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DRESS AND GROOMING STANDARDS FOR EMPLOYEES

Many employers desire to impose dress and grooming standards for their employees to ensure their employees present a clean and professional image to customers.

Generally, an employer has the right to establish standards for the personal appearance of its employees, as long as the standards do not discriminate on the basis of sex, religion or race, and the standards are applied in a nondiscriminatory manner.

Although this appears to be easy, it is sometimes difficult to apply in practice. For example, employers can impose neutral hairstyle rules (such as a rule that hair be neat, clean and well groomed) only so long as the rules respect racial difference in hair textures and the rules are applied evenhandedly. Thus, it has been held that a company cannot prevent African American women from wearing their hair in a natural, unpermed "Afro" style.

An employer can require employees to be clean-shaven. However, the law requires an employer to make reasonable exceptions for men with pseudofolliculitis barbae, an inflammatory skin condition that occurs primarily in Black men and that is caused by shaving. If an employer wants to enforce this policy, it would have to prove that the policy is job-related and consistent with business necessity.

Dress and grooming codes cannot discriminate on the basis of religion. For example, Red Robin Gourmet Burgers, Inc. ("Red Robin") was required to pay \$150,000 in 2005 to settle a religious discrimination lawsuit filed by the U.S. Equal Opportunity Commission (the "EEOC"). In this case, Red Robin refused to offer Mr. Rangel, a server in the restaurant, any accommodation for his Kemetic religion, an ancient Egyptian faith. As part of his religion, the employee went through a rite of passage in which he received religious inscriptions in the form of tattoos, which encircled his wrist. Mr. Rangel's religious beliefs made it a sin to intentionally conceal the religious inscriptions. Red Robin had a dress code which prohibited employees from having visible tattoos. Although Mr. Rangel had the tattoos on his wrist when he was hired and worked for Red Robin for about six months without a complaint from customers or co-workers, he was fired when a new supervisor saw the tattoos. The court rejected Red Robin's argument that any exceptions to its dress code would undermine its "wholesome image" and held that Red Robin was required to support its undue hardship claim with more than hypothetical hardships based on unproven assumptions.

In another case, Alamo Car Rental was sued by the EEOC for religious discrimination because it denied an employee permission to cover her head with a scarf during the holy month of Ramadan, consistent with her religious beliefs.

An employer's dress code may be different for men and women. For example, a policy requiring men but not women to wear ties is permitted. However, in California, it is generally an unlawful employment practice to prohibit women from wearing pants.

When adopting workplace grooming and dress standards, an employer must carefully consider the need for such standards and make sure that the standards do not discriminate against employees on the basis of sex, race or religion.

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