Dress Code – Creating a Policy



Regardless of industry, almost all businesses with employees have some form of a dress code policy.

When creating a dress code policy for your business, apply your policy equally to all employees. Unfair dress code policies are considered discriminatory and can be grounds for a lawsuit.

As a condition of employment, employers have the right to establish and enforce a dress code policy. Because federal and state laws generally don't govern these policies, employers have a lot of flexibility in creating an appropriate dress code for their environment. As workplace dress codes have relaxed over the past few decades, businesses have become more lenient on what attire is allowed. Typical dress code policies include a company philosophy, a list of appropriate business attire for both men and women, when business attire is required, what's considered prohibited attire, how the policy will be enforced, and any additional stipulations.

Dress code policies must treat all employees of the same type equally. Anti-discrimination laws affect employment issues such as a dress code policy. The Equal Employment Opportunity Commission enforces laws that prohibit employers from all kinds of discrimination against their employees. The EEOC upholds laws such as Title VII of the Civil Rights Act of 1964 that prohibits discrimination and ensures that employers must make reasonable accommodations for employees that request it based on personal issues such as religion, race, and gender.

Avoid implementing policies that would single out a particular group. The most common dress code discrimination claims arise from the following areas:

Gender: Business owners are allowed to establish different policies for men and women as long as they do not purposely discriminate on one group based on gender. As long as each policy follows traditional social norms and incorporates generally accepted attire for each group, your business should fall within its rights of enforcement.

- *Example of an Appropriate Policy Requirement:* Requiring men to wear ties but not women.
- *Example of an Inappropriate Policy Requirement:* Allowing men to wear jeans but not women.

For more information, check out EEOC’s guide to Sex -Based Discrimination.

Religion: Federal and state discrimination laws require employers to provide special

accommodations to employees who request them based on their religious beliefs. Employers must make efforts to provide accommodations for all employees unless that accommodation would result in an undue hardship to their business. To avoid potential religious discrimination suits, talk to your employees and try your best to make exceptions to policies that would enable them to continue working without hurting your business.

- *Example of a Reasonable Policy Accommodation:* Your policy prohibits head-wear but you make an exception for an employee to wear a yarmulke in the office. This exception does not pose an undue hardship to your business.
- *Example of an Unreasonable Policy Accommodation:* Your policy prohibits loose religious garments that could get caught in machinery and pose a safety risk. An employee who works with heavy machinery requests to wear a turban based on their religious beliefs. If accommodating this request poses a safety threat, it would create an undue hardship on your business.

For more information, check out EEOC’s guide to Religious Discrimination.

Race: Although racially-based dress code discrimination suits generally do not hold up in court, it’s important to treat all races equally in regards to your dress code. If a dress code policy has an unequal impact of a particular race as opposed to another, this would be a form or racial discrimination.

- *Example of a Potential Racial Discriminatory Policy:* Your policy requires men to be clean shaven however according to the EEOC, a “‘no-beard’ employment policy that applies to all workers without regard to race may still be unlawful if it is not job-related and has a negative impact on the employment of African-American men (who have a predisposition to a skin condition that causes severe shaving bumps).”

For more information, check out EEOC’s guide to Race/Color Discrimination.

Be practical when creating an appropriate dress code policy for your work environment. Consider what attire would be appropriate for the types of jobs that your employees will be carrying out. If your dress code policy is not congruent with your industry, you’ll open yourself up for discord in the office and potentially face discrimination claims.

Be both consistent and understanding when enforcing your dress code policy. It’s important to stick to the policy you’ve created. If the boss takes it seriously, so will your employees. However, remember to be understanding of employee situations and needs. If an employee makes a special request based on their religious beliefs or another personal reason, first try to handle the issue internally before resorting to EEOC involvement.