



Let Me Take A Look At That Tattoo

Insights

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There is no question that tattoos, body piercings, and other forms of self-expression have become commonplace in modern society, especially among the Gen X and Gen Y demographic. As a result, employers have to deal with these issues in the workplace, even in companies that traditionally have had conservative dress and appearance expectations such as high-end restaurants and luxury hotels.

Although we as a society seem to have become much more accepting of individuals' choices for self-expression, we don't all necessarily agree that this is good for business. So the question remains, can an employer curb the limits of its employees' self-expression in the form of tattoos, piercings, extremes in dress, jewelry, and hairstyles at work without getting sued? The answer is yes!

In fact, employers have a lot of control over the dress and appearance of their employees. The key is to carefully draft and consistently enforce a reasonable dress code. There is no legal requirement for a dress or appearance policy. But, having such a policy in place before a tattoo, nose ring, haircut, or head covering becomes an issue allows you to defend claims of discrimination. More importantly, a well-written policy can help protect your property's public image, promote a productive work environment, comply with health and safety standards, and even prevent claims of unlawful harassment.

A Good-Looking Policy

When drafting and implementing an appearance policy, the key to its success is to ensure that the policy is based on justifiable business reasons and does not have a disproportionate effect on particular segments of the workforce, particularly those in a protected category. For example, requiring female employees to wear uniforms or smocks, contact lenses, or sexually provocative clothing and not requiring the same of male employees has been found to violate federal law, specifically, Title VII of the Civil Rights Act of 1964. Additionally, as with all employment policies, you must ensure that such policies are applied consistently and fairly, without regard to an applicant's or employee's race, sex, gender, national origin, religion, color, disability, age, or any other protected status.

A well-drafted appearance policy should address all aspects of employee dress and appearance and should clearly explain that the company's professional atmosphere is maintained, in part, by the image it presents to its guests and customers. Thus, the policy should state that all employees are expected to present a neat and well-groomed appearance. The policy should be clear that

expected to present a neat and well-groomed appearance. The policy should be clear that extremes in dress, including flashy, skimpy or revealing outfits and other non-businesslike clothing, must be avoided.

It's also a good idea to list examples of specific clothing items that are not acceptable at work, such as, jeans, t-shirts, sweatshirts, shorts, miniskirts (more than 3" above the knee), "hot pants," short tops, halter tops, backless dresses, flip flops, tennis shoes, sandals, hats, etc.

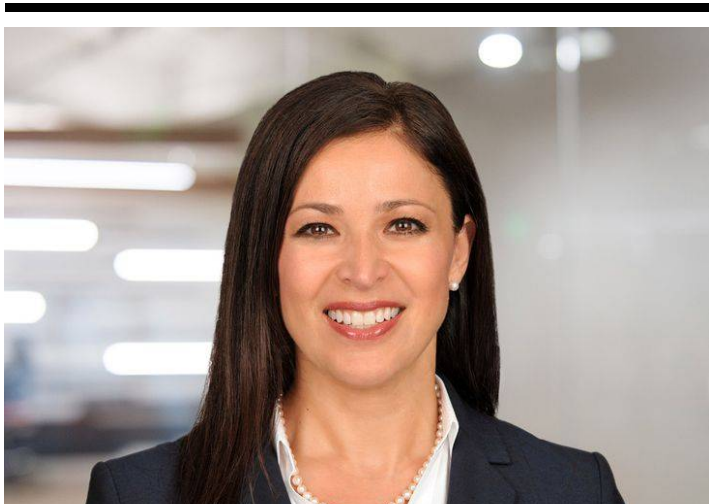
The policy should address piercings by stating that the company's professional image can be tarnished because of guests' negative reactions to nose rings, eyebrow rings and tongue studs or similar piercings, can conceivably create certain safety hazards in the workplace, and are not allowed. With respect to tattoos, the policy should state that the hotel's or restaurant's upscale image can also be adversely affected by an employee's display of significant, visible body tattoos. You can justify not allowing any employee who interacts with customers or guests to have visible tattoos.

Although employers are well within their rights to set limits and restrictions on employee dress and appearance, be cautious of some potential pitfalls with such policies, including claims for gender, religion, national origin, race, and disability discrimination claims. At a minimum, carefully consider employee complaints that the policy interferes with their rights. Also, when a situation calls for accommodation of an individual with certain religious beliefs or a disability, be prepared to discuss such requests and to come up with a reasonable accommodation of an individual's beliefs or limitations.

Of course, any request by an employee that would jeopardize or get in the way of guest services and safety will likely not be deemed reasonable. Nevertheless, because state and local laws vary, if any of these situations arise, check with appropriate legal counsel, and be prepared to modify the policy if necessary.

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