

RELIGIOUS LIBERTY AT WORK Q&A

Protecting the right of Americans of faith to participate fully and equally in the marketplace.

WHAT ARE MY LEGAL RIGHTS AS A RELIGIOUS EMPLOYEE?

- As a religious employee, you are a member of a protected class. Federal employment discrimination law (“Title VII”) prohibits employers with 15 or more employees from discriminating on the basis of religion. Some states apply similar provisions to even smaller employers.
- Places of worship and other religious nonprofits generally fall within a Title VII exception that allows them to make employment decisions on the basis of religion.
- Title VII defines “religion” broadly to include all aspects of religious observance and belief.
- The law also provides that employers may not create a hostile work environment on the basis of religion, which means that employers must protect employees from severe or pervasive harassment on the basis of religion.
- Title VII requires that employers grant reasonable religious accommodation requests unless doing so would cause an undue hardship (more than a de minimus cost) on the business.

CAN I ASK FOR A RELIGIOUS ACCOMMODATION?

If your work requires you to violate your religious beliefs, you may be able to request a religious accommodation. Employers are not required to grant these requests in every circumstance. We caution employees to carefully consider whether they need to request a religious accommodation. Only request a religious accommodation if it is necessary because of a work conflict with your religious beliefs. Depending on individual circumstances, requests for religious accommodation may be denied. Unfortunately, some requests could even lead to conflict with employers or to employers taking adverse actions against the employee, even if prohibited by law. Employers do not always live up to their legal obligations not to discriminate.

CAN I BE REQUIRED TO ATTEND DIVERSITY TRAINING IF WHAT IT TEACHES VIOLATES MY RELIGIOUS BELIEFS?

Usually, but it depends. This is an evolving area of law. Most religious individuals do not have a sincerely-held religious belief that they cannot hear perspectives that differ from their own. If you are required to attend a training session and answer questions about the state of the law or company policy, it is unlikely that you will be able to argue you are being called upon to violate your sincerely-held religious beliefs by attending. However, if you are called to personally affirm a statement that violates your religious beliefs, then you may be able to ask for a religious accommodation.

¹This document does not create an attorney-client relationship, and it is not to be used as a substitute for legal advice from a licensed attorney.

CAN I BE REQUIRED TO USE WORDS, SUCH AS PRONOUNS, IN WAYS THAT VIOLATE MY RELIGIOUS BELIEFS?

Some employees hold the sincere religious belief that sex is an immutable characteristic and they cannot knowingly use pronouns that do not accord with an individual's biological sex. If you are being asked to agree to use pronouns in violation of your sincerely held religious beliefs, you may be able to request a religious accommodation. We are seeing an increase in employers firing people of faith for making these requests, even if the law requires accommodation.

I'M AFRAID TO MENTION MY RELIGIOUS BELIEFS FOR FEAR OF DISCRIMINATION.

Respectfully referencing your religious convictions, particularly in response to a question from a coworker, is fully consistent with federal law. The Supreme Court has said that Title VII is not "a general civility code." It does not protect employees from hearing perspectives with which they disagree. Being able to politely talk about differing opinions is at the heart of a tolerant, pluralistic workplace.

HOW DO I REQUEST A RELIGIOUS ACCOMMODATION?

- Carefully consider whether a religious accommodation is necessary and if you are willing to risk employer retaliation.
- Make your religious accommodation request in writing, such as an emailed request, and retain a copy.
- Clearly and concisely explain your religious beliefs and the accommodation that you are seeking.
- Work with your employer to try to come up with a win-win solution.
- Be polite and respectful at all times.

In summary, religious employees should not be compelled to violate their religious convictions or to hide their religious identity at work. If you have further questions, please seek legal assistance. First Liberty attorneys are standing by at Firstliberty.org to help protect your religious freedom.