

Hello, Everyone!

'Tis the season. Your personnel are probably decking halls, donning apparel, and making plans to spend time with family and friends. The holidays raise a host of issues concerning the role of religion in the federal workplace, and the "Guidelines on Religious Exercise and Religious Expression in the Federal Workplace," issued by the White House in 1997 and used by the EEOC and OPM, provide some practical guidance how to address these issues.

[Guidelines for Religious Exercise and Religious Expression in the Federal Workplace.](#)*

Executive departments and agencies ("agencies") shall permit personal religious expression by Federal employees to the greatest extent possible, consistent with requirements of law and interests in workplace efficiency. . . . Agencies shall not discriminate against employees on the basis of religion, require religious participation or non-participation as a condition of employment, or permit religious harassment. . . .

[Religious Expression.](#) As a matter of law, agencies shall not restrict personal religious expression by employees in the Federal workplace except where: the employee's interest in the expression is outweighed by the government's interest in the efficient provision of public services, or where the expression intrudes upon the legitimate rights of other employees, or creates the appearance, to a reasonable observer, of an official endorsement of religion. . . .

For example: An employee may wear religious garb, such as a yarmulke, so long as it does not unduly interfere with the functioning of the workplace.

[Expression in Private Work Areas.](#) Employees should be permitted to engage in private religious expression in personal work areas not regularly open to the public to the same extent that they may engage in nonreligious private expression, subject to reasonable content- and viewpoint-neutral standards and restrictions . . . [and] so long as it does not interfere with the agency's carrying out of its official responsibilities.

For example: An employee may keep a Bible or Koran on her desk and read it during breaks.

[Expression in Areas Accessible to the Public.](#) Where the public has access to the Federal workplace, all Federal employers must be sensitive to the Establishment Clause's requirement that expression not create the reasonable impression that the government is sponsoring, endorsing or inhibiting religion generally, or favoring or disfavoring a particular religion

For example: At Christmas time, a supervisor may place a wreath over the entrance to the office's main reception area.

[Hostile Work Environment and Harassment.](#) The law against workplace discrimination protects Federal employees from being subjected to a hostile environment, or religious harassment, in the form of religiously discriminatory intimidation, or pervasive or severe religious ridicule or insult, whether by supervisors or fellow workers. Whether particular conduct gives rise to a hostile environment, or constitutes impermissible religious harassment, will usually depend upon its frequency or repetitiveness, as well as its severity

For example: A merit increase may not be withheld from an employee because he is an atheist.

[Accommodation of Religious Exercise.](#) Federal law requires an agency to accommodate employees' exercise of their religion unless such accommodation would impose an undue hardship on the conduct of the agency's operations. Though an agency need not make an accommodation that will result in more than a *de minimis* cost to the agency, that cost or hardship nevertheless must be real rather than speculative or hypothetical: the accommodation should be made unless it would cause an actual cost to the agency or to other employees or an actual disruption of work, or unless it is otherwise barred by law.

For example: If an employee's religious beliefs require him to be absent from work, the agency must adjust work schedules or permit that employee to apply compensatory time to cover the time lost, unless to do so would harm the ability of the agency to carry out its mission efficiently.

Establishment of Religion. The Establishment Clause of the First Amendment prohibits the Government—including its employees—from acting in a manner that would lead a reasonable observer to conclude that the Government is sponsoring, endorsing or inhibiting religion generally or favoring or disfavoring a particular religion The Establishment Clause also forbids Federal employees from using Government funds or resources (other than those facilities generally available to government employees) for private religious uses.

Bottom Line: During the holidays, as always, follow “the general principle that agencies shall treat all employees with the same respect and consideration, regardless of their religion (or lack thereof).”

The Guidelines do not create or restate any laws, but they do provide an outline of general principles. Of course, actual cases must be considered based on their specific facts and circumstances. I encourage you to contact Ms. Heidi Hanley, heidi.hanley@us.army.mil, the installation labor counselor, with any specific questions or concerns.

*Note: "These Guidelines principally address employees' religious exercise and religious expression when the employees are acting in their personal capacity within the Federal workplace and the public does not have regular exposure to the workplace. . . . The Guidelines do not . . . address religious exercise and religious expression by uniformed military personnel, or the conduct of business by chaplains employed by the Federal Government."