

# Faith in the Workplace

The First Amendment and Title VII of the Civil Rights Act of 1964 provide protection for employees seeking to practice their faith without undue interference from their employers. Employees do not lose their right to free speech or the free exercise of religion by virtue of their employment. Indeed, no law requires employees to bury their religious faith or prohibits their responsible religious expression while at the workplace. Furthermore, employees enjoy the ability to practice their faith without retribution, the right to request their employer to make a reasonable accommodation of their religious practices, and protection from religious harassment by other employees or their supervisors.

## 1. Your Employer Cannot Discriminate Against You Based on Your Religion.

The Civil Rights Act of 1964 provides that “it shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual’s . . . religion . . . .”<sup>1</sup> Under this law, your employer cannot take any negative action against you because you are religious.

## 2. Your Employer Must Accommodate Your Religious Faith.

Additionally, Title VII of the Civil Rights Act requires employers to accommodate their employees’ religious practices. In order to fall under the protection of Title VII, an employee must: (1) hold a sincere religious belief that conflicts with an employment requirement; (2) inform the employer about the conflict; and (3) be discharged, disciplined, or subjected to discriminatory treatment for failure to comply with the conflicting employment requirement.<sup>2</sup>

If your religious beliefs require you to share your faith with those around you or abstain from working certain days of the week, you are free to responsibly practice your beliefs without discrimination by your employer. If your employer has a policy that prohibits such religious practices, you should inform your employer of your sincerely held religious belief that conflicts with the policy. An employer must take steps to reasonably accommodate your religious needs.<sup>3</sup>

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<sup>1</sup> Civil Rights Act of 1964, § 703 (a)(1), 42 U.S.C. § 2000e-2(a)(1).

<sup>2</sup> *Dixon v. The Hallmark Cos., Inc.*, 627 F.3d 849, 855 (11th Cir. 2010); *Heller v. EBB Auto Co.*, 8 F.3d 1433, 1438 (9<sup>th</sup> Cir. 1993); *Smith v. Pyro Mining*, 827 F.2d 1081, 1085 (6th Cir. 1987); *Turpen v. Missouri-Kansas-Texas Railroad Co.*, 736 F.2d 1022, 1026 (5th Cir. 1984).

<sup>3</sup> Civil Rights Act of 1964, § 701(j), 42 U.S.C § 2000e(j); *Sanchez-Rodriguez v. AT & T Mobility Puerto Rico, Inc.*, 673 F.3d 1, 12 (1st Cir. 2012).

However, your employer is not required to accommodate your religious needs if doing so would be an undue hardship.<sup>4</sup> Undue hardship must be more than a mere inconvenience. Furthermore, employers may not attempt to hide behind “neutral rules” but must actively seek to accommodate an employee’s religious needs.<sup>5</sup> Because every situation is unique, it is important to contact Liberty Institute regarding the type of accommodation you should expect from your employer.

### **3. You Have the Right to Be Free of Harassment From Coworkers and Supervisors Because of Your Religious Beliefs.**

Not only must your employer accommodate your religious needs, your employer must also take steps to protect you from harassment for your religious beliefs and practices. First, as previously noted, your employer must take steps to accommodate your religious needs, including protecting you from harassment by coworkers and supervisors because of your religion. Second, your employer must also protect you from a hostile work environment.<sup>6</sup>

The Supreme Court described a hostile work environment as one in which “the workplace is permeated with ‘discriminatory intimidation, ridicule, and insult,’ that is ‘sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.’”<sup>7</sup> Not only must you believe the environment is abusive, it must also be objectively abusive, such that a reasonable person in your position would also find it abusive.<sup>8</sup> This requires more than “the run-of-the-mill boorish, juvenile, or annoying behavior that is not uncommon in American workplaces”<sup>9</sup> or “simple teasing, offhand comments, and isolated incidents (unless extremely serious).”<sup>10</sup>

Because this is a fact-intensive determination and all the circumstances must be considered, no precise test is available to determine whether an environment is “hostile” or

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<sup>4</sup> *Trans World Airlines v. Hardison*, 432 U.S. 63, 73-74 (1977); 29 C.F.R. § 1605.2(c); *Cloutier v. Costco Wholesale Corp.*, 390 F.3d 126, 137 (1st Cir. 2004); *Daniels v. City of Arlington*, 246 F.3d 500 (5th Cir. 2001); *Wilson v. U.S. West Commc’ns*, 58 F.3d 1337, 1342 n.3 (8th Cir.1995).

<sup>5</sup> *Griggs v. Duke Power Co.*, 401 U.S. 424, 431 (1971) (“The Act proscribes not only overt discrimination, but also practices that are fair in form, but discriminatory in operation”); *Riley v. Bendix Corp.*, 464 F.2d 1113, 1115 (5th Cir. 1972).

<sup>6</sup> *Nat’l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 116 (2002).

<sup>7</sup> *Id.* (quoting *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993)); *Morris v. City of Colo. Springs*, 666 F.3d 654, 664 (10th Cir. 2012).

<sup>8</sup> *Oncale v. Sundowner Offshore Servs.*, 523 U.S. 75 (1998); *Morris v. City of Colo. Springs*, 666 F.3d 654, 664 (10th Cir. 2012); *EEOC v. Sunbelt Rentals, Inc.*, 521 F.3d 306, 315 (4th Cir. 2008).

<sup>9</sup> *Morris v. City of Colo. Springs*, 666 F.3d 654, 664 (10th Cir. 2012).

<sup>10</sup> *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998).

“abusive.”<sup>11</sup> Therefore, please contact Liberty Institute to determine whether your work environment is sufficiently abusive to constitute a hostile work environment.

#### **4. You Have a Right to Hold Employee Prayer Groups or Bible Studies in the Workplace.**

If an employer allows other employees to meet during non-work time in employer facilities for various social purposes, such as meeting for social organizations or conversations on any topic, then the employer is prohibited from barring the use of employer facilities for employee-only prayer groups during non-work time.<sup>12</sup> However, if the employer policy prohibits all “non-business related activity” in a particular room and does not use the room for multiple purposes, it can probably exclude employee prayer groups from that room.<sup>13</sup>

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<sup>11</sup> *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 22-23 (1993); *Hernandez v. Valley View Hosp. Ass'n*, 684 F.3d 950, 957-58 (10th Cir. 2012).

<sup>12</sup> *Compare Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001) (where school opens facilities for “variety of purposes” then it cannot prohibit use by a person or organization for religious purposes), *with Berry v. Dep't of Soc. Servs.*, 447 F.3d 642, 654 (9th Cir.2006) (where Department of Social Services does not open particular room for “multiple purposes” but only for business-related purposes, it can prohibit its use for employee prayer meetings).

<sup>13</sup> *Berry v. Dep't of Soc. Servs.*, 447 F.3d 642, 654 (9th Cir.2006).