

HR COMPLIANCE OVERVIEW



Best Practices for Preventing Religious Discrimination Claims

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal equal employment opportunity (EEO) laws, including Title VII of the Civil Rights Act (Title VII). Title VII prohibits discrimination against an individual on the basis of their religion. Failure to comply with Title VII's religious discrimination requirements can have significant repercussions for employers, including costly litigation and claims and poor employee morale.

Some steps employers may take to reduce potential religious discrimination claims include:

- Reviewing and updating relevant workplace policies, including dress and grooming policies and anti-discrimination and anti-harassment policies;
- Fostering an inclusive workplace that allows for religious expression;
- Ensuring consistent and nondiscriminatory selection criteria;
- Documenting employment decisions;
- Training employees and supervisors; and
- Implementing a fair internal complaint process.

LINKS AND RESOURCES

- EEOC religious discrimination [overview](#)
- EEOC [fact sheet](#) on religious discrimination
- EEOC religious discrimination [compliance manual](#)

Important Information

Religious discrimination claims can result in significant financial and reputational penalties to employers. Some best practices for reducing the risk of religious discrimination claims include:

- Reviewing and updating relevant workplace policies;
- Fostering an inclusive workplace;
- Ensuring consistent and nondiscriminatory selection criteria;
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HR COMPLIANCE OVERVIEW



Title VII Religious Discrimination Overview

Title VII prohibits most private employers with **15 or more employees** for each working day in each of 20 or more calendar weeks in the current or preceding calendar year (other than certain religious corporations, associations, educational institutions or societies with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities) from discriminating against individual's on the basis of their religion. Specifically, under Title VII, covered employers are prohibited from doing any of the following on the basis of an individual's religion:

- Discriminating with respect to compensation, terms, conditions or privileges of employment;
- Discharging or failing or refusing to hire;
- Limiting, segregating or classifying the individual in any way that would deprive them of employment opportunities or otherwise adversely affect their status as an employee;
- Printing or publishing or causing to be printed or published any notice or advertisement relating to employment or admission to, or employment in, any program established to provide apprenticeship; or
- Harassing or failing to prevent harassment.

Employers are also prohibited from retaliating against an individual for asserting their rights under the law.

Finally, Title VII also requires employers to provide reasonable accommodations for an individual's sincerely held religious belief; however, these requirements are beyond the scope of this Compliance Overview.

Enforcement and Penalties

Individuals alleging violations of Title VII's religious discrimination requirements may file a charge of discrimination with the EEOC. If there is a local or state law similar to Title VII, individuals may be required to file a charge with the state or local agency that enforces the law, and the EEOC may work with the agency to investigate and resolve the charge. Under Title VII, individuals have **180 days** from the date the alleged violation took place to file a charge with the EEOC. The filing deadline is extended to **300 days** if a state or local agency enforces a state or local law similar to Title VII. Individuals must file an EEOC charge before they may file a lawsuit in federal court.

If a court determines that an employer violated Title VII, the employer may be subject to the following penalties:

- Injunctive relief;
- Back pay;
- Reinstatement or front pay;
- Compensatory and punitive damages; and
- Attorney fees and costs.

Best Practices for Preventing Religious Discrimination Claims

Religious discrimination claims may expose employers to time-consuming and costly administrative and legal proceedings. To mitigate the risk of religious discrimination claims, employers may consider implementing the following best practices. However, adopting these practices will not protect employers from liability for any religious discrimination that does occur, and employers may need to modify these practices to accommodate different workplace needs and circumstances.

Review and Update Workplace Policies

HR COMPLIANCE OVERVIEW



Dress Code and Grooming Policies

While employers may generally implement dress code and grooming policies, employers should ensure that such policies do not disproportionately affect individuals of a certain religion or enforce stereotypes about certain groups. Employers should generally apply neutral language and ensure policies are based on legitimate business requirements and safety concerns.

Sometimes an employee's religious garb or grooming practices may conflict with such policies. In this case, employers must make an exception to their policies to accommodate the religious practice, unless the policy is a safety requirement or such modification would otherwise impose an undue hardship on the employer. In most cases, employers will be able to find a modification to both comply with safety requirements or business needs and allow the employee to practice their religious beliefs. Therefore, employers should carefully consider employee requests to modify such policies due to their religious beliefs before rejecting such requests outright. However, employers are not required to make exceptions for an individual's personal preference with respect to dress or grooming practices (assuming such policies are not otherwise discriminatory) that are not related to an individual's religious beliefs.

Anti-discrimination Policies

Employers may also consider reviewing and updating workplace discrimination policies to include a statement that the employer does not tolerate discrimination on the basis of an individual's religious beliefs.

Anti-harassment Policies

Religious harassment is also strictly prohibited under Title VII. Religious harassment may occur when an employee is required or coerced to abandon, alter or adopt a religious practice as a condition of employment. It may also occur when an employee is subject to unwelcome statements or conduct based on religion. Harassment may include offensive remarks about a person's religious beliefs or practices, or verbal or physical mistreatment that is motivated by an individual's religious beliefs or practices.

Employers are liable for harassment by employees and other third parties if they knew or should have known about the harassment and failed to take appropriate corrective action. Employers are also liable for harassment by supervisors if such harassment results in an adverse employment action (e.g., firing or demotion). Therefore, employers should consider reviewing their anti-harassment policies to include a statement that religious harassment is prohibited and provide examples of what behaviors may constitute unlawful religious harassment.

Foster an Inclusive Workplace

To prevent claims of religious discrimination, employers may take steps to foster an inclusive workplace and promote a culture that values diversity of religious beliefs and expression. One way employers may foster an inclusive workplace is to respect and encourage religious expression in the workplace, to the extent it does not interfere with business operations. Some examples of behaviors employers may allow in the workplace include:

- **Displaying and using religious items or icons**—In general, employees should be allowed to display and use items used for religious purposes or religiously significant icons at their desk (such as religious texts, artwork and jewelry), on their person and at their assigned workspace; and
- **Expressing religion with co-workers**—Employers should generally allow employees to engage in conversations regarding religion with their co-workers, only to the extent that such discussions are not harassing in nature (for example, aggressively attempting to persuade a colleague to convert to a particular religion). Further, employers

HR COMPLIANCE OVERVIEW



should generally not require employee participation or attendance in such discussions (some states have explicitly banned this practice, so employers should carefully review the laws of their state).

However, employers may generally limit the time, place and manner of employee speech to the extent it does not discriminate based on content or viewpoint.

Ensure Consistent and Nondiscriminatory Selection Criteria

Employers may also consider reviewing their existing selection criteria (including selection for hiring, recruiting candidate pools, programs, training and promotions) to ensure they do not discriminate against any individual on the basis of their religion, including any form of religious expression such as religious attire or grooming practices. Employers should ensure that selection criteria are neutral, consistently applied and do not inadvertently disadvantage any particular individual because of their religion. For example, employers may not consider consumer preferences for or against employees of a certain religion or who wear certain religious attire.

Document Employment Decisions

In any employment decision, such as hiring, discharging, promoting, disciplining and modifying compensation, employers should document the clear, legitimate and nondiscriminatory rationales for the decisions. Employers should also ensure that any such rationales are applied consistently to all individuals, regardless of their religious beliefs. Documentation can help employers defend against potential claims of religious discrimination.

Train Employees and Supervisors

Employers should consider administering training for both employees and supervisors regarding their obligations with respect to religious discrimination under Title VII. Employers should consider adding discussions and examples of religious discrimination, harassment and retaliation in training programs. Employers may also consider providing supplementary training for supervisors that focuses on how to handle internal complaints of discrimination or harassment, how to ensure nondiscriminatory and consistent selection practices, and how to recognize and prevent religious bias.

Implement a Fair Internal Complaint Process

Employers should review their internal complaint and investigation procedures to ensure that appropriate protocols are in place for allegations of religious discrimination. As noted above, under Title VII, employers may be liable for harassment by their employees and third parties if the employer knew or should have known of the harassment and failed to take appropriate corrective action. Therefore, it is imperative that employers have an internal complaint process that can address and act on such complaints in a prompt, thorough and equitable manner.

EMPLOYER TAKEAWAYS

To prevent allegations of religious discrimination, employers should take steps to ensure their practices comply with Title VII, do not explicitly or implicitly discriminate against individuals on the basis of their religious beliefs, and embrace religious diversity in the workplace. By proactively mitigating religious discrimination risks, employers can limit their exposure to litigation and investigations while fostering an inclusive workplace.