

## SEVEN THINGS EVERY BUSINESS PERSON OF FAITH SHOULD KNOW

### 1. **Employers cannot discriminate on the basis of religion.**

- Religious discrimination occurs when religion is used as a factor in:
  - Hiring decisions
  - Promotions
  - Treating employees unequally
  - Harassment
- Employers may also have an affirmative duty to accommodate an employee's religious practices in the workplace, unless the employer can show that such an accommodation would impose an undue hardship on the employer.

### 2. **Employers and employees do not lose their religious liberty rights by engaging in business.**

- In its recent *Hobby Lobby* decision, the Supreme Court flatly REJECTED the Obama Administration's argument that by engaging in business, Americans lose their religious liberty rights.
- Justice Samuel Alito's decision recognizes that:

All Americans, including business owners, have freedom of conscience rights to LIVE and WORK according to their beliefs without the fear of government compelling them to violate their beliefs.
- The majority opinion is a broad ruling upholding RFRA (Religious Freedom Restoration Act) rights — “a decision of startling breadth” (according to Justice Ruth Bader Ginsberg)
- Importantly, Courts are not to question religious beliefs.
  - “[T]he federal courts have no business addressing (whether the religious belief asserted in a RFRA case is reasonable).” (p. 36)
  - “[I]t is not for us to say that their religious beliefs are mistaken or insubstantial. Instead, **our ‘narrow function . . . in this context is to determine’ whether the line drawn reflects ‘a honest conviction’**, and there is no dispute that it does.” (pp.37-38) (citations omitted, emphasis added)

- Courts looked to each business's written documents in finding this "honest conviction."

3. **Employers may run their businesses based on Biblical principles.**

- An employer does not discriminate on the basis of religion by affirming the faith of its owners in business objectives.
- "Title VII does not, and could not, require individual employers to abandon their religion." *E.E.O.C. v. Townley Engineering & Mfg. Co.*, 859 F.2d 610, 621 (9th Cir. 1988).
- Employers must be careful, however, not to give prospective or current employees the perception that employment or advancement with the company depends on acquiescence in the religious beliefs of the employer.
- This can be accomplished in a number of ways.
  - For instance, applications for employment should state that applicants are considered for all positions without regard to religion.
  - This statement should also be included in any orientation materials, employee handbooks, and employee evaluation forms.
  - Of course, employers must also be sure that this statement is accurate by not discriminating on the basis of religion.

4. **Employers and employees may engage in religious speech in the workplace.**

- An employer can talk about his religious beliefs with employees as long as employees know that continued employment or advancement within the company is not conditioned upon acquiescence in the employer's religious beliefs.
- Employers must be careful, however, not to persist in witnessing if the employee objects. Such unwanted proselytizing could be deemed religious harassment. *Meltebeke v. Bureau of Labor & Indus.*, 903 P.2d 351 (Or. 1995).
- As with spoken religious speech, employers can share their religious beliefs with their employees in print form such as pamphlets, books, and newsletters. *Taylor v. National Group of Co's.*, 729 F. Supp. 575

(N.D. Ohio 1989) (employer's gift of a book endorsing secular humanism to new employees on their first day of work did not rise to the level of religious discrimination against a Christian employee).

- Employers must be careful, however, not to give employees the impression that they have to agree with the employer's religious beliefs in order to keep their job or get a promotion.
- If an employer shares religious convictions with employees, and the employee disagrees or protests, no adverse action can be taken against the employee.
- Furthermore, employers should be ready to accommodate any employee's objections to the religious speech contained in publications distributed to employees.
  - Sufficient accommodation may be to provide the objecting employee with a publication that does not contain the religious content.
  - In order to counter any impression given by publications that job security and advancement are contingent upon faith, it is also recommended that publications with religious material state that the employer does not discriminate on the basis of religion for purposes of continued employment, employee benefits, or promotion.

5. **Employers and employees may have prayer meetings and Bible studies in the workplace.**

- Employers can hold regular devotional meetings for employees so long as attendance is not required. *Young v. Southwestern Sav. & Loan Assoc.*, 509 F.2d 140 (5th Cir. 1975).
- To ensure that employees understand that devotional meetings are voluntary, notice of the meetings should state that they are not mandatory and it is wise to hold these meetings before the work day begins, during breaks, or after work.

6. **Employers may have employee training based on Biblical principles.**

- Employers can use training programs that are based on the Bible.
  - For instance, requiring an employee to attend a management seminar put on by the Institute of Basic Life Principles which used scriptural passages to support the lessons it sought to

promote did not violate a Massachusetts civil rights law. *Kolodziej v. Smith*, 588 N.E.2d 634 (Mass. 1992).

- Employees cannot, however, be required to undergo religious training, participate in religious services or religious activities, or engage in behavior that would violate their sincerely-held religious beliefs.

7. **We are headed for a collision between your religious freedom and the new sexuality orthodoxy in the workplace.**

So far, Liberty Institute has a trio of cases where we are representing employees who were fired because of their religious beliefs concerning marriage.

- Fox Sports terminated former college and NFL star and sports broadcaster Craig James from his on-air position because of his religious beliefs concerning marriage, views he expressed outside the workplace during a U.S. Senate debate made months prior to beginning work at Fox Sports.
- The *Newton Daily News* terminated its editor-in-chief, Bob Eschliman, for comments he made on his personal blog about Scripture and the institution of marriage.
- The State of Georgia terminated Dr. Eric Walsh from his Public Health Director position because of statements he made concerning his religious beliefs on marriage and human sexuality during sermons in his church.

If you believe your religious rights have been compromised in the workplace — or you know of someone who has experienced religious discrimination while on the job — please contact Liberty Institute so we can determine how we may be able to help.

**Request legal help online:**

<https://www.libertyinstitute.org/take-action/request-legal>

OR

**Call our national headquarters:**

972.941.4444