



## On the protection of employee rights under Title VII of the 1964 Civil Rights Act (U.S.)

Since passage of the Civil Rights Act of 1964 and its landmark Title VII protections for employees, religious freedoms and civil rights have been protected in the workforce. Higher education in turn has been provided with documentation that it is to protect religious, secular, and spiritual identities (RSSIs) in all forms amongst its employees. It is the responsibility of higher education institutions (as well as other institutions) to uphold the provisions outlined in the law. One of the most important provisions is that of equitable hiring practices governing discrimination against RSSIs. As well, legal guidelines dictate what an institution of higher education can and cannot require of employees. It is important to note that unless an employer demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business, the requirements must be upheld by the institution. There remain some exemptions for religious institutions.

### Legal requirements of Title VII

When adhering to the above laws and guidelines, institutions should be aware of the following:

#### On upholding the law of Title VII

As employers, institutions of higher education are legally required to uphold these religious protections for employees and all paid staff affiliated within their institutions. Therefore, colleges and universities should examine their policies and work to dismantle practices which erode these legal protections. As well, institutions must protect employees from actions which would discriminate against their religious, secular, and spiritual identities.

#### On equitable hiring practices

Higher education administrators should consider any potential biases related specifically to religious minorities that may exist within hiring committees. This should include examining potential bias toward all RSSIs within search pools and interview protocols. Biases against dress, interviewing times and days, and "institutional fit" should be carefully analyzed and, if necessary, brought to the attention of supervisors and HR departments.

#### On HR responsibilities

Higher education needs to take seriously the threat to RSSIs which is potentially expressed within the campus administration. Taking these threats seriously includes, but is not limited to, providing for employees' religious holiday accommodations. Protections should also include making sure supervisors do not question employees taking holidays to practice their traditions, and that there is no fear of retribution or requirements to make up hours. As well,



institutions should consider building into employee packages religious holiday exemptions which are explicitly stated, plus guidance for employees who feel threatened by supervisors in requesting or taking off said days.

### **Additional recommendations**

#### **Employee religious holidays being a part of employee vacations days**

Convergence believes that no employee of an institution should be forced to use vacation, sick, or other paid leave days in order to support their religious practice. We therefore recommend that institutions alter employee leave structures so that religious holiday accommodations are separate from these vacation, sick, and paid leave days and are included in employment packages. Employees should be provided enough exemptions that they may satisfy their religious practices without being forced to make choices between days.

#### **On institutional calendars and their inclusive nature**

Colleges and universities should take careful consideration of their institutional calendars, calling upon the religious, secular, and spiritual communities to provide guidance when designating religious holidays. Institutions should provide detailed information regarding said religious holidays as a part of their institutional calendars, as a pathway to provide education to all members of the campus community, which in term may reduce stigmas and biases. These institutional calendars should serve as beacons which staff can pinpoint as examples of their employers being supportive of their RSSIs.

### **Conclusions**

Religious, secular, and spiritual identities have long been protected by the standards outlined in Title VII, as well as through the First and Fourteenth Amendments of the United States Constitution. Higher education holds a responsibility to consider these identities as a part of the complex and important identities that individuals hold as employees of their institutions. Taking seriously these needs and providing necessary accommodations speaks to a demonstration of the institution's valuing of these identities and to the commitment to a diverse and expansive workforce.

### **Resources**

U.S. Equal Employment Opportunity Commission. (n.d.). Best practices for eradicating religious discrimination in the workplace: Disparate treatment based on religion. <https://www.eeoc.gov/laws/guidance/best-practices-eradicating-religious-discrimination-workplace>  
U.S. Equal Employment Opportunity Commission. (2008). Section 12 religious discrimination. <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>