

Careful With that Dress Code

No Segregation of Employees in Religious Dress

Effective January 1, 2013, California makes it official: Employers must accommodate employees' religious dress and grooming in the workplace and cannot limit their access to the public.

As set forth in the amended Fair Employment and Housing Act provisions, employees must be allowed to wear or carry "religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed." Employers must also allow employees to engage in what the statute calls "religious grooming practices," defined as "all forms of head, facial, and body hair" that are part of an individual's religious observance. The statute emphasizes that these provisions are to be "broadly construed."

Contrary to an earlier California appellate court decision, employers cannot limit employees to non-public or otherwise segregated areas of the workplace because of their dress or other manifestations of religious practices. Under the new legislation, employers operating retail or other public spaces will no longer be able to "accommodate" employees wearing turbans, head scarves, burkas, or other religious dress, by asking them to work in the back of the store.

The statute sets an "undue burden" standard in order to justify a failure to provide a requested accommodation. Under federal law that means something more than a *de minimis* cost. California law, however, requires that it cause "significant difficulty or expense" to the employer.

This bill was sponsored in part by the Sikh Coalition and was written in response to increased numbers of religious discrimination cases, especially in the Sikh and Muslim communities. However, it applies equally to any "bona fide" religious dress or grooming practice.

Employers should review their dress code policies to insure they comply with the new law and counsel supervisors about these new obligations. If you have any questions, please contact your Hanson Bridgett attorney.

For more information, please contact:

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