

MEN REFUSING TO WORK ALONE WITH WOMEN: THE HR AND LEGAL GUIDE

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Can a sincerely held religious belief – or a wife’s personal jealousy – justify a male employee refusing to work with women coworkers or other professional contacts? A federal district court in North Carolina is poised to answer this question.

The case pending there has drawn substantial national attention because it represents the first legal challenge to the so-called “Billy Graham Rule,” which requires married men and women to avoid one-on-one situations with members of the opposite sex. What do employers need to know about this case, and this rule in general, given the current state of employment law and today’s focus on diversity and inclusiveness? Would you know how to respond if your employees asked not to work with a member of the opposite sex?

NORTH CAROLINA CASE COULD LAY FOUNDATION FOR FUTURE RULINGS

Manuel Torres, a former law enforcement officer in Lee County, North Carolina, claims that his superiors ordered him to train a female deputy, which would have required him to spend extended periods of time alone with her. Torres says he requested a religious accommodation because of his “strong and sincere religious belief that the Holy Bible prohibits him, as a married man, from being alone for extended periods with a female who is not his wife.” Torres said that the county denied his request and ultimately terminated his employment because of his refusal to follow their request. He brought suit under Title VII alleging religious discrimination and retaliation.

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Lee County's Sheriff, Tracy Carter, contends that Torres was terminated for having a toxic attitude, displaying insubordination, and constantly complaining, not because he refused to work with a female deputy. Carter notes that Torres always knew that his job required him to work alone with women and that Torres had previously trained women without complaint.

The county contends that Torres's wife became jealous when he was assigned to train the female deputy, and demanded that he not allow her to ride with him in his patrol car. The county says that Torres told other officers that he and his wife had been arguing on a daily basis about him riding with Deputy Burton. The county claims that it did its best to accommodate Torres's request to not train women alone but, due to its limited resources, was ultimately unable to do so.

THE BILLY GRAHAM RULE, EXPLAINED

As noted above, this case appears to be the first federal case related to the concept known as the "Billy Graham Rule." This rule is firmly rooted in the Evangelical Christian movement. It requires married men and women to abstain from one-on-one situations with members of the opposite sex. Followed strictly, its application transcends the workplace, demanding separation in every aspect of life.

The namesake of this rule exemplified its edict. He refused to dine alone with women and hired private security to scope out his hotel rooms ahead of time to ensure no woman was hiding and attempting to malign his reputation. The Billy Graham Rule gained further recognition when it became known that Vice President Mike Pence refuses to meet individually with women or to attend events with alcohol unless his wife is present with him.

This is becoming a global issue for employers. A 2019 LeanIn study showed that approximately 60% of male managers feel uncomfortable engaging in everyday job-related activities with women, a 14% increase since 2018. Additionally, senior male executives are 12 times more likely to hesitate to meet with a woman than a man. This empirical evidence reinforces what many women sense in their everyday interactions with male colleagues.

SIMILAR SITUATIONS HAVE REACHED NATIONAL ATTENTION

Getting back to the case described above, Torres argues that his employer did not protect his religious convictions. He notes that Title VII prohibits an employer from discriminating against or depriving an employee of opportunities because of religion and also requires employers to accommodate sincerely held religious beliefs. While the county maintains that it terminated Torres because of his toxic work behavior, it also argues that it could not have accommodated his religious convictions without undue hardship, thus removing it from the ambit of Title VII protections.

Despite the county's arguments, a broader question remains unanswered: what legal ramifications emerge when religious convictions collide with federal antidiscrimination laws? While the answer seems obvious—treat men and women equally—not much case law exists on this point.

In a landmark 2013 decision, the Iowa Supreme Court found no sex discrimination occurred after James Knight fired Melissa Nelson from his dental office. Knight's wife was concerned about a perceived relationship between the two of them and demanded he fire Nelson. Knight admitted that Nelson was the best assistant that he ever had but feared he would have an affair with her if he did not terminate her. Legally, Knight grounded his decision on his religious conviction.

In a narrowly crafted opinion, the Iowa Supreme Court held that Knight's decision was "driven entirely by individual feelings and emotions regarding a specific person" and not gender or a proxy for gender. The concurrence further clarified that Nelson had failed to show that her status as a woman—as opposed to her personal relationship with Knight—was the motivating reason for her termination. In short, the *Knight v. Nelson* opinion justifies employers terminating at-will employees for mere personal jealousies if they can show that individualized feelings—as opposed to sex—drove the result.

In a situation that never reached the courts, the city of Austin, Texas formally reprimanded William Manno, the Austin Center for Events program manager, in 2017 because he "purposely avoided meetings and private interactions with female co-workers because of issues with his marriage." He said he stopped having lunches with women because "it was not appropriate for a married man to have lunch with a single lady." But an investigation also concluded

that he also differentiated his mentoring of subordinate employees based upon gender and marital status, and likewise made decisions regarding which meetings he and a subordinate would attend based on marital status. Manno's personal religious beliefs notwithstanding, investigators determined that he violated the city code of conduct because he treated employees differently based on gender.

The outcomes for Knight and Manno perhaps irreconcilably challenge employers confronting employees who wish to segregate from members of the opposite sex. But to reconcile the two outcomes, a nuanced (albeit messy) rule may emerge: decisions to accommodate based on personal relationships and emotions may not amount to a Title VII violation, even if the emotions or beliefs exist in part because of gender. However, decisions to accommodate requests based on bright-line categories (i.e., all women) likely violate Title VII.

WHAT SHOULD EMPLOYERS DO?

Returning to the original case involving Torres, we don't yet know how the court may balance religious liberties and antidiscrimination laws. Torres says that he requested to not work with any woman, in any situation, ever, analogous to Manno's request. And, unlike Knight, Torres did not appear to take issue with one individual woman based on personal feelings. Therefore, the county may argue that accommodating Torres's request would have violated Title VII and exposed them to liability. Regardless, this case could have significant implications for workplace antidiscrimination policies.

So, what should employers do? It may be more effective to emphasize the positive rather than stressing the negative. Telling your employees what they *should* do, instead of what they *shouldn't* do, generally results in more positive outcomes. Instead of merely training employees how to avoid sexual harassment—which is undoubtedly critical—perhaps you should work to praise the benefits of diversity and cross-gender collaboration.

For those in **Human Resources**, consider the following:

1. Does our organization have a policy governing employee interactions?

2. Does it address individual accommodations for personal or religious beliefs?
3. If so, is it written and enforced in a way that does not target gender or sex?

For **General Counsel**, consider the following:

1. What does our company's hierarchy look like (i.e., assess the breakdown of men and women in positions of leadership)?
2. What events present opportunities for gender and/or sex segregation (i.e., one-on-one meetings, lunches, Happy Hours, etc.)?
3. How do we foster cross-gender mentorships and relationships in such a way that women receive equal access?

Employers would do well to consistently and emphatically affirm the core notion that people of different genders and sexes *must* treat each other with professionalism and respect in *all* situations, not just the workplace. A recognition of the dignity and value that all employees bring to the workplace may bring freedom, creativity, and advancement to all.

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