

The Other Duty to Accommodate: Employees' Religious Beliefs, Observances & Practices

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Written by Greg Bennett

Most employers are familiar with federal and state laws requiring them to reasonably accommodate an applicant or employee with a disability, unless the accommodation would result in an undue hardship. But federal law, and certain state counterparts, similarly require employers to make accommodations in other situations, such as in response to an employee's religious beliefs, observances and practices, when requested, unless it would impose an undue hardship. Some recent cases highlight the unique circumstances in which this duty might arise.

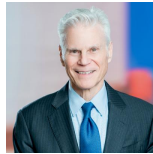
On November 19th, the U.S. Court of Appeals for the Second Circuit reversed a district court's ruling that denied the Equal Employment Opportunity Commission's (EEOC) application to enforce a subpoena against United Parcel Service, Inc. (UPS). In *EEOC v. United Parcel Svc., Inc.*, a UPS employee sought an accommodation from enforcing UPS' rule that prohibited him from having a beard because of his Muslim religion. Additionally, an applicant claimed he was not hired because of the same policy. Both of the individuals filed charges with the EEOC alleging that UPS' rule discriminated against them in violation of Title VII because of their Muslim religion. One of the complainants further alleged that UPS had a pattern or practice of refusing religious accommodations. Consequently, the EEOC sought nationwide information from UPS related to its rule prohibiting beards. The Second Circuit held that the EEOC was entitled to the nationwide information, in part, because it was trying to determine whether UPS has a pattern or practice of refusing religious accommodations.

Another national employer recently had to confront a similar issue. On October 23rd, The Home Depot (HD) terminated a cashier for violating its dress code because he wore a button that said "One nation under God,

indivisible.” HD claimed that it had a blanket policy prohibiting all employees from wearing any pins or badges on their aprons that were not company-provided. The employee, through his counsel, perceives this as religious discrimination and **plans on filing a discrimination charge against HD.**

As these cases demonstrate, employers must exercise caution before taking any adverse action in response to any matter that is related to an employee’s religion, lest they fall into one of the legal pitfalls of Title VII or related state laws.

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