

Is Your Company Dress Code Policy Wrinkle Free? Dress Code and Appearance Policies Lead to Costly Liability for Employers

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A recent high-profile [employment lawsuit](#) settled by the New York City Transit Authority (NYCTA) highlights that dress code and appearance policies can sometimes lead to costly liability. While employers are largely able to establish such policies, they must do so fairly and consistently to avoid running afoul of Title VII of the Civil Rights Act of 1964 and state anti-discrimination laws.

Generally speaking, employers are permitted to establish a dress code and appearance policy that applies to all employees or even only employees within certain job categories, such as those that interact with customers. For example, employers may wish to prohibit their employees from having visible tattoos or body piercings or require that employees wear business attire.

Despite this wide latitude, there are certain areas where employee dress code and appearance policies may lead to liability, including national origin, religious, and gender discrimination. In the case involving the NYCTA, the agency was charged with a claim of religious discrimination for selectively enforcing its uniform headwear policies against certain Sikh and Muslim transit workers and by refusing to reasonably accommodate those employees' religious practices. The NYCTA ultimately settled the case after agreeing to revise its policies and pay monetary settlements totaling at least \$184,500.

The Message for Employers

As this case highlights, if the dress code conflicts with an employee's religious practices and the employee requests an accommodation, the employer must modify the dress code or permit an exception to the dress code unless doing so would result in undue hardship. In the same respect, requests for dress code accommodations can arise if an employee has a disability and finds it difficult to comply with the dress code. The employer must modify the dress code or permit an exception if an employee requests an accommodation related to his or her disability, unless doing so would result in undue hardship. The following is another example of what can happen when an employer refuses to make an accommodation (case can be found here). As seen by these example cases, this is not a simple analysis. Employers faced with a request for dress code accommodations should consult with an employment law attorney.

[Beth Lincow Cole](#) is committed to helping employers comply with federal and state employment law and avoid potential business-wrecking lawsuits. If your company needs guidance regarding its harassment policies and procedures or would like information on management training, contact employment law attorney [Beth Lincow Cole](#).