



A Few Guidelines For Appearance Policies

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For good business reasons, many professional employers adopt policies regulating dress and appearance in their workplaces.

These policies can help enhance an office's public image, promote a productive work environment, comply with health and safety standards, and even prevent claims of unlawful harassment and discrimination. While no law requires an employer to maintain a dress/appearance policy, some laws are relevant to such policies.

Draft A Dress Code That Conveys Your Expectations

A dress code or appearance policy should be drafted with several goals in mind. It should clearly state the employer's expectations, based on its own view of professionalism in the local community. It should preserve the employer's flexibility to make decisions and its authority to interpret ambiguities. It should also inform employees that it will be applied consistently and without regard to any protected categories. It should state that if employees violate it, then they will be sent home to change, without pay, and that repeated violations may result in termination of their employment. If these elements are present, the dress code or policy should help the employer avoid or at least minimize problems in the workplace and liability for legal claims.

A policy should address all aspects of employee dress and appearance and explain that the office's professional atmosphere is maintained, in part, by the image it presents to its patients, visitors, and vendors. The policy should require that all employees present a professional, neat, and well-groomed appearance. Good hygiene should also be mentioned in the policy.

The policy should define "professional," "neat," and "well-groomed" with operational definitions or specific examples. It should define what is expected in terms of clothing, shoes, uniforms, jewelry, and perfumes, as well as the placement, number, and content of tattoos and other body art. It should prohibit extremes in dress, clothing that is dirty, too baggy or tight, or too revealing. Messaging that is offensive or hostile with respect to any protected category (such as sex, race or national origin), or provocative or illegal should also be prohibited.

Tattoos, Piercings And Gauges

Tattoos, body piercings, gauges and other forms of self-expression have become commonplace and society seems to have become more accepting of individuals' choices for self-expression. However, some of these forms of self-expression may not be appropriate for a professional services office.

Although some are hesitant to do so, employers can legally set limits on self-expression in the form of tattoos, piercings, and extremes in dress, jewelry, and hairstyles. Some employers have found a zero-tolerance policy too strict and have adopted less stringent policies.

Most employers now permit body piercings or tattoos within certain limits, such as limits on the number, size, placement or visibility of the tattoos or limits that prohibit the display of any racially offensive, sexually explicit, violent, or otherwise offensive tattoos. In the final analysis, your policy should clearly articulate what is permitted and what is prohibited in your workplace. Once you have articulated your policy, it should be enforced consistently.

The legal limits

In recent high profile cases, companies have faced expensive lawsuits claiming that employers discriminated against employees based on their religious beliefs when they prohibited the wearing of certain religious items such as hijabs or tattoos or when they failed to reasonably accommodate the employees' beliefs.

These cases turn on many factors, such as the number of employees working for the employer, its location or jurisdiction and the actual activity of the employee that was claimed to be "protected."

To be covered by anti-discrimination laws, an employer typically has to have a certain number of employees. The number of employees necessary for coverage under a particular federal, state or local law may be different. For example, Title VII requires that an employer must have 15 or more employees to be covered.

Some states cover employers with fewer than 15 employees. The federal Age Discrimination in Employment Act requires that an employer must have 20 or more employees to be covered.

Additionally, some states prohibit employers from taking adverse employment action against employees for engaging in off-the-clock activities that are otherwise lawful. Other statutory or common law claims may also come into play, depending on the circumstances.

All employers must consider establishing processes for challenging the interpretation of a particular policy and for responding if an employee asserts a right to a particular tattoo, jewelry, or hairstyle on religious or other protected grounds. Regardless of which laws actually apply to an employer, employers should take seriously *any* employee complaints. If, after receiving a complaint from an employee, you are unsure whether you are covered by any applicable laws, seek the advice of an employment lawyer before making a final decision that may adversely affect an applicant or employee. This consultation in a timely manner may help you to avoid protracted litigation, unwanted publicity, interference with your work and monetary damages.

Conclusion

Although there may be some legal limits to the enforcement of dress codes or appearance policies, the practical and legal advantages of having such policies far outweigh the disadvantages.

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