



U.S. Equal Employment Opportunity Commission

Questions and Answers for Employers: Responsibilities Concerning the Employment of Individuals Who Are, or Are Perceived to Be, Muslim or Middle Eastern

The attacks in Paris and San Bernardino, California, in late 2015 and other recent world events have heightened concerns about workplace protections for all employees, including individuals who are, or are perceived to be, Muslim or Middle Eastern. Discrimination in the workplace based on religion, national origin, or race is strictly prohibited by federal and state laws.

Reactions in the workplace to world events demand increased efforts by employers to prevent discrimination. This document answers questions about what steps an employer can take to help meet these responsibilities.

The Equal Employment Opportunity Commission (EEOC) has also prepared a companion document that answers questions about employee rights, which can be found at <http://www.eeoc.gov/eeoc/publications/muslim-middle-eastern-employees.cfm>.

TITLE VII'S PROHIBITIONS AGAINST DISCRIMINATION

Title VII of the Civil Rights Act of 1964 prohibits workplace discrimination based on religion, ethnicity, country of origin, race, or color. Employers are prohibited from discriminating in all aspects of employment, including hiring, job assignments, pay, and termination. In addition, employers must reasonably accommodate religious practices or dress, unless it is an undue hardship. Employers also are responsible for preventing or promptly correcting illegal workplace harassment. Finally, retaliation against someone who complains about a discriminatory practice, files a charge, or assists in an investigation of discrimination violates Title VII.

Hiring and Other Employment Decisions

1) Aliyyah, a Muslim woman who wears a hijab (or head covering), applies for a position as a cashier at XYZ Discount Goods. An XYZ assistant store manager fears that Aliyyah's religious attire will make customers uncomfortable. What should XYZ do?

XYZ should not deny Aliyyah the job due to customer preferences about religious attire. This would be the same as refusing to hire Aliyyah because she is Muslim. It would be against the law. It also would be unlawful for XYZ to assign Aliyyah to a position with no interaction with customers because she wears a hijab.

XYZ Discount Goods should consider proactive measures for preventing discrimination in hiring. XYZ could remind its managers and employees that discrimination based on religion or national origin is not tolerated by the company in any aspect of employment, including hiring. Employers may decide to train or retrain all employees who conduct hiring and issue or reissue hiring standards that emphasize objective, job-related criteria.

2) Susan is an experienced clerical worker who wears a hijab in conformance with her Muslim beliefs. XYZ Temps places Susan in a long-term assignment with one of its clients. The client contacts XYZ and requests that it direct Susan to remove her hijab while working at the front desk, or that it assign another person to Susan's position. According to the client, Susan's religious attire violates its dress code and presents the "wrong image." Should XYZ comply with its client's request?

No. XYZ Temps may not comply with this client request without violating Title VII, and it should explain its equal employment opportunity (EEO) responsibilities to the client. If the client does not withdraw the request, thus violating its own EEO obligations, XYZ should place Susan in another assignment at the same rate of pay and decline to assign another worker to the client unless the client changes its practices so that discrimination will not recur.

Harassment

In the aftermath of major attacks, workplace conversations and interactions related to these events may occur. In an atmosphere of heightened concern and apprehension, some employees may be more likely

to make unguarded remarks, and others may be more afraid of harassment. The EEOC encourages employers to be proactive in such situations and to publicize (or re-publicize) their anti-harassment and anti-retaliation policies and procedures. The EEOC also encourages employees to review and become familiar with these policies and procedures.

3) Muhammad, who is Arab American, works for XYZ Motors, a large used car business. Muhammad meets with his manager and complains that Jeff, one of his coworkers, regularly calls him names like "the local terrorist," and "ISIS." How should their manager respond?

Managers and supervisors who learn about objectionable workplace conduct based on religion or national origin are responsible for promptly taking steps to correct the conduct by anyone under their control. If, after an investigation, XYZ Motors ultimately determines that Jeff has harassed Muhammad, it should take disciplinary action against Jeff that is significant enough to ensure that the harassment does not continue.

Workplace harassment and its costs are often preventable. Clear and effective policies prohibiting ethnic and religious slurs, or other related offensive conduct, are important to prevent harassment. Confidential complaint mechanisms for promptly reporting harassment are critical, and these policies should be written to encourage people to come forward. When harassment is reported, the focus should be on action to end the harassment and correct its effects on the complaining employee. Corrective action could include counseling, a warning, or more severe discipline for the harasser.

4) John is Muslim. In the last few months, a coworker regularly seeks him out for long discussions about Islam, ISIS, and terrorism. In a routine check-in with his supervisor, John tells the supervisor about these discussions and says that he is increasingly uncomfortable with them. John expresses concern that the conversations may escalate or spark religious hostility. What should the supervisor do?

Even if a situation does not amount to illegal harassment, there are still steps an employer can take to prevent the conduct from escalating.

The most effective approach may be simply for John to explain to his coworker that these discussions are actually unwelcome and to ask him to stop. On the other hand, if John is uncomfortable talking directly to the coworker, or if John has already asked him to stop but he has persisted, the supervisor or other appropriate manager should become involved in accordance with company policy and communicate with the coworker.

If there is no improvement in the coworker's conduct in response to a direct request, or if the harassment escalates, the employer may choose to take appropriate disciplinary action. The employer also may choose to reissue workplace policies, or provide training about harassment based on religion and other protected bases.

Religious Accommodation

5) Three of the 10 Muslim employees in XYZ's 30-person template design division approach their supervisor and ask for permission to use a conference room in an adjacent building for prayer. Until making the request, those employees prayed at their work stations. What should XYZ do?

XYZ should work closely with the employees to find an appropriate accommodation that meets their religious needs without causing an undue hardship for XYZ. Whether a reasonable accommodation would impose undue hardship and therefore not be required depends on the particular workplace and the requested accommodation.

If the conference room is needed for business purposes, XYZ can deny its use for religious purposes. However, allowing the employees to use the conference room for prayers may not impose an undue hardship on XYZ in many circumstances.

Employees may be able to say prayers during normal work breaks so that ordinary operations are not disrupted. If going to another building for prayer takes longer than the allotted break periods, employees still can be accommodated if flexible scheduling is feasible. XYZ may require employees to make up any work time missed for religious observance.

In evaluating undue hardship, XYZ should consider only whether it can accommodate the three employees who made the request. If XYZ can accommodate three employees, it should do so. Because individual religious practices vary among members of the same religion, XYZ should not deny the requested accommodation based on speculation that the other Muslim employees will seek the same accommodation. If other employees subsequently request the same accommodation and granting it to all of the requesters would cause undue hardship, XYZ can make an appropriate adjustment at that time. For example, if accommodating five employees would not cause an undue hardship but accommodating six would, the sixth request could be denied.

Like employees of other religions, Muslim employees may need accommodations such as time off for religious holidays or exceptions to dress and grooming codes.

Background Investigations

6) Anwar, whose family is from Egypt, applies for a position as a security guard with XYZ Corp., which contracts to provide security services at government office buildings. Can XYZ require Anwar to undergo a background investigation before he is hired?

XYZ may require Anwar to undergo the same pre-employment security checks that apply to other applicants for the same position. As with its other employment practices, XYZ may not perform background investigations or other screening procedures in a discriminatory manner.

In addition, XYZ may require a security clearance pursuant to a federal statute or Executive Order. Security clearance determinations for positions subject to national security requirements under a federal statute or an Executive Order are not subject to review under the equal employment opportunity statutes.

For Additional Information

The EEOC is available to provide you with useful information on how to address workplace problems relating to discrimination based on religion, national origin, race, or color. We conduct various types of [training](#), and we can help you find a format that is right for you.

Small businesses are faced with unique challenges in promoting effective workplace policies that prevent discrimination. Small Business Liaisons are located in each of our District, Local, and Area offices to assist you in compliance with EEO laws.

For technical assistance or to file a complaint of employment discrimination, contact EEOC at 800-669-4000 (voice) or 800-669-6820 (TTY).

For additional information about religious discrimination, visit

- *EEOC Compliance Manual on Religious Discrimination:*
<http://www.eeoc.gov/policy/docs/religion.html>
- *Religious Garb and Grooming in the Workplace: Rights and Responsibilities:*
http://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm
- *Best Practices for Eradicating Religious Discrimination in the Workplace:*
http://www.eeoc.gov/policy/docs/best_practices_religion.html

For additional information on harassment, visit

- *Policy Guidance Documents Related to Harassment:*
http://www.eeoc.gov/laws/practices/harassment_guidance.cfm
- *EEOC Harassment Taskforce:*
http://www.eeoc.gov/eeoc/task_force/harassment/