

## TITLE VII AND RELIGION IN THE WORKPLACE

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Any employee who can sufficiently prove that they experience intentional discrimination on the basis of religious belief is legally entitled to compensatory and punitive damages. There has been debate over whether atheism is protected under Title VII. According to a statement on religious discrimination available on the U.S. Equal Employment Opportunity Commission website, secular individuals are protected under Title VII:

*Title VII protects all aspects of religious observance and practice as well as belief and defines religion very broadly for purposes of determining what the law covers. For purposes of Title VII, 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... Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs.*

## THE FINE LINE BETWEEN ACCOMMODATION & DISCRIMINATION

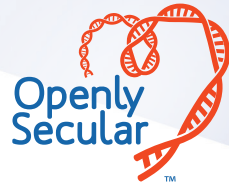
*Under Title VII, employers are required to reasonably accommodate the religious beliefs and practices of their employee so long as doing so does not cause undue hardship (i.e., minimal cost) to the employer's business. These accommodations will vary depending on an employee's particular faith, but generally include granting time off on religious holidays, amending the work hours of Jewish employees who observe the Sabbath, and establishing a dedicated place for Muslim employees to pray during the work day.*

*Determining when protected religious expression and religious accommodation cross the fine line to discrimination against religious minorities and/or secular individuals can be tricky. Secular employees do not require the same accommodations as religious employees, which can inevitably lead to workplace bias.*

## ABOUT OPENLY SECULAR

Openly Secular is a coalition project that promotes tolerance and equality of people regardless of their belief systems. Founded in 2013, the Openly Secular coalition is led by four organizations - Richard Dawkins Foundation for Reason and Science, Secular Coalition for America, Secular Student Alliance, and Stiefel Freethought Foundation. This campaign is also joined by national partner organizations from the secular movement as well as organizations that are allies to our cause.

The mission of Openly Secular is to eliminate discrimination and increase acceptance by getting secular people - including atheists, freethinkers, agnostics, humanists and nonreligious people - to be open about their beliefs.



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Richard Dawkins Foundation



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**For Employers: Understanding Secular Employees**  
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# FOR EMPLOYERS: Understanding Secular Employees



## VARIOUS FORMS OF RELIGIOUS DISCRIMINATION IN THE WORKPLACE

“Secular” is an invisible social identity. Disclosing a secular identity can be paradoxical – on one hand, disclosure increases the risk of experiencing religious discrimination in the workplace, and on the other hand, a secular employee has no protection from religious discrimination without disclosing. Religious discrimination can manifest in various forms, such as:

- ⦿ Harassment and/or disparate treatment on the basis of religious belief/non-belief.
- ⦿ Compulsory participation in meetings where religious topics are discussed.
- ⦿ Compulsory prayer in a secular workplace.

Religious discrimination in the workplace often creates a hostile work environment, however, proving that discrimination occurred because of one’s religious/non-religious beliefs can be very difficult. In order to establish that a hostile work environment resulted in discrimination actionable under Title VII, employees must demonstrate that they were regularly the target of unwelcome conduct (slurs, jokes, physical contact, intimidation, etc.), that the conduct was due to the employees’ nonreligious status, that the conduct was so severe that it altered the conditions of employment and created a hostile or abusive work environment, and that both the employees and a reasonable person would view the work environment as hostile or abusive.

In the same vein, establishing disparate treatment based on nonreligious status requires employees to prove that they are nonreligious, were qualified for their position or the position applied for, were subject to an adverse employment action, and that members of a different religious group were given more favorable treatment.

Religious workplace discrimination is a problem. According to a recent study:

- ⦿ Nearly six out of 10 atheists believe that people look down on their beliefs, as do nearly one-third of both non-Christian religious workers.
- ⦿ Atheist workers are substantially more likely to report experiencing high rates of workplace discrimination. Atheists are also more likely to acknowledge high rates of workplace discrimination of Muslims, LGBT people, Hispanic people, and women.

## TITLE VII AND RELIGIOUS DISCRIMINATION

Navigating religious expression in the workplace can be difficult for employers, primarily when said expression can be perceived as religious discrimination. Religious expression is legally protected, however thanks to Title VII, religious discrimination in the workplace is not. For example, in *EEOC v. Townley Engineering & Manufacturing Co.* (1988), the ninth circuit ruled that requiring employees to attend mandatory weekly devotional services violated Title VII. Title VII grants protection from all forms of conduct that generate a hostile/abusive work environment on the basis of religion, such as proselytization, harassment, threats, and mockery.

Title VII not only protects employees from religious discrimination, but also provides legal protections to employers. An exemplary case is *Wilson v. U.S. West Communications* (1995), in which a wrongful termination suit was filed against U.S. West (defendant) by a former employee (plaintiff) who was terminated on the grounds of religious harassment. On multiple occasions, the plaintiff repeatedly ignored requests made by U.S. West to stop wearing an extremely graphic anti-abortion button. The court ruled in favor of U.S. West, finding that the button’s religiously-charged graphic image violated Title VII, and refusal to stop wearing it by the plaintiff justified the company’s decision to terminate employment.

## TITLE VII AND RELIGIOUS EXEMPTIONS

Title VII, Section 702 expressly excludes a few cases from Title VII’s prohibitions against religious discrimination. These include when religious corporations, religious educational institutions, and religious societies make hiring decisions based upon fulfilling their religious mission. An example of a religious corporation is Pacific Press Publishing – a non-profit corporation, affiliated with the Seventh Day Adventist Church, that publishes religiously oriented material.

## MANAGING RELIGIOUS DIVERSITY IN THE WORKPLACE

Federal law requires you to provide reasonable accommodations for employees’ religious beliefs. According to the EEOC, common accommodations include:

- ⦿ Accommodating religious expressions
- ⦿ Changing job tasks
- ⦿ Exceptions to dress and grooming codes
- ⦿ Scheduling changes
- ⦿ Transfers
- ⦿ Use of the workplace for a religious observance

Beyond that, to effectively manage religious diversity in your workplace, employers should:

- ⦿ Treat all beliefs equally
- ⦿ Offer trainings on legal religious matters, to identify appropriate and inappropriate behavior and religious expression
- ⦿ Respect the beliefs of atheists and other secular employees
- ⦿ Establish a company holiday policy. Revisit established policies regarding paid time off (PTO) or flex time
- ⦿ Investigate incidents of religious discrimination in a timely manner
- ⦿ Swiftly discipline offenders to avoid legal liability and keep employee morale high
- ⦿ Be conscious of employees trying to take advantage of the system



For more information on how you or your business can be an Openly Secular Ally for your secular employees, visit:

[www.openlysecular.org/toolkits](http://www.openlysecular.org/toolkits)