

RELIGIOUS DISCRIMINATION AND ACCOMMODATIONS AT WORK

FACT SHEET



Civil Rights
Department
STATE OF CALIFORNIA

OVERVIEW

California law protects job applicants, employees, interns, and volunteers from discrimination and harassment based on their actual religious creed, or the religious creed someone thinks they have. It also protects people from discrimination and harassment based on their association with people who have, or are perceived to have, a religious creed, like a friend, family member, or colleague.

Discrimination means treating a person unfairly because of their religious creed. Harassment means severe or pervasive unwelcome words or actions directed at someone because of their religious creed.

Legal protections against discrimination apply to private employers with five or more employees, as well as public employers (state and local). The protections against harassment apply to all employers. Non-profit religious institutions are generally not considered employers under California anti-discrimination law.

DEFINITION OF RELIGIOUS CREED AND RELIGIOUS BELIEFS

Religious creed includes all aspects of religious beliefs, observances of holy days, practices, dress, and grooming. Dress and grooming include:

- Religious clothing
- Head or face coverings
- Jewelry
- Artifacts
- Head, facial and body hair
- Any other related practice

The law protects a person's religion and religious practices if the person sincerely holds the beliefs, and their beliefs occupy a place of importance in their life¹. Religion includes traditionally recognized religions, as well as beliefs, observances, or practices that an employee sincerely holds and are parallel to traditionally recognized religions.

JOB APPLICATIONS AND INTERVIEWS

Employers are not allowed to discriminate against job applicants based on their religious creed. This includes refusing to hire someone because of their religion.

Employers cannot ask questions on job applications or during interviews that would prompt or force an applicant to reveal their religion. Employers may ask about an applicant's availability to work, but employers must be clear that the applicant is not required to give information about their religion. For example, an employer can ask: "Other than time off for reasons related to your religion, are there days or times when you are unavailable to work?"

Technology used to screen applications based on availability to work may have a negative impact on applicants with certain religious beliefs. Employers may still use screening technology to exclude applicants based on their availability to work, but only if it is job-related, necessary for the business, and the technology allows applicants to request accommodations based on their religious beliefs.

RELIGIOUS PROTECTIONS AT WORK

California law protects employees from discrimination and harassment based on their

1 Cal. Code Regs., tit. 2, § 11060

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religious creed and from retaliation for asserting these protections. Employers are not allowed to use employees' religious creeds to make decisions about promotions, raises, benefits, or firing.

Examples of unlawful treatment:

- Passing over a qualified employee for a promotion based on religious stereotypes that members of The Church of Jesus Christ of Latter-Day Saints have large families and may request parental leave
- Mocking an employee by making loud noises to disrupt them when the employee is engaged in silent prayer in the breakroom
- Changing an employee's shift to an undesirable time because the employee complains that music played during work hours goes against his faith as a Jehovah's Witness
- Refusing to consider an accommodation request for a shift change so an employee with Native American spiritual beliefs can attend a ritual ceremony
- Refusing to let a Jewish person wear a Star of David necklace when other jewelry is allowed

RELIGIOUS ACCOMMODATIONS

Religious accommodations help eliminate conflicts between an applicant or employee's religious practices and the job requirements.

Examples of accommodations:

- Scheduling a job interview to avoid conflict with a Muslim applicant's prayer time
- Allowing a Pentecostal Christian employee to wear a long skirt instead of pants, as part of her work uniform
- Scheduling a Seventh-day Adventist employee's day off on Saturday so they can observe their holy day
- Allowing an atheist employee to join staff meetings late without penalty, so they don't

have to participate in the religious prayer offered at the beginning of staff meetings

Employers may only deny an accommodation if it creates an undue hardship for the employer.

Factors an employer can consider include:

- Size of the business establishment or facility
- Overall size of the employer
- Type of business operation
- Nature and cost of the requested accommodation, considering the employer's resources
- Reasonable notice to the employer of the need for an accommodation
- Any available reasonable alternative ways to accommodate the request

Employers who show that an accommodation creates an undue hardship must continue communicating with the job applicant or employee to explore whether there are other accommodations that meet the employee's needs without an undue hardship for the employer.

Employers cannot ignore or unreasonably delay responding to requests to avoid granting requests for religious accommodations, or to persuade employees to find another job. If a person experiences unfair treatment after requesting a religious accommodation, this may be unlawful retaliation, regardless of whether the accommodation is granted or denied.

TO FILE A COMPLAINT

Civil Rights Department

calcivilrights.ca.gov/complaintprocess

Toll Free: 800.884.1684

Have a disability that requires a reasonable accommodation? CRD can assist you with your complaint.

For translations of this guidance visit calcivilrights.ca.gov/posters/employment