

Avoiding Holiday Pitfalls in the Workplace: Religious Accommodations

Labor & Employment Law Update

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The holiday season is fast approaching. What should be a joyful time filled with family, friends and festivities is all too often the opposite for employers: a season filled with legal and logistical challenges with their employees.

One of these potential challenges is the employer's legal obligation to accommodate employees' sincerely-held religious beliefs. Title VII of the Civil Rights Act of 1964, as well as various state legislation such as the Illinois Human Rights Act and the Missouri Human Rights Act, prohibits employment discrimination based on religion. Generally speaking, this means that employers must reasonably accommodate an employee's sincerely held religious beliefs unless doing so would impose an undue hardship on the employer.

Defining "Sincerely Held Beliefs"

So what is a "sincerely held belief" and what constitutes a "reasonable accommodation?" Unfortunately, the answer can often be as clear as eggnog.

For purposes of Title VII and state legislation, the term "religion" is defined broadly. It includes "all aspects of religious observance and practice, as well as belief," which courts and the EEOC have interpreted to include not only traditional religions like Christianity, Judaism or Islam, but also religions that are "new, uncommon, nor part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical and unreasonable to others."

In other words, so long as the employee has articulated a belief in a religion concerning "ultimate ideas" about "life, purpose and death," courts will find that the belief is religious meriting protection. And employers should note that this does not only apply to traditional practices of religion; rather, it can also extend to religious dress or grooming based on religious beliefs or practices.

So that employee who seeks an accommodation based on her practice of Satanism? If she has a sincerely held belief in it, she must be reasonably accommodated. Whether a belief is “sincerely held” can be a tough question to resolve, especially when an employer has suspicion that the request for accommodation is not made in good faith, or when the employee has behaved in the past in a manner markedly different from the professed belief. However, employers should be cautious in making such a determination and not assume that a belief is insincere just because some of the employee’s practices deviate from commonly followed tenets of the religion.

What makes a hardship for an employer “undue?”

Basically, a hardship is undue if it can be shown that the accommodation would impose “more than a *de minimis* cost” on the operation of the employer’s business. While this will necessarily be a case-by-case determination, employers should consider the type of workplace involved, the nature of the employee’s duties, the identifiable costs of the accommodation in relation to the employer’s size and the effect the accommodation will have on other employees.

If a religious practice will conflict with security or safety requirements, it likely will not need to be accommodated, unless the security or safety requirement is a unilaterally-imposed requirement by the employer and it could be reasonably modified or eliminated.

For far too many employers these days, the holidays bring about more headaches than anything. Staying up to date on issues, such as religious accommodation requirements, can help you avoid the holiday blues.

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