

Oregon Expands Religious Accommodation Rights at Work

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Breaking Developments In Labor and Employment Law 07/30/09

On July 16, 2009, Oregon Gov. Ted Kulongoski signed into law the Oregon Workplace Religious Freedom Act ("OWRFA"). The new statute takes effect on January 1, 2010.

OWRFA expands existing protections against discrimination based on religion in the workplace by requiring employers to reasonably accommodate an employee's use of leave time for engaging in religious observance or practices. OWRFA also prohibits employers from instituting occupational requirements that restrict employees from wearing religious clothing, from taking time off for holy days, or from participating in a religious observance or practice. The OWRFA contains only one occupation-specific exception: Public school teachers will be prohibited from wearing religious dress while "engaged in the performance of duties as a teacher."

Under OWRFA, a reasonable accommodation of religious observance is required unless it imposes an "undue hardship" on the employer. "Undue hardship" is defined to exist where the accommodation "imposes significant difficulty or expense on the employer." When assessing an undue hardship, OWRFA directs consideration not only of the nature and cost of the requested accommodation, but also the size, financial resources and location of the employer, the type of business operations conducted by the employer, and the facility's health and safety requirements, including the safety requirements of other employees who might be adversely impacted by the accommodation.

What This Means For Employers

Awareness of OWRFA's requirements is particularly important for small employers because its provisions are applicable to any business or person with **one** or more employees. In contrast, Title VII, the federal law that prohibits religious discrimination, is applicable to employers with 15 or more employees. Thus, employers in Oregon – large and small – must recognize and respond appropriately to requests for religious accommodations in the workplace.

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