is qualified, the manager fears that customers may think an airport employee who is identifiably Muslim is sympathetic to terrorist hijackers. The manager, therefore, offers her a position in the airline's call center where she will only interact with customers by phone. This is religious segregation and violates Title VII. As a best practice, managers and employees should be trained that the law may require making a religious exception to an employer's otherwise uniformly applied dress or grooming rules, practices, or preferences. They should also be trained not to engage in stereotyping about work qualifications or availability based on religious dress and grooming practices. (See generally EEOC v. Alamo Rent-A-Car, LLC, 432 F. Supp. 2d 1006 (D. Ariz. 2006)).

4. Mirna alleges she was terminated from her job in warehousing because of her religion (Pentecostal) after she told her supervisor that her faith prohibits her from wearing pants, as required by the company's new dress code. Mirna requested as an accommodation to be permitted to continue wearing a long but close-fitting skirt. Her manager replies that the dress code is essential to safe and efficient operations on the warehouse floor, but there is no evidence regarding operation of any equipment or machinery at issue to show that close-fitting clothing like that worn by Mirna poses a safety risk. Because the evidence does not establish that wearing pants is truly necessary for safety, the accommodation requested by Mirna does not pose an undue hardship.

5. Salma, an office employee, requests that she be permitted to wear her religious headscarf as an exception to her department's new uniform policy. Joe, the manager, refuses. Salma contacts the human resources department at the District office. Despite Joe's objections, the human resources department instructs him that in this instance, there is no undue hardship and that he must grant the request. Motivated by reprisal, Joe shortly thereafter gives Salma an unjustified poor performance rating and denies her request to attend training that he approves for her co-workers. This violates Title VII.

Religious Accommodation Procedure

1) The Maricopa County Community College District will reasonably accommodate the religious needs, observances, and practices of their employees and students, when requested and when said requests are made in accordance with these procedures. An individual's request for reasonable religious accommodations, including requests for time off from work or school activities, is justified unless college, class, or district operations would suffer unduly by granting the individual's request.

2) Individuals may not be discriminated against because of their religious beliefs or practices, or because they lack religious beliefs or practices.

a) Faculty and Staff who believe they have been discriminated against by the denial of a requested religious accommodation should contact the Equal Employment Opportunity / Affirmative Action office at 480-731-8473.

b) Students who believe they have been discriminated against by the denial of a requested religious accommodation should contact the Dean of Students, or designee at their respective college.

3) Definitions:

a) **Religion or Creed:** Includes traditional, organized religions but also religious beliefs, including those that are new, uncommon, not part of a formal church or sect. All aspects of religious belief and observance that are sincerely held will be considered as part of this policy.

(i) Religious Practice or Belief: A sincerely held practice or observance that includes moral or ethical beliefs as to what is right and wrong, most commonly in the context of the cause, nature and purpose of the universe. Religion includes not only traditional, organized religions, but also religious beliefs that are new, uncommon, not part of a formal religious institution or sect, or only subscribed to by a small number of people. Social, political, or economic philosophies, as well as mere personal preferences, are not considered to be religious beliefs.

(b) **Religious Accommodation:** A reasonable change in the work or academic environment that enables a student or employee to practice or otherwise observe a sincerely held religious practice or belief without undue hardship on the College or district.

(i) A reasonable religious accommodation may include, but is not limited to:

(1) time for prayer during a work day,

(2) the ability to attend religious events or observe a religious holiday, or

(3) any necessary modification to College or district policy, procedure or other requirement for a student's or employee's (or prospective employee's) religious beliefs, observance or practice, provided such accommodation is reasonable and does not cause undue hardship.

(c) **Undue Hardship:** Significant difficulty or expense and related circumstances in relationship to the cost or difficulty of providing a specific accommodation.

(i) Undue hardship may refer to financial difficulty in providing an accommodation or accommodations that are unduly expensive, substantial, disruptive, or that would fundamentally alter academic requirements, the nature or operation of the College or district's business, or the essential functions of a job. Accommodations which interfere with the safe and efficient operation of the workplace or campus will often present an undue hardship.

Religious Accommodation Procedure

4) Procedures for Seeking Religious Accommodation.

a) Students:

i) All students may request a religious accommodation by making a written request for an accommodation to the appropriate faculty member. To the extent possible, requests must be made at least two (2) weeks before the requested absence from class due to religious holiday or day of observance.

[Students and employees are encouraged to review the calendar for all holidays/holy days at the beginning of the calendar year (for employees) and semester (for students) and to make accommodation requests as early as possible.]

ii) Faculty members will, upon receiving the request for a religious accommodation, submit the request to the dean or academic chair of his/her department.

iii) In cooperation with the Dean of Students, or designee, the accommodation request will be reviewed and the student's request responded to within a reasonable time.

(1) A reasonable time period should take into consideration the timeliness of the request as well as the imminent nature of the request.

iv) Additional information may be necessary, in support of the requested accommodation. In these cases, the additional information should not be overly burdensome and shall not be information more detailed that would be requested for other accommodations (not related to religion).

v) In situations where an accommodation is not granted, the District Compliance Office must review the reasons for the denial within 72 hours (3 business days) after the denial.

b) Employees:

i) All employees may request a religious accommodation by making a written request for an Accommodation to their supervisor(s). Employees will be required to complete a formal accommodation request form and may be required to provide other documentation or information supporting the request. (See Religious Accommodation Request Form). Employees who anticipate being absent from work because of a religious observance must submit their request for time off in advance and as soon as they become aware of the need or at least ten (10) business days in advance. Failure to do so, when reasonably unavoidable, will not prevent the granting of the absences.

ii) Supervisors receiving the accommodation request will meet with college (and/or District Human Resources) to seek guidance as to the granting of the accommodation.

(1) Additional information may be necessary, in support of the requested accommodation. In these cases, the additional information should not be overly burdensome and shall not be information more detailed that would be requested for other accommodations (not related to religion).

(2) In situations where an accommodation is not granted, the District Compliance Office must review the reasons for the denial within 72 hours (3 business days) after the denial.

- c) Accommodation request determinations will be made on a case-by-case basis taking into account factors, including but not limited to: the fundamental requirements of the applicable academic program and/or related technical standards, essential functions of an individual's job, the duties of others in the department or job group, the requirements of the department or major, any impact of the accommodation, the duration of the accommodation request, and the availability of alternative accommodations.
- d) The college or district will endeavor to protect the requesting student or employee's privacy in evaluating and implementing the accommodation requested to the extent possible. However, following receipt of the request, the college or district official or administrator, supervisor(s) or designee(s) will discuss the accommodation request as necessary with the student or employee, and with select others in order to further evaluate and/or implement the accommodation.
- e) Approvals should be provided in writing to the requesting student or employee by filling out the "Disposition" section of the Religious Accommodation Request Form.
- f) Employees with questions about this policy and/or its application may contact Equal Employment Opportunity / Affirmative Action Director, Deric Hall at 480-731-8473 or by e-mail at: deric.hall@domail.maricopa.edu.
- g) Students with questions about this policy and/or its application may contact the Vice-President of Student Affairs at their respective college.

5) Additional Information:

- a) Absences -Students Notice: Students who anticipate being absent from classes because of a religious observance must provide faculty or appropriate designee with advance notice of their absence in accordance with the Common Pages. Students involved in an internship or clinical placement program must also provide advance notice to their internship or clinical placement supervisor prior to any absence.
- i) Students should understand that if an accommodation is granted, missing time from an internship or clinical placement may require the student to make-up work or repeat the internship or clinical placement at a later time.
 - ii) Make up/Extension: If examinations or assignment deadlines are scheduled on the day(s) of a religious observance, any student who provided advance notice of absence will have the opportunity to make up the examination or extend the assignment deadline and will not be penalized for the absence.
 - iii) Being absent from class or other educational responsibilities does not excuse students from keeping up with any information shared or expectations set during the missed class(es). Students are responsible for obtaining the materials and information provided during any class(es) missed.

6) Absences–Employees (including Faculty and Staff). The college or district will make reasonable efforts to accommodate an employee's requests for absences to the extent possible by allowing flexible arrival and departure times, floating or optional holidays, flexible work breaks, or considering schedule substitutions with colleagues of substantially similar qualifications which may need to be arranged by or with the assistance of the requesting employee. Employees may request time off from work to observe religious holidays that are not designated college holidays.

- 7) Religious Attire, Dress, Grooming and other Requirements:** Upon request, the college or district will make reasonable efforts to accommodate student and employee attire that is related to their sincerely held religious beliefs and which conflict with any college or district requirement. Religious attire is not cultural or traditional dress; it is a requirement of religious observance. Religious attire may include, but it is not limited to: Hairstyle or beard: Sikh hair and beard, Rastafarian dreadlocks, Jewish peyot; Yarmulkes, turbans, headscarves (hijab), Rastafari headdress; Crucifixes, Star of David or other items of ceremonial dress.
- 8) Quiet Spaces and Prayer, upon request:** The college or district will evaluate and where reasonable and available, provide access to quiet, private spaces for meditation, study and/or prayer consistent with the requirements of this policy.
- 9) Athletic-Related Religious Accommodations:** Upon request, the college or district will make reasonable efforts to accommodate students participating in intercollegiate athletics. The process outlined in this procedure must be followed, with the accommodation request form being delivered to the head coach for the intercollegiate sport as well as the Athletic Director.
- 10) Retaliation Prohibited.** The college or district prohibits retaliation against students and employees requesting a religious accommodation, participating in an approved accommodation or otherwise engaging in protected conduct under this policy. Any person who violates this anti-retaliation provision may be subject to disciplinary and/or corrective action.
- 11) Recordkeeping Requirement.**
- a) Employee religious accommodation requests shall be maintained in the Equal Employment Opportunity / Affirmative Action office and shall adhere to the applicable records retention schedule, as outlined by the Office of Public Stewardship.
 - b) Student religious accommodation requests shall be maintained in the Dean of Student's Office and shall adhere to the applicable records retention schedule, as outlined by the Office of Public Stewardship.

Name (please print)

EmailPlease Identify: Employee Student

Date

Phone**For Students:**

Department Program

College

Class(es) for which accommodation is being sought:**For Employees:**

Employee Title and Position

Supervisor Name

Position

Specify the policy, practice, or schedule for which you are seeking religious accommodation

Specify how such policy, practice, or schedule conflicts with your religious or sincerely held beliefs

Specify the accommodation or modification that you requesting

List any other accommodations that would eliminate the conflict: _____

I verify that my religious beliefs and practices, which prompt this request for a religious accommodation, are sincerely held. I understand that the accommodation requested may not be granted, but that the College will attempt to provide a reasonable accommodation that does not create an undue hardship on the College. A religious accommodation is specific to the dates and specific accommodation requests made. Other (or ongoing holiday or holy day observance) religious accommodation require additional requests.

Date

Signature**Disposition**Approved: Yes No

Specify accommodation provided:

If request denied, specify reason (i.e. undue hardship, unreasonable, other:

For students, the final disposition should be signed by the faculty member granting the accommodation. For employees, the disposition should be signed by the requesting employee's supervisor.

Date

Signature