

EEOC ISSUES NEW RELIGIOUS DISCRIMINATION GUIDELINES FOLLOWING INCREASE IN DISCRIMINATION CHARGES

Last month marked the seventh anniversary of the terrorist attacks on 9/11. There have been numerous repercussions of that terrible day, including many related to the workplace. For example, charges of religious discrimination in the workplace have grown by 67 percent since 2000.

Reacting to this trend, the Equal Employment Opportunity Commission (EEOC) recently updated its compliance guidelines on religious discrimination and published a list of “best practices” for employers and employees confronting religious discrimination. The new guidelines and list of best practices clarify the EEOC’s expectations and provide some helpful guidance to employers.

New Compliance Guidance on Religious Discrimination

Title VII of the Civil Rights Act of 1964 has long prohibited discrimination because of an applicant’s or employee’s religion. Title VII goes even further by requiring employers to reasonably accommodate employees’ sincerely held religious beliefs, observances, and practices unless doing so would be an “undue hardship” on the employer.

Charged with administrative enforcement of Title VII, the EEOC increasingly faces religion-based questions, issues, and claims. Based on those experiences, the Commission recently completed its analysis of common issues or concerns in a new 94-page compliance manual on religious discrimination, which can be viewed at <http://eeoc.gov/policy/docs/religion.html>.

The manual does not change an employer’s responsibilities under Title VII. However, it does clarify the EEOC’s interpretations and expectations about religious discrimination. Among the topics covered by the new guidelines, the EEOC confirmed the following significant points:

- The definition of “religion” is broad and covers traditional, theistic concepts as well as non-theistic – but sincerely held – moral or ethical beliefs as to what is right and wrong.
- The prohibition against religious discrimination covers all aspects of the workplace, including recruitment, hiring, promotion, discipline, scheduling, compensation, and termination.
- Religious harassment is just as illegal as sexual or racial harassment.
- Unlike other Title VII categories, employers must reasonably accommodate an employee whose sincerely held religious belief, practice, or observance conflicts with a work requirement unless doing so creates an “undue hardship.”
- In the context of religious discrimination, “undue hardship” requires a showing that the proposed accommodation poses more than a *de minimis* cost or burden, which is a far lower standard than undue hardship in cases of disability discrimination.

Employer Best Practices

In addition to issuing new guidelines on religious discrimination, the EEOC simultaneously published a list of “best practices” to help employers comply with the law. The list can be accessed at http://eeoc.gov/policy/docs/best_practices_religion.html and offers a variety of suggestions from the EEOC, including:

- Make sure that the employer’s anti-harassment policy properly covers religious harassment.
- Train managers about recognizing and dealing with religious discrimination or harassment.
- Explore various options to reasonably accommodate religious beliefs or practices.
- Consider offering flexible schedules or a system of voluntary substitutes or swaps to reduce conflicts between religious practices and work schedules.

Conclusion

As charges of religious discrimination continue to increase, the EEOC’s new guidelines and best practices offer additional resources to help employers guard against the tangible and intangible costs of religious discrimination or harassment in the workplace. Employers who have questions about dealing with specific religious discrimination issues in their workplace should contact their labor and employment attorney.

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