



The Rise of Religion and Spirituality in the Workplace: Employees' Rights and Employers' Accommodations

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ABSTRACT

As more employees bring their spirituality and religious beliefs into the workplace, employers are being asked to accommodate them. This paper defines spirituality and religion from the perspective of the workplace and documents the increasing importance of these phenomena. The paper then explores the legal issues of employers' duty to accommodate their employees' religious and spiritual beliefs and concludes with some recommendations to employers.

Introduction

This paper examines the topic of accommodating spirituality and religion in the workplace and its legal impact on current business practices. The meaning of spirituality is examined and its increasing presence in the workplace is described. Finally, legal, ethical, and practical issues related to an increase in workplace spiritualism are considered.

The traditional value in US-based work environments has been to regard spiritual and religious issues as belonging to employees' private lives and not matter for company policy or action (Laabs, 1995). Talking about spirituality or religion has generally been discouraged, and employees have been actively or tacitly to leave their spirituality at home. Braham (1999) writes, "it's a personal issue, and most leaders are content to leave the idea of God in the company parking lot. They pick him (or her) up again on the way home" (p.48). Braham argues, however, that there are signs that spirituality is being talked about more openly and taking on more importance. Others (Minehan, 1999; Neal, 1997) also see signs of the increasing importance of spirituality or religion in workplaces. One of those signs is the cover article, "God and Business," in the July 9, 2001, *Fortune* magazine, which speaks to the hunger for meaning in work. Another sign is that professional management organizations have added "spirituality and religion in the workplace" interest groups. Along with a growing trend to talk more openly about one's spirituality and to incorporate spirituality into all aspects of life, Neal (1997) sees a shift in management from a value-free theoretical approach to one that gives greater recognition to the often varied values of employees and managers.

With rising interest in religion and spirituality, religious discrimination cases have increased. Seventy percent of private-sector workers are in service jobs, and these workers, especially the younger generations, seem to have shifted their view towards their jobs. They look for jobs that are rewarding, satisfying, and meaningful (Lavelle, 1999). When the socio-



political climate moves towards one that emphasizes employees' individual values, and management shifts to a more value-based practice, managers need to be aware of the religious and spiritual issues in the workplace. Adequate knowledge and preparation for the growing trend can minimize litigation. Religion and spirituality in the workplace raise many issues and questions, but this paper is limited to the issues of accommodation for employees' religious practices and their ethical and legal impact on the company.

Significance of the Issue

Employers need to become more familiar with issues of spirituality because contemporary employees are frequently bringing their spiritual beliefs and practices with them to the workplace. Effective and responsible management in such a climate requires a greater awareness of and attention to employees as spiritual people. In addition, insensitive and inconsiderate management practices can lead companies into unwanted litigation. Claims of religious discrimination have, in fact, been increasing. The Equal Employment Opportunity Commission reported more than 1,800 religious discrimination cases in 1999 (The U.S. Equal Employment Opportunity Commission), and the number of such cases has increased by 43% within the last decade (Digh, 1999). Employees are increasingly bringing their beliefs and values into the workplace, and employers are faced with new challenges.

Defining Spirituality and Religion

Because the concepts of spirituality and religion in the workplace have such differing and unclear meanings and connotations, the following section examines several writers' attempts to define each. However, the reader will discern that there are not established definitions of either religion or spirituality, which adds to the complexity of the topic. This complexity creates the need for managers to be aware of this trend in order to accommodate an employee's religious or spiritual beliefs and avoid violating the Civil Rights Act.

Spirituality and Religion as Defined by Employees

Mitroff and Denton (1999) investigated views of spirituality and religion held by senior executives and HR executives. In their study, about 30% of the respondents had a positive view of both spirituality and religion; 2% had a positive view of religion and negative view of spirituality; 60% had a positive view of spirituality and negative view of religion; 8% had a negative view of both religion and spirituality. The majority of respondents in Mitroff and Denton's study believed that there was a clear distinction between religion and spirituality, and they felt more positive towards spirituality. The descriptive words used for religion were "narrow, prescriptive, dogmatic, restrictive, closed, and exclusive" and words such as "life, spirit, soul expression, meaning, connection, interconnectedness, creative, creation, universality, and cosmic oneness" were used to describe spirituality (Mitroff & Denton, 1999, p.40). The respondents of the study felt religion was an inappropriate topic in the workplace while spirituality was considered appropriate.

Consistent with the participants' beliefs in Mitroff and Denton's study, many individuals in business believe spiritual leadership has nothing to do with religion according to Pascarella



(1998). He points out, however, that business has applied Eastern thinking to management while bringing Christianity to business is frowned upon. This information suggests that people in business see a difference between religion and spirituality, and view spirituality more favorably. Although some find comfort in established faiths, many Americans have rejected organized religion (Garrett, 1999). It also suggests that Christianity seems to be considered a religion and Eastern thinking such as Zen and Taoism may be perceived as philosophies or values. Neal (1997) believes spirituality in the workplace has little to do with religion. She notes, "Spirituality in the workplace is about people seeing their work as a spiritual path, as an opportunity to grow personally and to contribute to society in a meaningful way.... Spirituality in the workplace can refer to an individual's attempts to live his or her values more fully in the workplace" (p.123).

More people are looking for a closer relationship between meaning in their lives and in their workplaces, and they are asking questions such as "What do I want to do the rest of my life?" "What is my purpose?" and "What is my true work?" (Neal, 1997). This increasing attention to the value of work may, in part, be rooted in the fact that employees are feeling more dehumanized and devalued in a work environment made even more insecure by downsizing and restructuring (Galen & West, 1995). More generally, however, too great a concern with profits has led to worker alienation and lack of meaning in their work (Renesch & Defoore, 1998). As a result, employees seem to be looking for jobs that provide personal meaning as well as personal profit (Neal, 1995). Neal (1997) argues that some organizations are moving from a solely profit motivation to one that includes concern for the values of employees, managers, and other stakeholders.

In summary, most employees have different concepts of religion and spirituality, which makes it difficult to reach clear and absolute definitions. Some employees consider themselves religious, some spiritual, some both and some neither while each group has varying definitions even within the group. But regardless of how individuals define their religious and spiritual beliefs, these beliefs that are strongly held are protected.

Trends in Spiritual Practice

One clear trend in spiritual practice in the US is the move away from organized religion and toward much less organized and traditional practice. Patrick (1999) points out that interest in spirituality continues to rise, but many churches are on the decline, and Naisbette and Aburdene's (1999) data show that in the last decade the Methodist Church lost 1.8 million members, the Presbyterian Church 1 million, the Episcopal Church .9 million, and the three largest Lutheran denominations have lost more than half a million members. While these churches have declining membership, other forms of spirituality have grown.

Americans may have moved away from organized religion and towards a more private, idiosyncratic, individualistic, and eclectic religious practices (Garret, 1999). Ehud Sperlberg, publisher and president of Inner Traditions, believes that traditional religion has become a "service provider," and today's seekers look for a more personal experience with the divine without the doctrine (Schlumph, 1999). Neal (1997) also points out the diversity of spiritual practices, noting that the most commonly mentioned spiritual practice is spending time in



nature. The old “religion” section of bookstores has been replaced with books with topics such as angels, channeling, recovery spirituality, meditation, and astrology (Roof, 1999). Spiritual seeking culture has grown diverse and people go by many names – New Agers, Neo-Pagans, Wiccans, goddess worshippers, and some may not even have a name for their beliefs. Roof also points to the effects of the psychological culture of the post-sixties, whose notions of “self-esteem,” “psychological balance,” and “self-fulfillment” replaced the old religious notions of “sin,” “faith,” and “judgment.”

This trend of diverse spiritual practices means that employees’ spirituality could manifest in many different forms in the workplace. Some of the spiritual practices may not be associated with religions of which we are aware. Some of the forms or displays of spirituality may offend other employees or not concur with the company policy.

Anti-Discrimination Laws

The increasing number of employees who are involved with spirituality or religion brings more of these practices into the workplace and creates the question, “What are employers’ duties to accommodate and the employees’ rights to observe their beliefs?” To adequately answer this question, it is necessary to briefly review the Civil Rights Act, its coverage, employer’s duty to accommodate, and undue hardship.

Title VII of the Civil Rights Act

The Civil Rights Act of 1964 amended in 1974 and 1991 states that, “...It shall be an unlawful employment practice for an employer ... to fail or refuse to hire or to discharge ... or to limit, segregate or classify employees or applicants because of such individual’s race, color, religion, sex, or national origin. (Civil Rights Act, 1964, section 20002). While religion was not one of the original factors in the 1964 law, it was added later as part of the amendments.

The act applies to those employers in interstate commerce with more than 25 employees or unions with more than 25 members. It also covers employment agencies, state and local governments, educational institutions, health care institutions, and most parts of the federal government.

The law requires covered employers to make reasonable accommodations for employees for their religious beliefs unless it causes them undue hardship. For those readers who are more familiar with the Americans with Disabilities Act (ADA), these same words have been developed separately by the courts in religious cases and have completely different meanings in religious cases as opposed to ADA cases. Readers are, therefore, cautioned to not extrapolate definitions from ADA cases to religious cases. The following sections will show the definition of religion is very broad in contrast to ADA cases where the definition of disability is very narrow (U.S. Supreme Court in *Sutton v. United Airlines*). Similarly, the employers’ duty to provide reasonable accommodations is very extensive in ADA cases but is minimal in religious cases. Therefore, undue hardship is easier to show in religious cases.



Towards a Legal Definition of Religion

An earlier section illustrated the ambiguities in definitions of spirituality and religion. The Equal Opportunity Commission (EEOC) and courts use the Supreme Court definitions of “religion” that were developed in conscientious objector cases. In *U.S. v. Seeger* (1965), the U.S. Supreme Court ruled that the prerequisite for a conscientious objector was a belief in a Supreme Being whose requirements were superior to any requirements humans placed on each other. The defendant did not clearly demonstrate any belief in a Supreme Being but professed religious belief and faith that there was a “creative intelligence” and denounced the “spiritual price” man would have to pay to serve in the military and kill another human being. The *Seeger*’s definition of “religious” is whether a given belief is so sincere and meaningful that it occupies a place in the life of its possessor that is parallel to that of an orthodox belief in god. However, the court was careful to exclude views that are philosophically, politically, or sociologically based. The *Welsh* court ruled that the test was whether the belief came from moral, ethical, or religious beliefs about what was right or wrong and that the beliefs be held with the same strength of traditional “religious” beliefs.

The *Seeger* and *Welsh* rulings provide a very broad definition of what is covered by the term “religion.” Thus religious beliefs held in traditional religions such as the Roman Catholic Church, the Episcopal Church, the Lutherans, the Mormons, Buddhists, Hindus, and Moslems are covered by the definition. However, sincerely and deeply held spiritual beliefs outside of most religious beliefs would also be covered.

Reasonable Accommodations

Because both religious and spiritual beliefs are covered, the question becomes what kinds of accommodations must employer make? The most commonly litigated issue concerns employee requests for time off to observe religious days or events. The cases cited below show that the employer must make some effort to accommodate the employee but that the effort is minimal because of the minimal definition of undue hardship.

The requirement that the employer must make some effort to accommodate their employees was explained in *EEOC v. Ilona of Hungary, Inc.* where two Jewish employees of a beauty salon requested a holy day, Yom Kippur, off. Their employer refused and fired them when they did not come to work. The employer asserted that Saturday was their busiest day of the week and that the employees had failed to give them sufficient notice. The court disagreed arguing that the employer had made no effort to accommodate the employees by asking other employees to work or giving the two employees part of the day off.

Although the employer must make some effort such as attempting to find other workers to work on the employee’s requested holy day, this duty is limited by the availability of workers, reductions in force, collective bargaining agreements, and coworkers’ preferences. An example is *EEOC v. B.J. Services Co.* where the employer accommodated an equipment operator’s Sabbath on Saturday for two years. When the company suffered a reduction in force, it had fewer qualified operators and none of the coworkers were willing to work on Saturday. The employer scheduled him on Saturday; he refused to report to work, and was fired. The court



found that the employer had attempted an accommodation by first giving him his preferred day off and was not required to accommodate him where such accommodation would have required the employer to force more senior coworkers to work (*EEOC v. B.J. Services Co. 1995*).

The Supreme Court in *Trans World Airlines v. Hardison* (1977) decided that employers must make an attempt to accommodate religious beliefs but that the proposed accommodation did not have to be the employee's preferred accommodation. Accommodation does not require employers to violate their collective bargaining agreements by denying the shift and job preferences of coworkers. Especially important in the decision was the Supreme Court's ruling that employers bear no more than a "de minimis cost" to accommodate which is a minimal cost definition of undue hardship.

Religious Discrimination and Leave Requests

A related issue concerns employee requests for leave to attend religious events, which may or may not include their holy days. The courts have applied the same standards for reasonable accommodations and undue hardship. In *Ansonia Board of Education v. Philbrook* a high school teacher belonged to the World Wide Church of God, which required its members to refrain from secular employment during designated holy days.

This observance required him to miss six school days a year, but the collective bargaining agreement provided for only three paid days of leave per year.

The Circuit Court ruled that where both the employee and the employer propose an accommodation, the employer is required to accept the employee's proposal unless it creates undue hardship. In reversal the Supreme Court ruled that the employer has met its legal obligation when it proposes an accommodation – in this case three days of paid leave. More importantly the court ruled that the employer does not have to accept the employee's preferred method absent undue hardship nor is it required to show how each of the employee's proposed methods would create undue hardship (*Ansonia Board of Education v. Philbrook, 1986*).

Appearance, Employer Dress Codes, and Religious Discrimination

A growing area of litigation involves employer dress codes, employer rules on appearance and religious discrimination. What is the employer's duty to accommodate when it has a dress or appearance code?

The highest court to hear a religious appearance case was the Eighth Circuit Court in *Wilson v. U.S. West Communications* (1995) where an employee believed that her religion required her to wear a button that graphically depicted a human fetus. Several coworkers were upset and threatened to quit work. Her supervisors suggested that she wear the button in her cubicle when she was alone or cover it up when she was with other employees. She refused, missed work for three consecutive days, and was dismissed. She sued and the district court held for the employer. The Circuit Court ruled that the law does not require employers to allow employees to impose their personal religious beliefs on other employees. The employer had not opposed the employee's beliefs but had offered to protect its other employees from seeing the



offensive button. The employer was within its rights to refuse her desired accommodation when it infringed on the rights of other employees.

Other courts are requiring employers to rethink and justify their dress code policies where it impacts employee's religious or spiritual observances. For example, one circuit court remanded a case back to the district court to determine if the employer had attempted an accommodation in the case of a Moslem employee who wore a beard as part of his religious observances. United Parcel Services had a blanket policy disallowing delivery drivers who met the public from wearing beards (*EEOC v. UPS*, 1996). In another beard case the court ruled that the employer had not shown how it would suffer undue hardship by allowing the employee to wear a trimmed beard (*Carter v. Bruce Oakley, Inc.*, 1994). Similarly a company erred when it notified an applicant that the job required her to wear pants contrary to her religious beliefs and where the employer did not attempt to accommodate her (*Reid v. Kraft General Foods, Inc.*, 1995). Conversely, an American Indian who wore long hair was dismissed by the State Prison system where the employer had a policy against males with long hair. The employee's argument that it was a spiritual and religious observance and that women guards were allowed with long hair was not upheld where the state prison had an interest in displaying a well disciplined and uniform guard force (*Rourke v. New York State Department of Correctional Services*, 1995).

Implications and Recommendations

The Definition Issue

The broad definition of religion provides employees great latitude for their spiritual and religious beliefs as long as they are "strongly held" with the same strength as "traditional religious beliefs." Conversely, the definition creates difficulties for employers because the final arbiter of whether a belief is strongly held is the employee. Consequently, employers will have to provide considerable deference to employees when they profess a strongly held belief. Therefore, the increase in the number of employees who profess spiritual or religious beliefs, the increase in religious discrimination cases, and organizational inexperience raise the question, "What is the appropriate organizational response?"

Recommendations on Accommodating Employees' Religious and Spiritual Beliefs

Because most of the litigation involves observance of religious holy days and days off for religious events, the most important organizational response is to immediately attempt an accommodation. This may include asking other employees to work on the employee's holy days, rescheduling shifts, and maintaining lists of employees willing to work on certain days. These efforts should be documented and communicated to the employee, the employee's managers, and the union.

The second controversial issue involves employees wearing religious items on their person during work. It is the authors' recommendation that this practice be allowed if the articles are small, non-offensive, and non-obtrusive. For example, many individuals wear small crosses on chains. To attempt to disallow this practice would invite considerable turmoil and



litigation. The obvious difficulty is what is small and inoffensive. If adopted by employers, this policy requires them to police the policy and make reasonable judgments.

A more difficult topic for employers is appearance. Employer dress codes have been upheld by the courts in termination at will and discharge cases if the policy was known to the employees and applied consistently across all employees without exception. However, the conflict between employer dress codes and employee religious appearance is an issue that is just being developed by the courts. At this time, enforcement of a dress code, even done in a consistent fashion, was critically questioned by the courts (*EEOC v. UPS*, 1996 and *Rourke v. New York Department of Corrections*, 1996). Employers are caught between a blanket policy and consistent enforcement of a policy in order to win a termination at will suit with court requirements that employers analyze individual circumstances. It is the authors' opinion that blanket enforcement of a code without examining the individual's circumstances invites court scrutiny. The authors recognize that this must be done carefully. Organizations that make any exceptions to a dress code without good reason will invite later claims of inconsistent enforcement and court nullification of a discharge for violating a dress code.

Another difficult issue is whether employers should allow employees to place religious or spiritual articles on their desk, bookshelf, or office wall. One possibility is to disallow any religious or spiritual articles in any company-owned workspace. The disadvantage is that such a policy does not allow employees to express deeply held beliefs, and continues to compartmentalize employees into work and non-work roles. The advantages are that this prevents someone from offending coworkers, avoids potential conflict, and keeps management from making decisions about what is appropriate.

A second alternative is to allow employees to place religious or spiritual articles in their private offices or cubicles. Such articles, like those worn on the person, must be small, non-offensive, and non-obtrusive. The biggest advantage is that such a policy would recognize that employees serve many roles that are important to them. Employees with deeply held beliefs have more meaning in their lives. The disadvantages are that this policy will lead to future conflict because coworkers have vastly different ideas of what is appropriate or non-offensive.

It is the authors' recommendation that organizations adopt the second alternative. As employees move towards integration of spirituality and religion into their complete daily routine, more religious and spiritual articles will appear in the workplace. The disadvantage is that management will have to intervene and determine which items are appropriate. Understandably many managers do not want this role because what is small and inoffensive is a definitional question. However, it should be noted that managers already make these kinds of decisions everyday with respect to appearance and their company's dress code. It should also be addressed that consistent, authentic communication between management and employees can prevent stressful situations that could lead to lawsuits.

Unfortunately, no organization can hide and refuse to address these issues. Employees' quests for religious or spiritual meaning will conflict with organizations' needs to manage their workforce. This decade promises continuing debate with respect to where the line should be



placed between employees' rights and employers' rights. Readers may disagree with the recommendations but not the need to address the issues.

Conclusion

It is the authors' view that accommodating employees' spiritual needs as much as possible benefits any organization. Because today's employees have less connectedness to extended families, neighborhoods, and other support groups, they seek more meaning at work. Thus work is one of the primary places to connect with others (Ashmos, 2000). By striving to accommodate employees' spiritual needs, organizations could gain more commitment and loyalty from their employees and benefit both their employees' and their business objectives.



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Applicable Laws

Civil Rights Act of 1964 as amended. 41 U.S.C.A. section 2000e

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