

Concept Overview

Diversity of Religion



Fall 2019 Version
Developed by: Professor Marsden

About the Data Communicated in Overview



In this concept overview, several important resources provide statistical data. *Most articles written for the general public and peer reviewed journal articles that feature religion in the workplace utilize resources listed below.*

Survey data was collected through scientific means and with a focus on understanding the US population. NJ based data was extrapolated from nationally collected information. Both entities are nonprofit and nonpartisan.

Pew Research Center – National Demographic Study

Pew Research Center. (2015). America's Changing Religious Landscape.

<https://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/>

Follow Up Survey:

Pew Research Center. (October 17, 2019). In U.S., Decline of Christianity Continues at Rapid Pace.

<https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>

Public Religion Research Institute (PPRI) – American Values Atlas – Yearly Survey

<http://ava.prri.org/#/2019/States/religion>

The amount of **discrimination based on religion in the workplace** is often understood by reviewing data on number of claims filed by employees (or potential/former employees) to the EEOC office. *The number of claims filed does not equate to number of claims found to involve discrimination, number of cases that are settled by the EEOC, or number of cases that go to court.*

Equal Employment Opportunity Commission - Religion-Based Charges 1997 – 2019
<https://www.eeoc.gov/eeoc/statistics/enforcement/religion.cfm>

From all claims filed, in 2019 (latest data available) discrimination based solely on religion accounted for **3.7%** of claims filed; claims can also involve another protected class or retaliation.

Retaliation: 39,110 (53.8 percent of all charges filed)

Disability: 24,238 (33.4 percent)

Race: 23,976 (33.0 percent)

Sex: 23,542 (32.4 percent)

Age: 15,573 (22.4 percent)

National Origin: 7,009 (9.6 percent)

Color: 3,415 (4.7 percent)

Religion: 2,725 (3.7 percent)

Equal Pay Act: 1,117 (1.5 percent)

Genetic Information: 209 (.3 percent)

Source: EEOC Releases Fiscal Year 2019 Enforcement and Litigation Data (Published January 24, 2020)
<https://www.eeoc.gov/newsroom/eeoc-releases-fiscal-year-2019-enforcement-and-litigation-data>

Diversity of Religious Affiliation



All people are either affiliated or not affiliated with a religious doctrine.

- **If individuals are affiliated**, then they are an adherent to a religious doctrine associated with one of the many religions.
- **If individuals are not affiliated with a religious doctrine**, then he/she/they are either a person who does not associate with a any religion (could be spiritual but not religious) – or - a person who is agnostic or atheist.

Wide Variety of Religious Adherents in Workplace

Response (%)	National	New Jersey
White evangelical Prot.	15.2	8
White mainline Prot.	14.7	11
Black Protestant	7.2	8
Hispanic Protestant	3.7	3
Other non-white Prot.	3.5	2
White Catholic	12.0	19
Hispanic Catholic	7.8	10
Other non-white Catholic	2.2	2
Jehovah's Witness	0.5	1
Mormon	1.7	1
Orthodox Christian	0.4	1
Jewish	1.3	4
Muslim	0.7	1
Buddhist	0.8	1
Hindu	0.4	1
Unaffiliated	24.0	23
Unitarian / Universalist	0.1	< 0.5
Other religion	< 0.5	< 0.5
New Age Religions	< 0.5	< 0.5

2019 Data

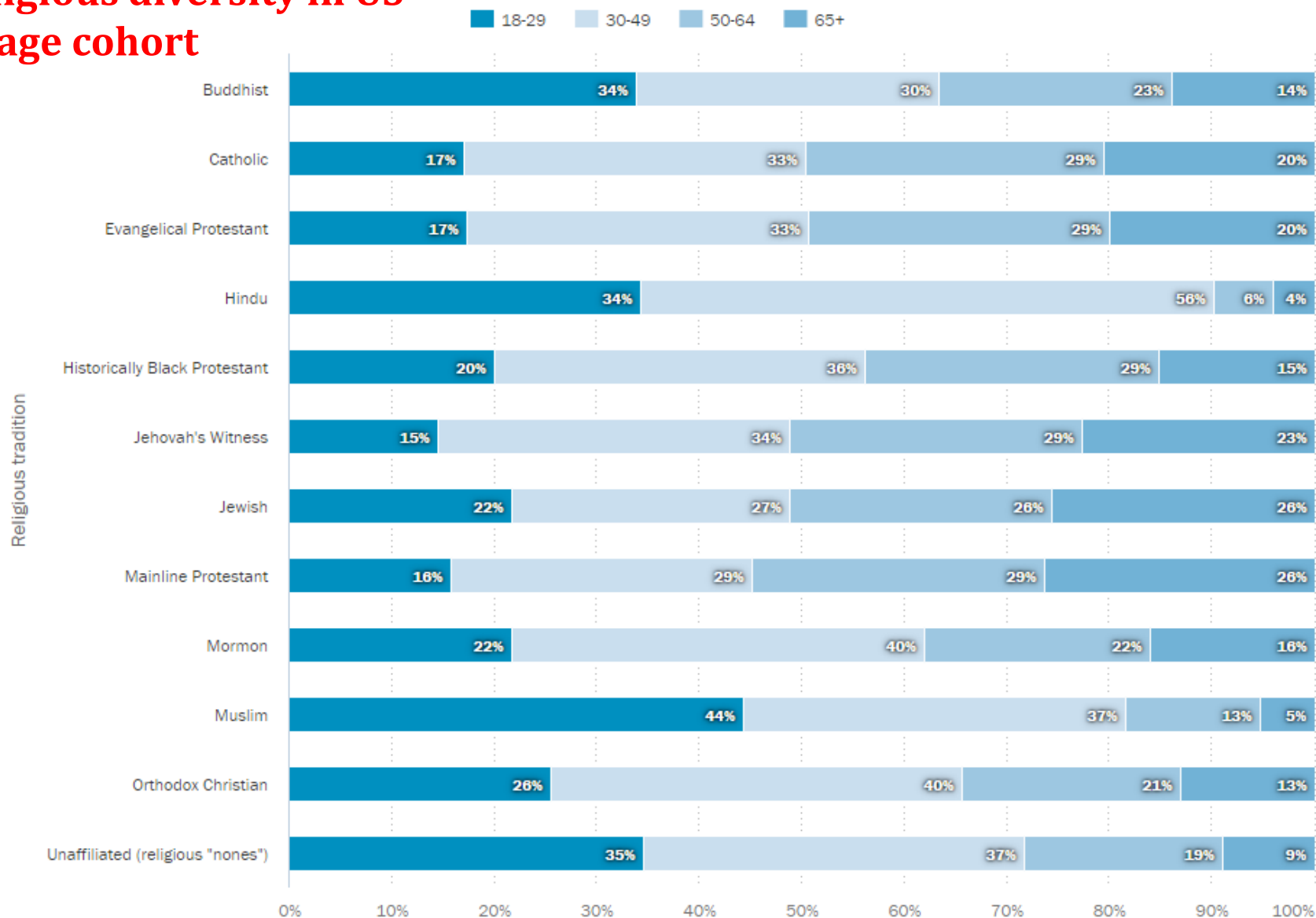
Compared to national percentages:

More New Jersey residents are:
 Black Protestant; Catholics
 (White or Hispanic)
 Jehovah's Witness, Orthodox Christian

Jewish Unitarian/Universalist
 Muslim
 Hindu
 Buddhist

Less New Jersey residents are:
 White Evangelical
 White Mainline Protestants
 Hispanic Protestant Mormon

Religious diversity in US by age cohort



Source: Pew Research Center. (2015.) Religious Landscape Study, Age Distribution. Access: <http://www.pewforum.org/religious-landscape-study/age-distribution/>

Non-Religious

And then, there those who are not religious.

According to the **2019** Public Religion Research Institute (**PRRI**) survey, the “unaffiliated” group comprises **24%** of the American population- and **23%** of New Jersey’s population.

Pew Research (2015) breaks down what it considers the “nones” into categories:

All Unaffiliated (Religious “nones”) 22.8%

Nothing in particular	15.8%
Agnostic	4.0%
Atheist	3.1%

Sources: PRRI, American Values Atlas, Religious Affiliation

<http://ava.prri.org/#religious/2019/States/religion/m/national>

Pew Research, Religious Landscape Survey. Access: <http://www.pewforum.org/religious-landscape-study/>

Global Religious Diversity



Is the US highly religiously diverse?

What do you think?

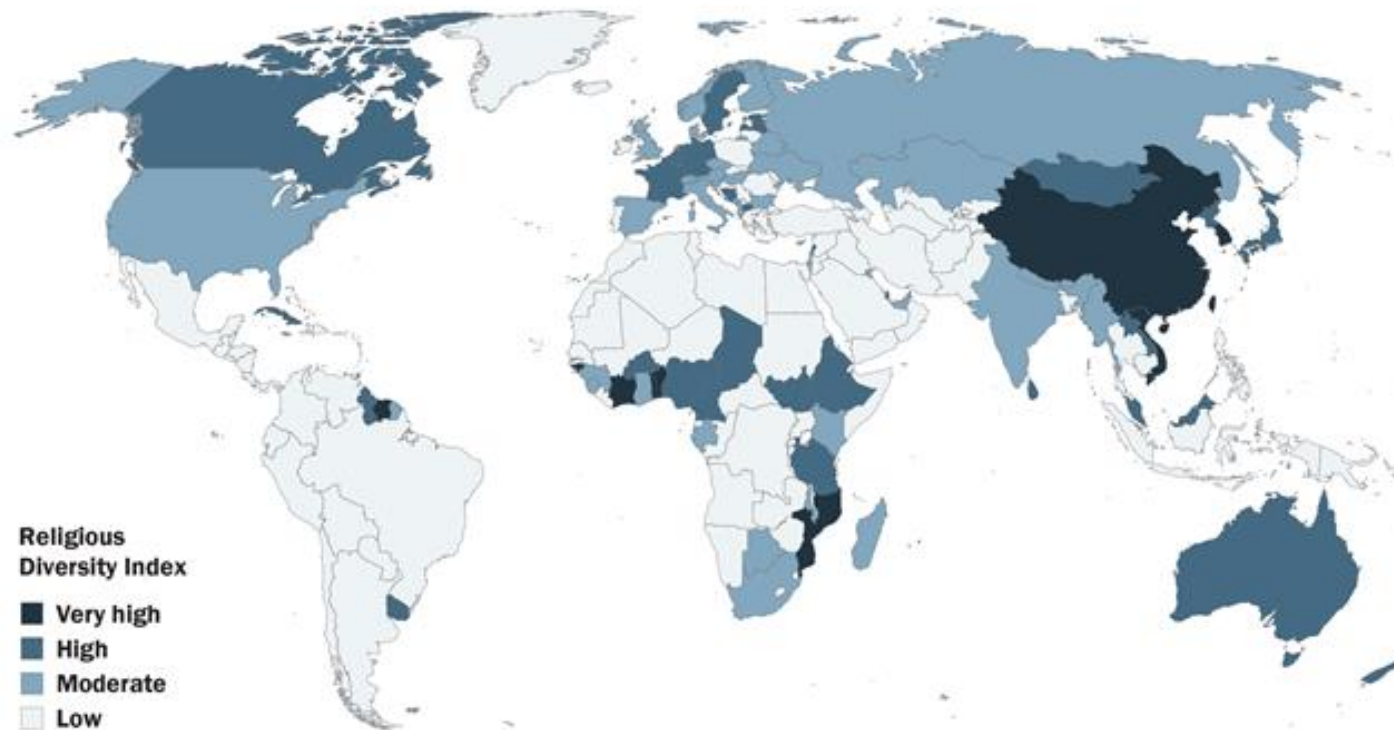
There are other countries that contain much greater numbers of inhabitants that are religiously diverse.

According to Pew's Global Religious Diversity study (2014), the US ranks on the scale of **moderate (68th among 232 countries and territories.)**

The next sizable group in the US beyond Christians *are the religiously unaffiliated – not another religious group.*

Levels of Religious Diversity

Countries are shaded according to level of religious diversity



Based on Religious Diversity Index scores. For more information about how the index is calculated, see the Methodology. Data are for 2010.

"Global Religious Diversity," April 2014

PEW RESEARCH CENTER

Is Prejudice Alive and Well in the US?



Over the last 5 years the question as to whether a small business owner can discriminate – refuse to provide service to individuals celebrating a same sex marriage - as been an issue. The refusals have been based on the owner's (Christian) religious beliefs. In May, 2014 and then again in April, 2019, a national PPRI survey gauged public opinion about refusals. Chart on the next slide offers a glimpse at the data.

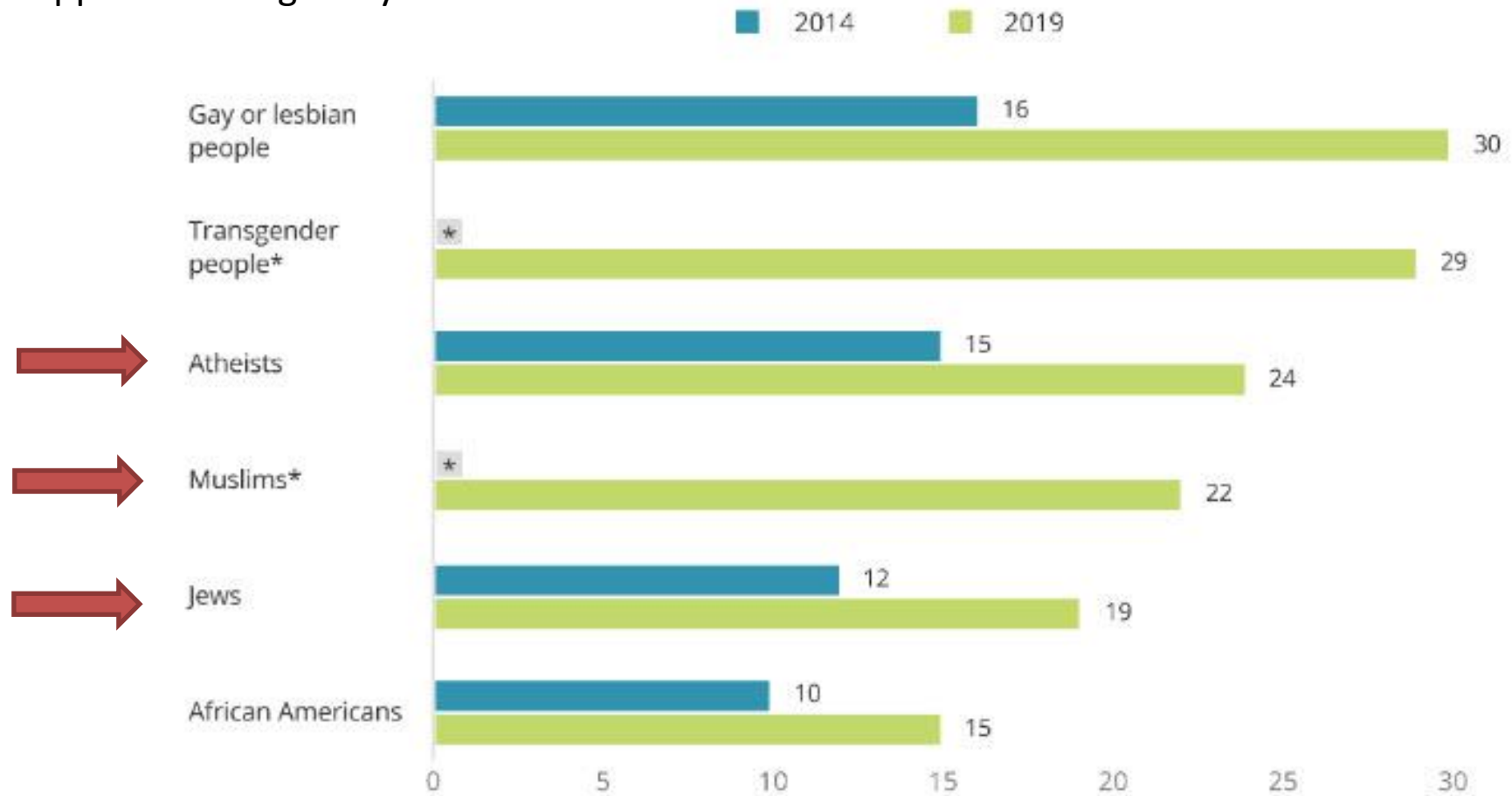
Pay attention to:

1) The percentage of people indicating that a small business owner in their state should be allowed to refuse to provide products or services to people who identify as part of the following cohorts, if doing so would violate the business owner's religious beliefs:

- Atheists
- Muslims
- Jews

2) While agreement with the statement of solidarity with the business owner is not the majority of those surveyed, those who did answer in the affirmative INCREASED in the last 5 years.

Support for Religiously Based Refusals



* Did not gather data in 2014

Source and for more details:

Increasing Support for Religiously Based Service Refusals

PPRI <https://www.ppri.org/research/increasing-support-for-religiously-based-service-refusals/>

Bringing One's Religious Identity To Work



Religion is important to workforce members who are religious adherents.

As stated in one of our required readings:

“Some employees are no longer content to check their religion at the workplace door, believing instead that their religious identity, like their race and sex, is an integral part of their being that cannot—and should not—be separated from their total person. ”

Image is Everything: Corporate Branding and Religious Accommodation in the Workplace, p. 707

At its core, what religious adherents desire is to be able to be **authentic** in the workplace.

“The notion of authentic self is a key aspect of diversity at a deeper, more invisible level. It refers to the desire to express one's internal self through actions in the external world. In the context of the religious self in the workplace, to be authentic employees must experience congruence between their **internal values** and **external expressions**.”

Religious Identity in the Workplace: A Systematic Review, Research Agenda, and Practical Implications (2019), p. 3

<https://onlinelibrary-wiley-com.proxy.libraries.rutgers.edu/doi/epdf/10.1002/hrm.21983>

As we saw from the previous slide, being authentic at work means being able to behave in a way that agrees with religious beliefs.

When a religious adherent feels comfortable “bringing one’s whole self to work” (when beliefs and expressions agree) research indicates that there are benefits to both the adherent and the organization.

For both the adherent and the organization, the benefit is the adherent’s increase in feeling good (sense of well-being), the positive attitude they have about their work, and an increase in efficiency in getting the job done (productivity.)

A key element in an adherent being able to be authentic involves the extent to which the employer and coworkers welcome and support the adherent.
(*The extent of inclusion.*)

Sources: Research Identifies Factors Influencing How Religious Identity Interacts with Workplace, Phsy.org, 2019

<https://phys.org/news/2019-10-factors-religious-identity-interacts-workplace.html>

Original Research: Religious Identity in the Workplace: A Systematic Review, Research Agenda, and Practical Implications (2019), p.

3 <https://onlinelibrary-wiley-com.proxy.libraries.rutgers.edu/doi/epdf/10.1002/hrm.21983>

Not only are the organization's policies and culture at play, but also what the adherent believes and practices in relation to the dominate culture's perspectives and norms - and - what the position at work requires. All these elements impact the adherent's experience.

Given any of these elements, the experience can be positive or negative. The following quote from one of your required readings this week offers a good summary of the issue involved with adherent authenticity.

"I am really troubled by the simplicity of bringing your whole self to work. The fact of the matter is, it is difficult and complex to bring your whole self to work, and people who do it successfully are doing it carefully."

Nancy Rothbard, Professor, University of Pennsylvania (Wharton School of Business)

Sources:

Separation of Church and Cubicle: Religion in the Workplace

<https://knowledge.wharton.upenn.edu/article/separation-of-church-and-cubicle-religion-in-the-modern-workplace/> Required reading this week!

Religious Identity in the Workplace: A Systematic Review, Research Agenda, and Practical Implications (2019), p.

9 <https://onlinelibrary-wiley-com.proxy.libraries.rutgers.edu/doi/epdf/10.1002/hrm.21983>

A 24 hour news cycle and social media brings the most challenging situations to the public. A religious adherent being authentic at work can draw public sympathy – or –anger depending on individual beliefs and/or sense of fairness.

Walgreens Pharmacist Denies Woman Medication for Her Miscarriage

Walgreens says its pharmacist had the right to refuse to fill pregnancy-ending medication

As detailed in upcoming slides about Title VII, employers are required to make accommodations to employees who choose to “live” their religious beliefs in the workplace.

Sources: Walgreens Pharmacist Denies Woman Medication for Her Miscarriage

<https://www.thecut.com/2018/06/walgreens-pharmacist-refuses-abortion-medication-arizona.html>

Walgreens says its pharmacist had the right to refuse to fill pregnancy-ending medication

https://www.vice.com/en_us/article/j5kzeg/walgreens-says-its-pharmacist-had-the-right-to-refuse-to-fill-pregnancy-ending-medication

Laws that Involve Religion and Employment



Who do you think feels excluded or discriminated against in the workplace today?

Muslims, Jews, Atheists?

Christians?

One of this week's required readings is an excerpt from the report pictured to the right.

We'll find information about who feels excluded and/or discriminated against from the contents of the report.



**What American Workers
Really Think About Religion:
Tanenbaum's 2013 Survey of
American Workers and Religion**



36% of respondents have seen incidents of religious bias in their workplaces or have personally experienced them.

Details on the next slide.

Report experiencing or witnessing religious bias at work.

- **49%** of **non-Christian** employees
- **48%** of **White evangelical** employees
- **40%** of **atheist** employees
- **35%** of **Christian Catholic** employees
- **32%** of **white mainline Christian Protestant** employees
- **22%** of **Black Protestant** employees

Why has religion become important in the workplace?

Again, as stated in one of our required readings:

“Scholars attribute the growing prominence of religion in the American workplace to a variety of demographic and cultural shifts, as well as to transformations within both religion and the workplace. “

Image is Everything: Corporate Branding and Religious
Accommodation in the Workplace, p. 706

What are the Factors at Play?

- **Aging baby boomers** (*While younger adults - especially today as more of today's young adults indicate they are not a member of any religious faith - are less religious, as people age, they become more religious.*)
- **Increasing religious diversity through immigration**
- **Participation of women in the workplace** (*Women are more likely to discuss their religion in the workplace*)
- **Affluence in the US** (*People focus more on "spiritual needs" when they don't need to focus on basic human needs.*)

Employees discriminated against are adherents of a **variety of religions**. Each religion involves doctrine that employees follow.

Note: One set of beliefs and rules associated with religious doctrine is not more valid than another.

Examples of cases that highlight adherents from different religions are available on the next 8 slides.

You'll find that discrimination occurs **for various reasons**:

- Religious garb
- Acting according to religious beliefs
- Taking leave for religious observances
- Retaliating after employee made note of religious discrimination

Feds file discrimination lawsuit against Winterville concrete company

HIGHLIGHTS

The Equal Employment Opportunities Commission filed a suit against Greenville Ready Mix Concrete for religious discrimination

The suit claims the company violated federal law by firing an employee who wouldn't work Saturdays because of religious convictions



BY GRAYSON LOGUE

glogue@newsobserver.com



RALEIGH — The Equal Employment Opportunity Commission has filed a lawsuit against Greenville Ready Mix Concrete Inc. of Winterville for allegedly discriminating against a former employee based on his religious convictions.

Michael Cole says he was fired from his job as a truck driver after he refused to work on a Saturday. In February 2014, Cole became a Seventh-day Adventist and was baptized into the faith, which strictly observes the Sabbath on Saturday. Members refrain from work between sundown Friday and sundown Saturday, and Cole informed the company of his new faith, requesting to be excused from working Saturdays, according to the lawsuit.

Cole had not worked many Saturdays, said Lynette Barnes, an attorney for the Charlotte branch of the EEOC, the federal agency that enforces federal laws prohibiting discrimination in employment. Barnes said Cole's normal work schedule did not include Saturdays, and through all of 2013 until he became a Seventh-day Adventist, he had worked only two Saturdays.

According to the EEOC, Cole was scheduled to work on Saturday, March 22, 2014. When he informed the company that he could not work that day because of his religious beliefs, "the company discharged him for that reason," the agency said in its complaint filed last week. The company was required to make other arrangements under the Civil Rights Act of 1964, Barnes said.

"Under Title VII, employers are required to provide accommodations for employees who have a need under their religion, so long as the accommodation does not cause undue burden under law," Barnes said. Excusing Cole from Saturday work was not an "undue burden," since he rarely worked Saturdays and his set schedule did not require him to do so, she said.

Employer did not provide a **Seventh-day Adventist (Christian)** an accommodation to observe his Sabbath (Saturday.) Fired employee.

<http://www.newsobserver.com/news/business/article83779202.html>

Details:

<https://www.eeoc.gov/eeoc/newsroom/release/6-7-16.cfm>

Sikh Defeats AutoZone in Federal Court, AutoZone Changes Practice

"I'm really happy because it is so hard to fight an international company and the Sikh Coalition didn't back down. They worked really hard and did what they had to do. And, we won!"
– Frank MahoneyBurroughs



April 11, 2012 (Boston) – A Sikh employee, Frank MahoneyBurroughs, scored a significant victory in a religious discrimination lawsuit against his former employer, AutoZone, who harassed and then fired him for adopting the Sikh articles of faith. In addition to defeating the Fortune 500 auto parts company on a religious accommodation claim, Mr. MahoneyBurroughs, as part of a settlement agreement, will receive \$75,000 in damages plus attorneys' fees. The Sikh Coalition's Legal team represented Mr. MahoneyBurroughs, providing over two years of dedicated advocacy and support. Judge William Young, of the U.S. District Court for the District of Massachusetts, found that AutoZone violated federal law by barring Mr. MahoneyBurroughs, a sales associate, from wearing his dastaar and kara to work. Judge Young also found that AutoZone had unlawfully required him to "prove" his Sikh faith by making unfair requests for documentation of his religious practices.

Employer did not allow employee who follows the **Sikh** religion to wear garb of his faith (kara –bracelet; dastaar -turban), harassed the employee and required him to "prove" his faith.

<http://www.sikhcoalition.org/advisories/2012/sikh-defeats-autozone-in-federal-court-autozone-changes-practice>

Details:

<https://www.eeoc.gov/eeoc/newsroom/release/3-30-12a.cfm>

Woman, punished for observing Passover, sues ex-employer

Posted on 08 June 2016.

WASHINGTON, D.C. (Press Release) – An Orthodox Jewish woman is suing her former employer the Metropolitan Washington Airports Authority (MWAA) after it punished her for observing Passover, considered one of the most important holidays in Judaism. The Becket Fund for Religious Liberty joined together with the American Jewish Committee, one of the nation's leading Jewish advocacy groups, to file a friend-of-the-court brief Tuesday defending the right of employees to observe their religious holidays.



"It takes some chutzpah for the government to punish a Jewish woman for celebrating Passover," said Eric Rassbach, deputy general counsel at Becket, which prepared the friend-of-the-court brief supporting Ms. Abeles. "That didn't work out so well for Pharaoh."

Susan Abeles worked for the MWAA for 26 years and each year was given approved time off to observe Passover in accordance with her Orthodox Jewish beliefs. In 2013, Ms. Abeles followed the same procedure, giving ample notice and several reminders about her upcoming time off. However, when she returned to work, her superiors accused her of failing to follow proper protocol for obtaining leave. Eventually they forced her into early retirement.

MWAA claims that even though it was specifically created by Congress and exercises powers Congress gave it, MWAA has nothing to do with the federal government. At the same time MWAA says it is not subject to state laws either. That would lead to the absurd and frightening result that MWAA is a law unto itself. MWAA would not have to follow the federal Religious Freedom Restoration Act (RFRA) or Virginia religious freedom laws, giving it free rein to avoid many anti-discrimination laws. But Becket and the American Jewish Committee argue that MWAA is not above the law. Their brief states, "Can a governmental entity wielding the full force of law, armed with police and eminent domain powers and tasked with the oversight of two of the busiest airports in the country, properly declare itself exempt from the reach of both state and federal anti-discrimination law? ...the law says no."

Passover is observed for eight days, and Jewish religious law prohibits work during the first two and last two days. Millions of Orthodox Jews like Ms. Abeles have observed Passover for thousands of years, yet the MWAA's policy is to simply ignore this important religious holiday.

Employer forced **Jewish** employee to retire after the employee (following business protocol) requested and took time off to observe specific religious holy days.

<http://www.sdjewishworld.com/2016/06/08/woman-punished-observing-passover-sues-ex-employer/>

EEOC Defends “Mark of The Beast” Ruling - Religious Beliefs Don’t Have To Make Sense To Be Protected

Thursday, October 22, 2015

In August 2015, the EEOC prevailed in a religious discrimination lawsuit against Consol Energy and was awarded in excess of \$500,000.00. Former Consol mine worker Beverly Butcher, who had been with the company for over 35 years, refused to use Consol’s new biometric hand scanners that were installed to track employee time and attendance. He explained that he believed that scanners would leave the “mark of the beast” and would be a sign for the antichrist. Consol required Butcher to use the scanners and refused to consider alternate means of tracking Butcher’s time, and Butcher believed he had no choice other than to retire.

<http://www.natlawreview.com/article/eeoc-defends-mark-beast-ruling-religious-beliefs-don-t-have-to-make-sense-to-be>

Employer did not provide **evangelical Christian** the same accommodation offered to other employees who cannot use a hand scanner. Employee beliefs do not need to be popular or understood by others. They simply must be “sincerely held”



<http://legalnewsline.com/stories/510725038-w-v-a-worker-eeoc-win-mark-of-the-beast-case>

EEOC alleges discrimination against Mission employees

Hospital fired three former employees who refused flu vaccination due to religious beliefs after Mission denied exemption requests, according to lawsuit.



(Photo: Citizen-Times file photo)



ASHEVILLE - Mission Hospital has been accused of religious discrimination and violating federal law in a complaint filed Thursday by the U.S. Equal Employment Opportunity Commission.

Hospital officials denied religious-exemption requests from three employees asking that they

be released from Mission's annual flu-vaccine requirement and fired them when they refused the vaccine, according to the lawsuit filed in U.S. District Court for the Western District of North Carolina.

Mission's human resources department rejected the exemption requests because the former employees submitted them after a Sept. 1 deadline, the lawsuit said.

"Under federal law, employers must attempt a fair balance between an employee's right to practice his or her religion and the operation of their business," Lynette A. Barnes, regional attorney for EEOC's Charlotte District Office, said in a statement.

"An arbitrary deadline does not protect an employer from its obligation to provide a religious accommodation," Barnes said in the statement. "An employer must consider, at the time it receives a request for a religious accommodation, whether the request can be granted without undue burden."



Three employees who are adherents of **Christian (Church of the Nazarene), Muslim, Daoist** faiths - were denied a religious accommodation request to abstain from getting a flu vaccination and fired.

<http://www.citizen-times.com/story/news/2016/04/28/eeoc-alleges-discrimination-against-mission-employees/83651664/>

Details: <https://www.eeoc.gov/eeoc/newsroom/release/4-28-16.cfm>

Muslim Truck Drivers Who Refused To Haul Alcohol Awarded \$240,000 In Religious Discrimination Suit

182 Views



Two Muslim truck drivers who refused to transport alcohol were recently awarded \$240,000 by an Illinois judge, according to a [press release](#) by the EEOC.

Truck drivers Mahad Abass Mohammed and Abdkiarim Hassan Bulshale were fired from Illinois-based Star Transport back in 2009 after they refused to transport alcohol because it violated their religious beliefs.

The U.S. Equal Employment Opportunity Commission sued the carrier on behalf of the drivers, alleging religious discrimination and wrongful termination.

On October 20th, after 45 minutes of deliberation, a federal jury ruled in favor of the EEOC and the drivers. U.S. District Court Judge James E. Shadid ordered Star Transport to pay \$240,000 in compensatory and punitive damages.

Employer fired two **Muslim** employees after they refused to transport alcohol because it violated their religious beliefs.

<http://www.livetrucking.com/muslim-truck-drivers-who-refused-to-haul-alcohol-awarded-240000-in-religious-discrimination-suit/>

Details:
<https://www.eeoc.gov/eeoc/newsroom/release/6-7-16.cfm>

Burger King Settles Claims It Axed Christian Worker Over Skirt

By Linda Chiem

Law360, New York (January 17, 2013, 4:35 PM ET) -- The U.S. [Equal Employment Opportunity Commission](#) has reached a \$25,000 settlement with a Texas [Burger King](#) franchise operator accused of illegally firing a female cashier for wearing a skirt to work as required by her Pentecostal Christian religion, according to a Texas federal court filing Wednesday.

The EEOC and Fries Restaurant Management LLC filed a consent decree with the court, saying they have worked diligently to reach the deal, which disposes of the religious discrimination suit in its entirety. The EEOC brought suit in August, accusing the Burger King franchise operator of violating Title VII of the Civil Rights Act of 1964 by failing to accommodate Ashanti McShan's religious beliefs and firing her when she refused to wear pants, instead of a skirt, to work.

"Plaintiff and defendant wish to compromise and settle the differences raised in this case without the necessity of further litigation pursuant to the terms delineated in this decree," they said.

Under the deal, Burger King will pay McShan the \$25,000 in two checks — \$5,000 attributable to the suit's claim for wages and \$20,000 attributable to claims of mental anguish and nonwage damages, according to the consent decree.

In addition, the franchise operator will post on employee bulletin boards in all of its Texas Burger King restaurants a notice regarding its policy against religious discrimination and its duty to accommodate, the consent decree said.

Employer fired a **Pentecostal (Christian)** employee after denying an accommodation for wearing a skirt rather than pants at work.

<http://www.law360.com/articles/408283/burger-king-settles-claims-it-axed-christian-worker-over-skirt>

Details:

<https://www.eeoc.gov/eeoc/newsroom/release/1-23-13.cfm>

Nursing home refused to allow Muslim worker to wear hijab, government lawsuit alleges

Share this content:



An Alabama nursing home is being sued after it allegedly refused to allow a Muslim worker to wear a hijab on the job, according to a lawsuit filed by the U.S. Equal Employment Opportunity Commission last week.

Shadescrest Health Care Center hired Tracy Martin as a certified nursing assistant in August 2012, according to the lawsuit. Martin reportedly wore the hijab on Aug. 9 and was told to “remove the head covering or be subject to termination,” according to the government's [press release](#) published Monday. Martin filed a discrimination charge with the EEOC and was fired weeks after Shadescrest received notice of the complaint.

The EEOC charges that Martin was fired “in retaliation” to her discrimination complaint and for her attempt to exercise her religious rights, the government alleges.



A woman hired as an occupational therapist says Genesis used her background check improperly.

Employer fired a **Muslim** employee after denying her the ability to wear a hijab and then retaliating (firing her) once she filed charges of discrimination.

<http://www.mcknights.com/news/nursing-home-refused-to-allow-muslim-worker-to-wear-hijab-government-lawsuit-alleges/article/359936/>

Details:

<https://www.eeoc.gov/eeoc/newsroom/release/7-7-14.cfm>

Title VII of the 1964 Civil Rights Act

Requests for accommodation of a religious belief or practice could include, for example: a Catholic employee requesting a schedule change so that he can attend church services on Good Friday; a Muslim employee requesting an exception to the company's dress and grooming code allowing her to wear her headscarf, or a Hindu employee requesting an exception allowing her to wear her bindi (religious forehead marking); an atheist asking to be excused from the religious invocation offered at the beginning of staff meetings; an adherent to Native American spiritual beliefs seeking unpaid leave to attend a ritual ceremony; or an employee who identifies as Christian but is not affiliated with a particular sect or denomination requests accommodation of his religious belief that working on his Sabbath is prohibited.



TITLE VII

- Title VII prohibits employment discrimination based on an employee's race, color, religion, sex, or national origin



Federal protection for employees who work for organizations of 15 or more workers.

Title VII Involves Nondiscrimination Protection

Areas where religious adherents can experience overt discrimination:

Discriminatory Employment Decisions Based on Religious Affiliation

Examples: In making decisions on...
hiring, firing, layoff, pay, promotion;
position assignment; training

Denying employment opportunities to a person because of marriage to, or association with, an individual who is an adherent of a religion.

Harassment Based on Religion

Accommodation of Religious Beliefs and Practices

Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;

Title VII requires **accommodation** related to only two dimensions of diversity: **disability** and **religious diversity**.

Title VII specifically addresses the ability of religious adherents to be able to **practice their religious doctrine in the workplace**.

The most common accommodation involves scheduling changes so that religious adherents can observe their Sabbath.

Important Terms Associated with Accommodation

- For an accommodation request to be valid, the employee must be asking for accommodation based on **sincerely held beliefs** in his/her religion.
- In order for an employer (of 15 or more employees) not to honor a religious accommodation request the employer must show **undue hardship** – where the business will suffer if the request is granted.

NOTE

The threshold for a “undue hardship” is very low – it’s based on a “de minimis” cost to the employer.

Some social justice advocates would like this threshold raised.

Because of the increase in religious based employment discrimination charges filed with the EEOC, in 2014, the EEOC released a guide specifically associated with workforce rights and employer responsibilities and religious garb (dress) and grooming.

Fact Sheet on Religious Garb and Grooming in the Workplace: Rights and Responsibilities

This fact sheet provides basic information about how federal employment discrimination law applies to religious dress and grooming practices. A full-length question-and-answer guide is available at http://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm.

In most instances, employers covered by Title VII of the Civil Rights Act of 1964 must make exceptions to their usual rules or preferences to permit applicants and employees to follow religious dress and grooming practices. Examples of religious dress and grooming practices may include: wearing religious clothing or articles (e.g., a Christian cross, a Muslim hijab (headscarf), a Sikh turban, a Sikh kirpan (symbolic miniature sword)); observing a religious prohibition against wearing certain garments (e.g., a Muslim, Pentecostal Christian, or Orthodox Jewish woman's practice of wearing modest clothing, and of not wearing pants or short skirts); or adhering to shaving or hair length observances (e.g., Sikh uncut hair and beard, Rastafarian dreadlocks, or Jewish peyes (sidelocks)).

- Title VII prohibits disparate treatment based on religious belief or practice, or lack thereof. With the exception of employers that are religious organizations as defined under Title VII, an employer must not exclude someone from a job based on discriminatory religious preferences, whether its own or those of customers, clients, or co-workers. Title VII also prohibits discrimination against people because they have no religious beliefs. Customer preference is not a defense to a claim of discrimination.
- Title VII also prohibits workplace or job segregation based on religion (including religious garb and grooming practices), such as assigning an employee to a non-customer contact position because of actual or assumed customer preference.
- Title VII requires an employer, once on notice that a religious accommodation is needed for sincerely held religious beliefs or practices, to make an exception to dress and grooming requirements or preferences, unless it would pose an undue hardship.
 - Requiring an employee's religious garb, marking, or article of faith to be covered is not a reasonable accommodation if that would violate the employee's religious beliefs.

The EEOC also provides employers with a compliance manual and best practices for avoiding religious discrimination as guidelines to follow.

SECTION 12: RELIGIOUS DISCRIMINATION

OVERVIEW	1
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Best Practices for Eradicating Religious Discrimination in the Workplace

Disparate Treatment Based on Religion

Employer Best Practices

- Employers can reduce the risk of discriminatory employment decisions by establishing written objective criteria for evaluating candidates for hire or promotion and applying those criteria consistently to all candidates.
- In conducting job interviews, employers can ensure nondiscriminatory treatment by asking the same questions of all applicants for a particular job or category of job and inquiring about matters directly related to the position in question.
- Employers can reduce the risk of religious discrimination claims by carefully and timely recording the accurate business reasons for disciplinary or performance-related actions and sharing these reasons with the affected employees.
- When management decisions require the exercise of subjective judgment, employers can reduce the risk of discriminatory decisions by providing training to inexperienced managers and encouraging them to consult with more experienced managers or human resources personnel when addressing difficult issues.
- If an employer is confronted with customer biases, e.g., an adverse reaction to being served by an employee due to religious garb, the employer should consider engaging with and educating the customers regarding any misperceptions they may have and/or the equal employment opportunity laws.

Religious Harassment

Employer Best Practices

- Employers should have a well-publicized and consistently applied anti-harassment policy that: (1) covers religious harassment; (2) clearly explains what is prohibited; (3) describes procedures for bringing harassment to management's attention; and, (4) contains an assurance that complainants will be protected against retaliation. The procedures should include a complaint mechanism that includes multiple avenues for complaint; prompt, thorough, and impartial investigations; and prompt and appropriate corrective action.
- Employers should allow religious expression among employees to the same extent that they allow other types of personal expression that are not harassing or disruptive.
- Once an employer is on notice that an employee objects to religious conduct that is directed at him or her, the employer should take steps to end the conduct because even conduct that the employer does not regard as abusive can become sufficiently severe or pervasive to affect the conditions of employment if allowed to persist in the face of the employee's objection.
- If harassment is perpetrated by a non-employee assigned by a contractor, the supervisor or other appropriate individual in the chain of command should initiate a meeting with the contractor regarding the harassment and demand that it cease, that appropriate disciplinary action be taken if it continues, and/or that a different individual be assigned by the contractor.



Title VII has been (and will continue to be) impacted by Supreme Court rulings.

In 2015 the Supreme Court chose to hear an important **religious discrimination suit that involved accommodation.**

The fact that the Supreme Court took the case was **a big deal.**

How much do you know about the case?

Do you know the religion of the plaintiff? **(Muslim)**

Do you know the name of the defendant ? **(Abercrombie & Finch)**

Do you know the major issue addressed by the
Court? **(Accommodation)**

The story behind the case is interesting and a bit complex.

Here's what is important in relation to accommodation.

According to Title VII policy an employee (or in this case, a prospective hire) **has to request an accommodation.**

During her interview, Samantha Elauf didn't ask for an accommodation to wear the hijab.

She was not hired specifically because she wore a hijab during her employment interview.

The Important Case of Samantha Elauf and the Workplace Rights of Muslim Women

by Reem Subei



35 Comments



Samantha Elauf outside the US Supreme Court. Elauf was not hired by the preppy retailer Abercrombie & Fitch because she wore a headscarf during her job interview, which the company said conflicted with its dress code. (Photo: Ilim Bourg)

Supreme Court Rules Against Abercrombie & Fitch In Discrimination Case

Posted: 06/01/2015 10:44 am EDT | Updated: 06/02/2015 1:59 am EDT

The Supreme Court indicted that **it didn't matter that the plaintiff didn't specifically ask for the accommodation**. In this case, the manager assumed that Samantha Elauf was Muslim and would wear the hijab to work.

The Supreme Court was interested in whether her hijab was a “motivating factor” in not hiring her.

She earned high marks in all other areas during the interview. What stopped her from being hired was Abercrombie & Fitch’s “look policy” that bans head coverings.

We will revisit the impact of a company’s “look policy” again when we address diversity of appearance.

Justice Samuel Alito:

"So the first is a Sikh man wearing a turban. The second is a Hasidic man wearing a hat. The third is a Muslim woman wearing a niqab. The fourth is a Catholic nun in a habit. Now, do you think ... that those people have to say, 'We just want to tell you, we're dressed this way for a religious reason. We're not just trying to make a fashion statement'?"

Indicating that there is a way for an employer to address an accommodation situation without directly asking a job applicant about his or her religion, he asked: "Why can't the employers just simply say, *'We have a "look policy" that doesn't permit beards. Can you comply with that policy?'*"

Note: The EEOC and Discrimination Lawsuits

Not all cases associated with employment discrimination based on religion are tried by EEOC. The EEOC selects the cases they choose to litigate. The other cases are tried by employment law attorneys who are independent or who are associated with social justice organizations.

Discrimination of employees based on religious affiliation is illegal through **state law**.

New Jersey's Law Against Discrimination (LAD) specifically identifies **protection of religious adherents** from discrimination and harassment in the workplace. In addition the law requires an employer to offer accommodation so that employees can practice their religious beliefs.

Protection for employees is not based on business size (as it is with Title VII.) **A business can have any number of employees** (Title VII – business must have at least 15 employees)

Sources: SHRM and NJ Government

<https://www.shrm.org/LegalIssues/StateandLocalResources/StateandLocalStatutesandRegulations/Documents/EEO-discrimination.pdf>

http://www.judiciary.state.nj.us/factsheets/fact_reldis.pdf

New Jersey's Law Against Discrimination (LAD) and Accommodation

In 2008, the NJLAD was amended to expand protection for religious employees regarding accommodation.

- *Under Title VII*, an accommodation doesn't have to be granted if an employer indicates that the accommodation poses more than a "de minimis" (minimum) burden on the business.
- The 2008 *NJLAD* amendment increases the employer's obligation to offer the accommodation beyond Title VII.

Based on the amendment, **"a bona fide effort" to accommodate** an employee's request must be made before determining that the religious accommodation involves an "undue hardship" on the business.

Source: Change to New Jersey Law Against Discrimination Provides Employees Greater Religious Accommodation Rights
<http://www.jacksonlewis.com/resources-publication/change-new-jersey-law-against-discrimination-provides-employees-greater-religious-accommodation-rights>

It is important to note that all nondiscrimination and harassment laws just presented **also pertain to those in the “non-religious” adherent category.**

For example, atheists are also protected from discrimination and harassment that may occur because they are atheists. Atheists can also ask for an accommodation, such as being excused from being present when a faith-based business owner opens a meeting with a prayer.

(Did you know that businesses can open meetings with a prayer?)

United States

Religious Based Discrimination Cases Filed

	'99	'00	'01	'02	'03	'04	'05	'06	'07	'08
# of Charges	1,811	1,939	2,127	2,572	2,532	2,466	2,340	2,541	2,880	3,273
	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18
# of Charges	3,386	3,790	4,151	3,811	3,720	3,549	3,620	3,825	3,438	2,859

<https://www.eeoc.gov/eeoc/statistics/enforcement/religion.cfm>

NEW JERSEY

Religious Based Discrimination Cases Filed

	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18
# of Charges	63	82	89	87	85	98	76	104	85	79
% of US Religion charges	1.9	2.2	2.1	2.3	2.3	2.8	2.1	2.7	2.5	2.8
% of total state charges	4.5	4.9	4.8	4.8	5.1	6.1	4.9	5.5	5.3	5.3

https://www1.eeoc.gov/eeoc/statistics/enforcement/charges_by_state.cfm#centercol

Look at the charge numbers again...

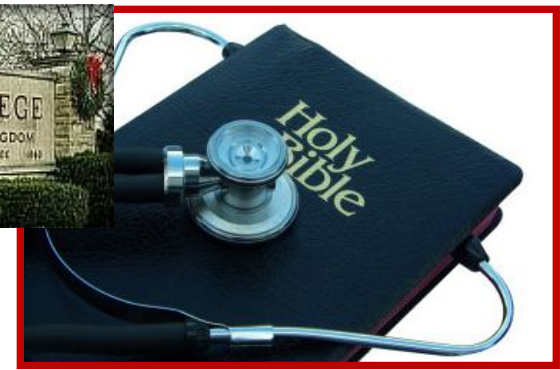
Nationwide: 2,859 claims filed

The charges filed nationwide in 2018 have not been this low since 2006.

From New Jersey: 79 claims filed

The charges filed in New Jersey in 2018 have not been this low since 2015.

The recent decline in claims of religiously based discrimination may not last. In addition, claims are about 1,000 more this year than in 1999 (20 years ago.)



The Religious Exemption

Faith Based Organizations as Employers

From the **Federal Government's** perspective, these are institutions whose "purpose and character are primarily religious." Religiously affiliated employers can be **not-for profit organizations and associations, worship organizations and societies, schools and colleges, hospitals**. These entities are **registered with the US Federal Government as religious organizations**.

Examples: a Catholic Church's grammar school; a Jewish social service agency; Liberty College (evangelical Christian college); a Presbyterian hospital.

These organizations are exempt from religious discrimination regulations and **can choose their employees based on the employee's religion and beliefs**.

Compliance Manual Section 12:

C. Exceptions

1. Religious Organizations

https://www.eeoc.gov/policy/docs/religion.html#_Toc203359493

The Ministerial Exemption

Depending on **religious tenets of the faith-based organization** and the **position of the employee** in the organization, an employee of a religious organization can be fired for a variety of actions. The employee must somehow be involved with **teaching/preaching religious material as part of job requirements**.

When determining if the employee is exempt from employment protections covered by EEOC related laws (like Title VII) the following is evaluated:

- functions performed by the employee

- the job title given to and used by the employee

- the amount of time the employee spends on particular activities (like religious oriented teaching or preaching)

Examples of reasons why an employee might experience employment discrimination:

- being **pregnant but not married**
using medical rather than natural means of **fertilization** to become pregnant
- being an employee who **identifies as lesbian, gay, bisexual or transgender** (unless the state has nondiscrimination laws protect LGBT employment and doesn't have a religious exemption clause.)

NOTE: In NJ the ministerial exemption applies.

Compliance Manual Section 12:

C. Exceptions

2. Ministerial Exception

https://www.eeoc.gov/policy/docs/religion.html#_Toc203359493

Case Study
2017

Pregnant, Single, Fired

Federal court finds Christian college lacked the right to tell pregnant instructor to either marry the father of child she was carrying, stop living with him or lose her job.

By Scott Jaschik // March 23, 2017

43 COMMENTS

A federal judge has ruled that Northwest Christian University engaged in illegal discrimination based on marital status when it told an unmarried, pregnant instructor to either marry the father of the child she was carrying, stop living with him or lose her job. She refused the first two options and was fired.

The basic facts in the case are not in dispute. The ruling was about how much leeway a religious college has in enforcing its religious teachings. That's an issue that could soon receive more attention, given that President Trump has said that the Obama administration and the judges appointed by the former president did not show appropriate deference to religious institutions -- and Trump has vowed to appoint judges and officials who will do so.



Coty Richardson

The case dates to 2011, when Coty Richardson, an instructor of exercise science at Northwest Christian University, in Oregon, informed her supervisors that she was pregnant with her third child. According to evidence in the case cited in the decision by Judge Ann Aiken, her supervisors then discussed their understanding that she was not married.

When they determined she was not, they gave her the three options for how to proceed. She was fired when she turned down the first two options -- and so she was out of the job when her third child was born. She sued the university, citing discrimination based on marital status and pregnancy. Richardson and the university both asked for summary judgment; Richardson won on the issue of marital status, and the university won an order that it could not be found to owe punitive damages. Judge Aiken found that the pregnancy discrimination claims should go to trial.


INSIDE
HIGHER ED

Ministerial Exception Not Found in Case

<https://www.insidehighered.com/news/2017/03/23/court-finds-christian-college-engaged-illegal-discrimination-firing-pregnant-single>

Northwest Christian urged Judge Aiken to dismiss the entire case based on its First Amendment rights to religious freedom. Those rights, the university said, include the "ministerial exception," which is a legal tradition that bars federal courts from intervening in disputes over members of the clergy and some other employees of religious institutions. The Supreme Court upheld the concept of the exception in 2012 but did not define which employees would be covered. The court's ruling came in the case of a teacher at a private school who was not a member of the clergy but had some religious instruction duties and led students in prayer. She was covered, the Supreme Court ruled, but the decision suggested that not all employees of religious institutions are covered.

Judge Aiken rejected the idea that the ministerial exception applied in this case.



"First, plaintiff's title, assistant professor of exercise science, was secular," the judge wrote. "Second, plaintiff did not undergo any specialized religious training before assuming her position. Third, although there is ample evidence plaintiff held herself out as a Christian, there is no evidence she held herself out as a minister. With respect to the fourth factor, there is evidence plaintiff performed some important religious functions in her capacity as a professor.

"She was expected to integrate her Christianity into her teaching and demonstrate a maturing Christian faith. But any religious function was wholly secondary to her secular role: she was not tasked with performing any religious instruction and she was charged with no religious duties such as taking students to chapel or leading them in prayer. If plaintiff was a minister, it is hard to see how any teacher at a religious school would fall outside the exception."

What about a religious exemption and the NJLAD?

The same exemption on the federal level also is written into the NJLAD.

- **Religious affiliation** can be a job requirement *for anyone who engages in religious activities in the organization*. (Example: Employee must be Catholic – Jewish)
- Faith-based organizations can **require employees to adhere to the “tenets” of the organization’s religious beliefs**.

What Employees Believe About the Workplace

In 2013 the Tanenbaum Center for Interreligious Understanding published the study **What American Workers Really Think About Religion: Survey of American Workers and Religion**.

This required resource was the first major survey associated with employees and religion since 1999. The survey results are important as they offer an entrance into understanding what religious adherents and non-adherents think, feel and experience in the workplace.



What American Workers
Really Think About Religion:
Tanenbaum's 2013 Survey of
American Workers and Religion

A sampling of survey data indicates that:

More than 50% of non-Christians believe that employers are ignoring their religious beliefs.

Almost a third of White evangelicals and non-Christian employees believe that people look down on their beliefs.

When the topic of religion comes up at work:

Forty-three percent **(43%) of atheist and agnostic or secular employees** feel uncomfortable;

29% of non-Christian employees are uncomfortable;

whereas **88% of White evangelical Christians** indicate that they are comfortable.

Crosscultural Strategies



What actions can we take to behave in a more crosscultural way with coworkers who do not share our beliefs? According to our required reading, there are specific ways we can behave in a more inclusive way...

- Avoid/challenge assumptions (be less certain)
- Engage the **PLATINUM Rule**: Treat others the way they wish to be treated
- Be curious – respectful - don't expect others to represent their whole religious cohort
- Listen to what others are sharing
- Don't “buy into” and challenge stereotypes about people who are adherents to differing religions.

Contemporary Issues: *What's Going on in the US?*



- Ministerial exemption is used as a defense by **faith-based organizations** to dismiss employment discrimination cases filed by employees who identify as lesbian and gay.
- **Religiously Devout Employers**: Impact of US Supreme Court decision on the Hobby Lobby and Conestoga Wood Specialties case.

FAITH BASED ORGANIZATIONS

“Ministerial Exemption” & Lesbian and Gay Employees Who Were Fired

Cases are occurring around the country (with one from New Jersey) where lesbian or gay employees have been fired after leadership in a faith-based organization found out that the employee was gay – or – in a same-sex marriage.

At issue is whether the fired employees can be classified under the ministerial exemption.

As seen on a prior slide, courts look at the following to determine whether or not the faith-based organization fired a person who fits into the category of “minister” through examining the following:

- functions performed by the employee

- the job title given to and used by the employee

- the amount of time the employee spends on activities (like religious oriented teaching or preaching)

In New Jersey

2016

Employer:

Paramus Catholic High School/ Archdiocese of Newark

Employee:

Kate Drumgoole; (former) Dean of Guidance and basketball coach

Kate's perspective

Drumgoole's attorneys, Eric Kleiner and Lawrence Kleiner, have argued that Drumgoole's job did not include ministerial duties and that the school uses some of the NJLAD in its faculty handbook, making it liable to all of the laws against discrimination.

Archdiocese of Newark's perspective

Westrick argued that the religious entities are exempt from New Jersey Laws Against Discrimination and that Kate Drumgoole, the school's former dean of guidance and girls' basketball coach, signed a document agreeing to abide by the tenets of the Catholic religion as a term of her employment.

A judge was slated to decide if the employee did serve in the role of “minister” in her place of employment.

Source: Judge Denies 2nd Request to Throw Out Same-Sex Suit Against Paramus Catholic
October 22, 2016

Access: <http://www.app.com/story/news/education/2016/10/21/judge-denies-2nd-request-throw-out-same-sex-suit-against-paramus-catholic/92526978/>

In September of 2019, the Newark Archdiocese settled Kate Drumgool's employment discrimination lawsuit.

In Illinois
2016

Does position title alone create the ministerial exception?

Employer:

Holy Family Parish

Employee:

John Collin Collette;
(former) Director of
Worship and Music for 17
years

The ministerial exception bars a minister from making an employment discrimination claim against a religious institution, based on the Religion Clauses of the First Amendment to the U.S. Constitution. The exception recognizes a church's freedom to control its faith and doctrine through its selection and discipline of leaders and instructors. The parish and archdiocese argued that because Collette admitted in his complaint that he was the director of worship and director of music for the parish, he necessarily qualified as a "minister" under the law.

The court acknowledged the existence of the ministerial exception and that it has been applied to worship directors that use "discretionary religious judgment" in selecting music and preparing choral arrangements for churches. The court noted, however, that Collette claimed in his complaint that he was not responsible for planning the liturgy or selecting the music played during masses and services and that he never selected nor approved music or liturgy for masses. The court found that the title of Collette's position alone could not determine whether he was a "minister." Rather, the court had to consider the "functional role" of Collette's position as director of worship and music director to determine whether the position was ministerial in nature.

Source: Gay Worship Leader May Have Discrimination Claim Against Church
August 10, 2016

Access: <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/gay-worship-leader-discrimination-claim.aspx>

Religiously Devout Employers



EEOC Regulations in Relation to Businesses

“Some employers have integrated their own religious beliefs or practices into the workplace, and **they are entitled to do so.**”

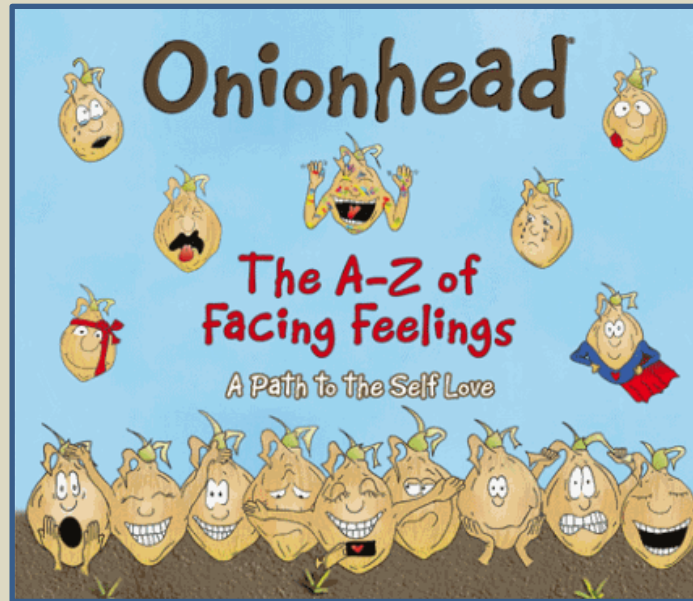
Source: Employer Sponsored Programs – EEOC Compliance Manual
https://www.eeoc.gov/policy/docs/religion.html#_Toc203359487

In this section we'll look at two cases to learn more about religious businesses.

Equal Employment Opportunity Commission v.
United Health Programs of America

And

Burwell v. Hobby Lobby Stores



Equal Employment Opportunity Commission v.
United Health Programs of America

This is a *crazy* case!

But a good way to remind us of several Title VII requirements.

Let's get some background on EEOC regulations first.
Remember this definition when hearing about the case.

Definition of Religion

"Religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism, but also **religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.**"

A belief doesn't have to be common. A belief can gain "religious" status even if **"few – or no – other people adhere to it."**

What actions can a religious employer take?

A manager may invite his/her subordinate to a religious retreat – or discuss his/her religious beliefs with subordinates.

Through Title VII and EEOC policies, employees who do not want to engage in discussions about a managers or owner's faith – or do not want to go to a retreat sponsored by the manager or owner's religious organization, **can tell the boss that they don't want to talk about – or participate in - religious activities.** The manager/owner must stop interacting with the employee about religious matters. If the manager/owner doesn't curtail religiously based discussions, **the employee can file harassment charges.**

"While religious or spiritual practices may indeed provide comfort and community to many people, it is critical to be aware that federal law prohibits employers from **coercing employees** to take part in them."

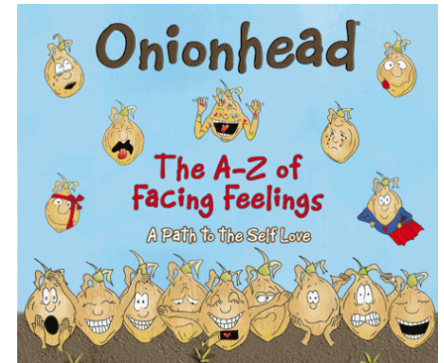
"Individuals are free to practice religion or not in line with their own personal beliefs. **Employers are not permitted to dictate this area of workers' lives.** Workplace pressure to conform to the employers' spiritual or religious practices violates federal employment law."

The culture of an organization may be such that meetings begin with a prayer.

Through Title VII and EEOC policies, employees who do not want to engage in employer organized prayer **do not have to participate. They can ask for an accommodation.** They do not even have to be in the room where the prayer is occurring.

Now let's get the facts of the case

In this case, the owner of a New York based business **required that all employees follow certain doctrine** which included a variety of more traditional activities – such as prayer and burning incense – as well as unorthodox activities – such as telling their coworkers that they loved them.



Fired employees submitted a claim to the EEOC. The EEOC not only found merit in their claims, **the EEOC took the case and sued the business for religious discrimination.**

1st Step: NY Federal Court to litigate whether “Onionhead” is a religion.

Remember the slide on what is a religion by EEOC policy?

“...workers described a cult like atmosphere with rites ranging from incense burning to “cleanse the workplace” and dimming lights to prevent demons from entering, to chants, prayers and delving into workers’ personal lives.

One New Jersey woman was told that “a message from the universe or God” required her to move to Long Island and was terminated when she didn’t. Two women said they were fired after disclosing they were Catholic and didn’t want to participate in Onionhead.”

Students can click on the picture. An audio bar will become visible. Click the play arrow to hear the attorney speak.



Jury awards \$5.1 million to employees of 'Onionhead' devotee

The 10 employees who filed suit (Elizabeth Ontaneda, Francine Pennisi were named in the case) won an award of \$5.1 million in compensatory and punitive damages.

Source: Jury awards \$5.1 million to employees of 'Onionhead' devotee, Business Insurance, 2018
[https://www.businessinsurance.com/article/20180427/NEWS06/912320914/Jury-awards-\\$5-million-to-employees-of-%E2%80%98Onionhead%E2%80%99-devotee](https://www.businessinsurance.com/article/20180427/NEWS06/912320914/Jury-awards-$5-million-to-employees-of-%E2%80%98Onionhead%E2%80%99-devotee)



Burwell v. Hobby Lobby Stores

Should businesses enjoy the same 1st amendment religious freedoms that are provided to individual US citizens?

The question as to whether **religious freedom afforded to US citizens is also afforded to businesses** is in contention.

The 1st Amendment to the US Constitution addresses religion. There are two clauses of importance: the establishment clause and the free exercise clause.

Associated with current events, we'll examine the **free exercise clause**.

The free exercise clause guarantees all US citizens the right to believe in the religion of their choosing and be able to engage in their religious doctrine.

What if business owners believe that abortion is a sin and act on their belief regarding organizational policy?

Can business owners choose not to offer insurance policies to their female employees that involve certain birth control because the owners believe that the birth control causes an abortion?

Some background

The Affordable Care Act (ACA also known as Obamacare) requires birth control be available to women at no cost. Health insurance plans that employees purchase through their employer **have to offer free birth control to female workers.**

Religious organization employers were already exempt from the ruling.

Example: Houses of Worship; Catholic colleges and hospitals.

Process: Religious organization contacts insurance company indicating their objection. **The insurance company must still comply with the mandate** (free birth control for women through their policy) **without the organization contributing to the payment.**

This Case is about Businesses: Religiously Devout Owners

The Case

In 2014, the Supreme Court ruled on a case brought forth by Hobby Lobby and Conestoga Wood Specialties, both privately held companies. The companies would not allow certain forms of birth control to be offered though employer supported healthcare insurance policies.

Hobby Lobby offers some forms of birth control in its insurance plan. Business owners object to several forms of birth control because they believe that certain forms of birth control bring about an abortion.

It has long been established that Hobby Lobby is a Christian company. The company offers pastoral counselling and Bible study. All stores are closed on Sunday.

Supreme Court ruled in favor of Hobby Lobby and Conestoga Wood Specialties

When the Supreme Court ruled on the Hobby Lobby case, they supported the idea that **1st Amendment religious freedom afforded to individuals also applies to businesses.**

These businesses, however, must be “**closely held.**”

What is closely held? A family business where 5 or fewer family members own more than 50% of the business.

Protesters: right of women to access contraception as per ACA regulations without corporate interference



Protesters advocated for access to birth control outside the Supreme Court on Monday. Doug Mills/The New York Times

Protesters: right of business owners to act on religious freedom



Activists reacted Monday to the Hobby Lobby ruling outside of the Supreme Court. Doug Mills/The New York Times

In the Name of “TRUMP 2020”

Businesses, of course, are owned by more than *Christian* adherents.

This June a **Sikh business** was the latest religious and ethnic hate crime reported from around the United States. Sikhs have a history of being mistaken for Muslims because of the religious garb – a turban – worn by Sikh men.

“His restaurant was completely destroyed, with racial slurs covering the walls. **“White power” “Trump 2020,” “go home,” and other phrases promoting white supremacy** in addition to threats covered the walls, doors, counters, and other surfaces of his establishment. In addition to the restaurant being vandalized and deemed completely unusable, **religious statues were beheaded** and items were stolen.



Source: Qamar, A. (June 23, 2020). ‘Go home’ and ‘white power’ spray-painted among other hateful phrases in Santa Fe Indian restaurant. Daily Kos.

<https://www.dailykos.com/stories/2020/6/23/1955396/--Go-home-and-white-power-spray-painted-among-other-hateful-phrases-in-Santa-Fe-Indian-restaurant>