

THE PRACTICAL AND LEGAL ISSUES AROUND ESTABLISHING AN 'APPEARANCE CODE'

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There's no legal requirement that an employer adopt and maintain a dress or appearance policy, and many employers are hesitant to impose strict guidelines for fear of encroaching on employees' freedom to express themselves. But having such a policy in place *before* a tattoo, nose ring, haircut or head covering becomes an issue allows you to clearly set expectations and help you defend claims of discrimination. Even better: A well-written policy can help protect a company's public image, promote a productive work environment, comply with health and safety standards, and even prevent claims of unlawful harassment.

Before you begin, you should stop to think about the purpose behind your policy. The goal should be to set forth your company's policy and expectations clearly and unambiguously while preserving the flexibility you need to make decisions.

Keep in mind that your dress code or appearance policy should reflect the company's practices, and vice versa. 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 customers, visitors and vendors.

Your policy can vary from a simple policy that defines the "professional" appearance you expect to a detailed policy that defines acceptable dress standards for both men and women; guidelines for the wearing of jewelry, perfumes and colognes; the placement, number and content of tattoos and

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other body art; and any safety issues impacted by certain types of clothing or accessories.

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. The key is to carefully draft these provisions and consistently enforce the dress code.

Although employers are well within their rights to set limits and restrictions on employee dress and appearance, companies have to be aware of some potential pitfalls — things like claims for gender, religion, national origin, race and disability discrimination. The key is consistent enforcement.

Dress and appearance policies should be clearly stated in writing and readily available to all employees. While employers still retain wide latitude, there are practical, social and legal factors that call for careful preparation of policies related to appearance — not to mention consideration of accommodation requests that might have been readily (and safely) dismissed several years ago.

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