

MANAGER TRAINING

Are Your Employees At Risk of Losing Their Religion In Your Workplace?



Title VII and many state anti-discrimination laws require that employers provide “reasonable accommodation” for an employee’s “sincerely held” religious beliefs. Unless providing accommodation would cause H.O.T.M. Casino an “undue hardship,” all of the employees’ requests for accommodation because of their religion must be accommodated.

What is an undue hardship?

An undue hardship is defined as “more than a minimal burden on the operation of the business.” This would include violating a seniority system; causing a lack of necessary staffing; jeopardizing security or health; or costing the employer more than a minimal amount. Customer preference or co-worker disgruntlement are not considered “undue hardships.” Whether or not something is an undue hardship is determined on a case-by-case basis.

Jediism cannot be a “real religion,” so H.O.T.M. Casino is not required to accommodate, right?

No, that is not correct.

The idea of religion is defined incredibly broadly under Title VII. It includes traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism, but it also includes religious beliefs that are new, uncommon, not part of a formal church or sect, only held by a small number of people or that seem illogical or unreasonable to others. In addition, an employee’s belief or practice can be “religious” under Title VII even if the employee is affiliated with a religious group that does not espouse or recognize that individual’s belief or practice, or if few (or even if no) other people adhere to it.

Therefore, regardless of whether or not H.O.T.M. Casino believes Jediism is a real religion, Stanley would need to discuss Mara’s request for accommodation with Mara and would likely need to accommodate her request – unless doing so would cause an undue hardship.

With respect to Mara’s actual request, the EEOC has made it clear that making schedule modifications to accommodate an employee’s religious beliefs would generally be considered a reasonable accommodation. This can be accomplished by allowing flexible arrival and departure times, floating or optional holidays, flexible work breaks, use of lunch time in exchange for early departure, staggered work hours, and other means to enable an employee to make up time lost due to the observance of religious practices.

In addition, while requiring employees to *involuntarily* “swap shifts” to accommodate this request would pose an undue hardship, the reasonable accommodation requirement can often be satisfied without undue hardship where a volunteer with substantially similar qualifications is available to cover, either for a single absence or for an extended period of time. The employer’s obligation is to make a good faith effort to allow voluntary substitutions and shift swaps, and not to discourage employees from substituting for one another or trading shifts to accommodate a religious conflict.

Hannah’s appearance during the interview is inconsistent with her claimed religious belief, so H.O.T.M. Casino is not required to accommodate, right?

No, that is not correct.

The EEOC has explained that an employer cannot automatically assume that an employee’s religious belief is insincere simply because their behavior deviates from commonly-followed tenets of the religion.

Under Title VII, employers are required to provide an exception to their personal appearance policies where those policies conflict with an employee’s sincerely held religious beliefs or practices. Religious grooming practices may relate, for example, to shaving or hair length. Religious dress may include clothes, head or face coverings, jewelry, or other items.

With respect to Hannah, H.O.T.M. Casino is questioning the sincerity of Hannah’s religious belief because she did not wear the hijab to the interview. However, Hannah’s “inconsistent” behavior is not relevant in determining whether an accommodation is warranted. Therefore, the Casino must allow Hannah to wear the hijab at work, even if this would require a modification to the Casino’s dress code. In addition, Hannah’s “inconsistent behavior” cannot be viewed as “lying during the interview” and the Casino would not be permitted to withdraw Hannah’s offer of employment.

Allowing employees to take a break for prayer is fine, but H.O.T.M. Casino is not required to provide them a place to pray, right?

No, that is not correct.

The EEOC has explained that an employer can be required to allow employees use of a quiet area for prayer during break time unless such use would pose an undue hardship. This is especially true if the employer allows employees to use the facilities in question for non-religious activities not related to work. Employers are not, however, required to give the employee’s use of a facility for religious reasons preference over use of the facility for a business purpose.

With respect to Adam, Jacob, Joseph, and David’s request, the Casino would likely need to accommodate their request – unless doing so would cause an undue hardship.

Conclusion

An employer’s obligation to accommodate an employee’s religious beliefs can usually be satisfied by a simple modification to a workplace policy or procedure. The first step is to talk with your employee to determine how you can accommodate their beliefs. Employers are permitted to ask for additional information if reasonably necessary to understand the religious requirements and acceptable accommodations.

Before refusing to provide a religious accommodation, talk to your employee about the requested accommodation and explore other possible accommodations with your employee. As always, be sure to document your interactions!

Religious accommodation issues are becoming increasingly prevalent in today’s workforce. If you are faced with an accommodation request and are uncertain how to address it or think it is an undue hardship, talk to an HR professional or employment law attorney before making a final decision. The phone call could help you prevent the risk of a costly claim.