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God in the Workplace

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Abstract

U.S. society has addressed a number of multicultural concerns of various constituencies including certain racial and ethnic groups, women, families, and homosexuals. Successful firms have confronted such societal movements by proactively addressing the concerns of these various employee groups and their respective rights and needs in the workplace. The recent societal interest in religion and spirituality has resulted in faith and religious beliefs becoming the most recent type of diversity concern in the workplace.
God in the Workplace

As U.S. society has become more preoccupied with constitutional concerns for civil liberties of all its citizens, firms have responded with a number of diversity-related initiatives in the recruitment, selection, and management of its workers. For example, the 1960s erupted with the civil rights movement, and soon leading companies sought to develop race-friendly policies to encourage integration and racial equality in the workforce. The 1970s produced the modern feminist movement, which confronted corporations with women’s rights to equal pay and equal opportunity to compete for jobs and positions historically thought suitable only for men. Enlightened companies, instead of fighting this, sought to develop gender-friendly policies to attract and retain women in all organizational levels. The 1980s gave rise to many single-parent families where both parents worked outside the home, and blended families composed of remarried couples and children from different marriages living under one roof. In response to such familial changes and shifts, forward-thinking companies created a range of family-friendly policies including flextime, telecommuting, job sharing, day care centers, and paternity leave. The 1990s witnessed progressive firms embracing inclusion for the lesbian/gay/bisexual/transgendered community in their human resources departments through nondiscrimination policies covering sexual orientation and gender identity, and domestic partner health insurance.

In the 2000s firms are seeing a growing interest by businesspeople bringing marketplace issues and religious, spiritual, and faith teachings into conversation with each other (Gingrich, 2006). Such endeavors have variously been called “spirituality and work,” “spirituality in the workplace,” “God and work,” “soul at work,” “religion in the workplace,” “God and business,” and “faith in the workplace” (Miller, 2007, p. 14). Religion at work appears to be the latest type of diversity initiative in the workplace to be addressed as corporations develop faith-friendly policies to honor, respect, and dignify the spiritual dimension of employees’ lives (Yung, 2007). Indeed, the respected Tanenbaum Center for Interreligious Understanding (n. d.a) observed that religious diversity in the workplace has become one of the most important social issues today.

In response to these societal movements impacting diversity, organizations have been forced to understand and effectively deal with challenges of various employee
groups and their respective rights and needs in the workplace. A pattern can be seen where prominent companies choose to embrace holistic policies and constructively engage the often personal and emotional topics of race, gender, extended family, sexual orientation, and now, religion. Over these past five decades, most highly achieving firms that compete for top talent in the global marketplace have developed a mixture of race-friendly, female-friendly, family-friendly, homosexual-friendly and, increasingly, faith-friendly policies.

Religion in the Workplace

The terms religion and spirituality are used interchangeably in this paper although the author recognizes that spirituality has become a particularly popular term. It has often used as a synonym for a personal belief in God or Higher Being and a yearning for wholeness that transcends the structured dogmas and doctrines of organized religions. In contrast, the word religion has lost favor in part because Americans understand religion today in more rigid, public, and institutional terms which many people increasingly reject, whereas spirituality is understood as more informal, private, and personal, which most people find attractive (Fuller, 2001). Furthermore, the Equal Employment Opportunity Commission (EEOC) has historically promulgated guidelines that, to a great extent, parallel and supplement the decisions of the Supreme Court and appear to clearly support nondifferentiation of formal religion and spirituality (Cash & Gray, 2000). In order to move beyond the tired debate between religion and spirituality, the term faith is often used in this paper.

Faith is an important aspect of most societies because each country’s religious practices influence ethics, human dealings, social customs, the ways in which members of a society relate to each other and to outsiders, as well as workplace behavior (Griffin & Pustay, 1999). Historically, in the U.S. the idea of workers bringing God into their job was unthinkable but increasingly the boundaries between faith and work are diminishing as employees desire to labor where faith and workplace practices are aligned (Miller, 2007). Religion has become more visible at work because the faithful live out their beliefs and practices through various actions—styles of dress, manner of managing one’s hair, recruiting others to their faith, following certain diets, praying, fasting, avoiding certain language or behavior, and observing certain religious Sabbaths and holidays. Not
surprisingly, such differences provide ample ground for conflict, disagreement, or even harassment among employers and employees. In 2007, there were about 2,900 religious discriminations filings with the EEOC, up 13 percent from 2006 and double the number in 1992 (EEOC, 2008). Of last year’s filings, 375 complaints regarded accommodations, which would include matters such as taking time off for religious holidays or wearing religious clothing in the workplace (Choi, 2008). Business leaders need to be aware of these challenges and recognize that faith in the workplace has the potential for divisiveness and discrimination if not addressed in inclusive and respectful ways.

Implications of Faith at Work for Firms

As religion and spirituality continue to challenge firms, there are several factors that organizations must address, including sincerely held religious convictions, reasonably accommodating the religious needs of employees balanced against undue hardships placed on the employer, training of supervisors and managers regarding the issues surrounding faith in the workplace, and maintaining a harassment-free work environment.

Sincerely Held Religious Convictions

Often, when claims of religious discrimination or harassment surface, or when workers request accommodations for their religious convictions, one of the first actions firms inevitably do is investigate the worker’s claim that he or she has a legitimate religious belief. Title VII of the Civil Rights Act defines religion to include “all aspects of religious observance and practice, as well as belief” (42 U.S.C. § 2000e-(j)). The EEOC Guidelines state that protected religious practices “include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views” (29 C.F.R. § 1605.1). The EEOC further states that “the fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee” (432 U.S. 63, 1977). Thus, it is not necessary to have a strong linkage between an individual’s conviction and a specific religion.

The U.S. Supreme Court, in a number of cases, has likewise tried to interpret what is a religious belief. In 1944, for example, in United States v. Ballard the court ruled that
"religious experiences which are real as life to some may be incomprehensible to others,” (p. 78) and encouraged lower courts that they were not to rule on comprehensibility. Later, in 1965 in United States v. Seeger, the court defined religion as a “given belief that is sincere and meaningful [and] occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption” (p. 173). Seeger was followed by Welsh v. United States in 1970 which held that the central consideration in determining the religiosity of an individual’s beliefs was whether the beliefs played the role of a religion and function as a religion in the person’s life. The court stated that “the task is to decide whether the beliefs professed by a registrant are sincerely held and whether they are in his own scheme of things, religious” (Welsh v. United States, 1970, p. 340). It should be noted that the freedom not to believe in a deity is also a protected religious belief under Title VII.

Moreover, in Thomas v. Review Bd. of Ind. Employment Sec. Div. (1981) the court indicated that protected religious beliefs need not be objectively reasonable (i.e., acceptable, logical, or consistent to others) to be entitled to protection. As a consequence of the extremely expansive view given to the definition of religion, it is exceedingly difficult for an employer to defeat the assertion that a worker’s convictions are not religious. Only a few courts have addressed the issue of sincerity, most finding that the plaintiff made the necessary showing of sincerity for their belief. Also, courts have rejected employer arguments that employees must provide a comprehensive or detailed explanation of how and why their religious beliefs need accommodation (e.g., California Fair Employment and Housing Commission v. Gemini, 2004). Employees, however, must inform employers of the religious nature of their beliefs or practices. Based on such considerations, some researchers have advocated that firms “accept any sincerely held belief based upon principles of what is right or wrong—no matter how unusual—as a religious belief” (Frierson, 1988, p. 62) while Cash and Gray (2000) suggest ignoring the issue completely and focusing on the impact on the firm of accommodating faith-based claims.

Balancing Interests of Firm and Worker in Accommodations

Because of the greater willingness of employees to assert their religious convictions at work (Miller, 2007), organizations should expect that its workforce
increasingly will be asking for accommodations for their religious beliefs and practices. Cash and Gray (2000) identified two kinds of requests requiring employer accommodations: 1) observance requests (outside work) which involve employees asking for annual leave to take part in a religious festival, day of Sabbath observance or pilgrimage, or for occasional extended leave for births, weddings, deaths where staff with relatives abroad have particular faith or cultural needs; and 2) manifestation requests (at work) which entail workers asking for: a) exceptions to or exclusions from dress, clothing, and grooming codes (e.g., wearing pants, allowing facial hair, permitting head covering or other religiously mandated garb, uniforms, facial or religious jewelry and piercings, or similar adornments), b) greater food choices consistent with religious beliefs at firm-sponsored cafeterias and restaurants, c) relief from specific tasks inconsistent with faith practices and beliefs (e.g., a Baptist law enforcement official refusing to work at casinos, a Catholic police officer unwilling to protect and guard abortion clinics, an Internal Revenue Service employee’s refusal to handle applications for tax exempt status submitted by organizations supporting abortion, a Jehovah’s Witness wait person’s unwillingness to sing happy birthday to guests) d) time off for prayer during normal working hours and/or during work breaks and lunch, e) use of facility space (e.g., conference rooms) for faith-related activities, f) permission for evangelization activities including handouts of religious literature and posting of flyers announcing faith-related activities, g) exceptions to union membership (generally, an employer or union shall not require membership from any employee or applicant whose religious creed prohibits such membership), h) religious-based customer greetings and salutations (e.g., “Praise the Lord” and “God bless you.”), i) exclusion from workplace diversity initiatives advocating mutual respect for employees based on their sexual orientation, gender identification, and/or lifestyle choices (e.g., unwed parenthood), and j) non-participation in objectionable non-religious motivation or training programs incorporating controversial techniques. For example, mandatory “new age” training programs, designed to improve employee motivation, cooperation or productivity through meditation, yoga, biofeedback or other practices, may conflict with the non-discriminatory provisions of Title VII. Employers must accommodate any employee who gives notice that these programs are inconsistent with the employee’s religious beliefs, whether or not the employer believes
there is a religious basis for the objection. Firms should also anticipate that faith at work issues may give rise to employee requests for accommodations for prayer and religious study groups, workplace chaplains, and affinity groups, also called networking groups which, generally speaking, are organized around common interests, hobbies, or employee characteristics, such as race, ethnicity, gender, country or origin, and/or sexual orientation (Phillips, 2006).

In considering such worker requests organizations must determine any undue hardships they may incur (Baz v. Walters, 1986). The U.S. Supreme Court set the standard for what constitutes an undue hardship to the employer in Trans World Airlines v. Hardison (1977) holding that a cost of approximately $50 per month caused undue hardship to the airline which exempted it from having to accommodate an employee’s religious beliefs (Brierton, 2002). Undue hardship is thus established if the employer is required to spend even a minimal (de minimus) amount of money to accommodate the request. The determination of whether a particular proposed accommodation imposes an undue hardship “must be made by considering the particular factual context of each case” (Tooley v. Martin, Marietta Corp., 1981, p. 1242). In assessing an undue hardship, organizations will want to evaluate the impact of the employee’s request in light of a number of factors including: 1) firm productivity standards and process schedules; 2) safety considerations; 3) effect on other employees, including negative employee morale and unequal treatment of other employees (Aron v. Quest Diagnostics Inc., 2006); 4) collective bargaining agreements, and 5) customer relations issues. With respect to this last issue it should be noted that a company’s claim of undue hardship cannot be based on the preferences of its customers even though customer preferences—or prejudices—could well affect a company’s profits. The courts generally have not found customer preference to be a justifiable basis for a discriminatory practice (Johnson v. Zema Sys. Corp., 1999; Ray v. University of AK, 1994). See Cloutier v. Costco Wholesale Corp. (2004) for a possible exception. For example, suppose a clerk in a retail store practices a religion that requires a certain style of dress, or covering her face with a scarf. Even if customers do not like her appearance and choose to shop elsewhere, the employer cannot respond to customer preference by terminating her.
It is noteworthy, that this *de minimis* cost standard defining an undue hardship may be eroding. For example, a New York statute was amended in 2002 to redefine undue hardship from a "palpable increase in cost" to "significant expense or difficulty," (New York Executive Law, Article 15, § 296 10d) to establish a justification for denying an accommodation. This resulted in an increased burden upon employers in denying workers' requests for accommodation of their faith beliefs and convictions. Similarly, the bipartisan Workplace Religious Freedom Act of 2005 (WRFA) was introduced on March 17, 2005 in the U.S. Senate (S 677), and amends the Civil Rights Act by requiring employers to make an affirmative and *bona fide* effort to accommodate employees' religious practices unless it would create an undue hardship. The Act proposes to define undue hardship to require "significant difficulty or expense" (The Orator.com, n. d.). Although the WRFA is not yet a law, if and when it does pass, it will mean that employers will have to go to greater lengths to accommodate employees' religious beliefs because of the higher standard for undue hardship (*de minimis* cost vs. significant difficulty or expense; Morgan, 2005). It also means that employees will have much more power to exercise their religious beliefs in the workplace, thus making employers' responsibility to keep the workplace free from religious discrimination and harassment more difficult.

Moreover, the EEOC has taken the position that "[w]hen there is more than one means of accommodation which would not cause undue hardship, the employer or labor organization must offer the alternative which least disadvantages the individual with respect to his or her employment opportunities" (29 C.F.R. 1605.2(c)(2)(ii)). However, the employer does not have to grant the specific accommodation requested by the employee; it need only provide an effective accommodation. For example, in *Ansonia Board of Education v. Philbrook* (1986), the court held that "By its very terms the statute directs that any reasonable accommodation by the employer is sufficient to meet its accommodation obligation," (p. 67) while in *Rodriguez v. City of Chicago* (1998), it indicated that "Title VII ... requires only reasonable accommodation, not satisfaction of an employee's every desire" (p. 775).

In addressing employee accommodation requests, it is important that organizations demonstrate good faith efforts and that its actions be perceived as
reasonable and within the spirit of equal employment opportunity law. Courts will generally find a violation if the employer makes little or no effort to accommodate the employee or refuses to discuss the issue. For example, in *Brener v. Diagnostic Center Hospital* (1982) the court held that “bilateral cooperation is appropriate in the search for an acceptable reconciliation of the needs of the employee’s religion and the exigencies of the employer’s business” (p. 146), while in *Soldinger v. Northwest Airlines, Inc.* (1996) the court indicated that “The obligation to search for an acceptable solution is bilateral. Employees also have the obligation to make a good faith effort to explore alternatives” (p. 760). Additionally, employers must also be able to show evidence of undue hardship that is more than mere speculation. The employer is on stronger ground when it has attempted various methods of accommodation and can point to hardships that actually resulted rather than hypothetical burdens.

Therefore, it is prudent for employers to consider the employees’ proposed accommodation and if unreasonable, offer alternative accommodations that would resolve the conflict, instead of flatly rejecting the employee’s proposal. While an employer’s first reaction may be to deny an accommodation because of fear that the accommodation will set a precedent or because of the possible cumulative effect of another employee wanting the same modification, this is not a valid defense without evidence that a change will cause undue hardship to the employer. This appears to have happened to Alamo Car Rental. A Phoenix, Arizona jury on June 3, 2007 awarded more than $287,000 in a religious bias suit. Alamo will pay $21,640 in back pay, $16,000 in compensatory damages, and $250,000 in punitive damages to Bilan Nur, a Somalian refuge. The EEOC charged that Alamo committed discrimination based on religion when it fired the Somali customer sales representative for refusing to remove her head scarf during the Muslim holy month of Ramadan without assessing the burden such an accommodation would impose on the firm. According to the EEOC’s lawsuit (EEOC, 2007), Alamo refused to permit Nur to continue to cover her head, as she had done in previous years, even if she wore an approved Alamo-logo scarf. Prior to being fired, Nur had worked for Alamo since 1999. The EEOC’s lawsuit asserted that the company had permitted her to wear a head covering for religious reasons during Ramadan in 1999 and 2000. However, following the tragic events of September 11, 2001, Alamo refused to
permit Ms. Nur to observe this particular religious belief during December of 2001. Alamo claimed that it told Ms. Nur that the company dress code prohibited wearing of a scarf. Notwithstanding Alamo’s representation, the EEOC found that the company had no such policy. When Ms. Nur refused to remove the religious garment, Alamo terminated her employment, and declared her ineligible for rehire.

A final consideration in addressing employee accommodations is to think creatively about ways that the needs of both the worker and the company can be met. Not only is there a good chance that a compromise can be found, but even if one is not, this shows that the employer made a good faith effort to provide an accommodation. The Tanenbaum Center for Interreligious Understanding (n. d.b) provides an example of such creativity: A situation arose at a large hi-tech firm shortly after 9/11 where the security department insisted a new Muslim employee remove her veil (hijab) for her photo identification key card. She insisted that her religious belief prohibited her from appearing unveiled before non-familial men. Management deliberated and found a solution. The new employee was given two identification cards—one veiled and one unveiled. Her unveiled photo was taken and processed by a woman and would not be shown or used for entry purposes. The veiled photo card was the one programmed to unlock doors and was the one shown for identification purposes as she moved around the facility. Another example of creatively addressing a FAW issue involves payment of union dues in violation of a worker’s religious beliefs. Many employees object to causes that some unions support, such as Planned Parenthood, or other pro-abortion organizations. Workers objecting to the payment of union dues on religious grounds may be accommodated by allowing them to contribute an amount equal to their dues to an acceptable charity. Another possible solution is to discount the union dues in proportion to the amount of money spent on the objectionable union activity.

Training of Supervisors and Managers Regarding FAW Issues

Firms would be wise to train supervisors to deal with sensitive issues related to faith, religion, and spirituality in the workplace. Indeed, supervisors must be particularly cautious in what they say or do. Where the surrounding circumstances indicate that religious expression is merely the personal view of the supervisor, and that employees are free to reject or ignore the supervisor’s point of view or invitation without any harm to
their careers or professional lives, such expression is legally protected (Adams, 2000; Guidelines on Religious Exercise, 1997). Yet, because supervisors have the power to hire, terminate, or promote, employees may reasonably perceive their supervisor’s religious expression as coercive, even if it was not intended as such. Therefore, supervisors should be particularly careful to ensure that their statements and actions are such that employees do not perceive coercion of religious or non-religious behavior and should, where necessary, take appropriate steps to dispel misperceptions.

**Hostile Environment**

In addition to refraining from indefensible religious discrimination, an employer must maintain a work environment that is not hostile or abusive with regard to religion. Title VII requires that an employer take prompt action to prevent an employee from expressing their opinion in a way that abuses or offends their co-workers (Davis v. Monsanto Chem. Co., 1988). Speech and/or conduct constitutes harassment if it is "severe and pervasive" to alter the conditions of employment and create a hostile or abusive work environment based on an employee’s religion or other protected category (Harris v. Forklift Systems Inc., 1993). A hostile work environment can be created by slurs, jokes, comments and other forms of ridicule, persistent "unwelcome" proselytizing of subordinates or co-workers and any "mandatory" religious activity in the workplace (Venters v. City of Delphi, 1997; Weiss v. United States, 1984; Young v. Southwestern Savings and Loan Ass’n, 1975). However, merely handing out a religious book does not create a hostile working environment (Taylor v. National Group of Cos., Inc., 1989). Nor would an occasional and isolated utterance of an epithet that engenders offensive feelings in an employee typically be considered harassment. A hostile environment, for Title VII purposes, is not created by the bare expression of speech with which one disagrees.

Management should be particularly vigilant when the phrase “I am offended” is spoken. America’s seemingly hypersensitive culture is hurting freedom of speech considerations (Priority Associates, 2007). People seem to not be able to say anything today without someone saying “I am offended”. This statement has become particularly effective in inhibiting faith-oriented speech. The “I am offended” cohort seems to usually target religious speech that speaks to universal standards and attempts to suppress its expression. This violates the principles upon which the U.S. was founded and outlined in
the Constitution. A person does not surrender their rights to free speech simply because someone does not like the content of what they are saying. One exception to this viewpoint involves an individual employee speaking to another employee about faith-related ideas and the co-worker asks that the conversation be stopped and the topic not be brought up again. At that point neither employee has a grievance. However, if the first employee persists and the second employee still insists on not discussing it, then this is the first step toward possible religious harassment (Vickers, 2006). Thus, firms should proceed with guarded concern when “I am offended” is voiced.

For religious harassment to be illegal under Title VII, it must be sufficiently severe and pervasive to alter the conditions of employment and create an abusive working environment. Whether conduct can be said to be religious harassment under Title VII depends on the totality of the circumstances, such as the nature of the verbal or physical conduct at issue and the context in which the alleged incidents occurred. Indeed, “[T]he real social impact of workplace behavior often depends on a constellation of surrounding circumstances, expectations, and relationships which are not fully captured by a simple recitation of the words used or the physical acts performed” (42 U.S.C. § 2000-3(a), p. 80).

Conclusion

For most of the 20th century U.S. society considered it inappropriate to explicitly bring religion into the office. The sentiment was encapsulated in the term, “Sunday-Monday gap” (Miller, 2007, p. 9) where workers’ Sunday worship hour bore little relevance to issues encountered during Monday work hours. The 21st century, however, “is dawning as a century of religion” (Huntington, 2004, p. 15). Faith and spirituality have come into the workplace, and with this phenomenon now public, the “last taboo in corporate America” (Gunther, 2002, p. 59) is disappearing. Therefore, employers increasingly must balance the firm’s and employees’ rights to express their religious beliefs and values while not subjecting other employees to harassment or discriminating against employees on the basis of different religious beliefs. Such tensions have surrounded the latest type of diversity that firms must address—God at work.

In an ideal work environment, the religious beliefs of a given employee, or of the employer, do not create conflicts. Either is free to believe as he or she chooses and, as
long as the work is performed satisfactorily, neither will encounter difficulty on the basis of religion. Yet, in the real world, a number of issues can arise to create friction. An employer and employee may discuss, or even argue over, religious principles; however, religion is not simply a matter of belief but is manifested through various actions such as style of dress, praying, and fasting. Put simply, the many characteristics of different religions provide ample ground for disagreement, conflict, or even harassment among employers and employees. Indeed, religion has become more visible at work and is the latest type of diversity in the workplace that has presented many challenges to organizations. Business leaders need to be attentive to the potential for divisiveness and discrimination if religious and spiritual practices in the workplace are not implemented with dignity.

Given the caveats presented above, some businesspeople, whether religious or not, feel that integrating faith and work is problematic and seek to institute policies and procedures aimed at minimizing and, in some cases avoiding altogether, religious expression. They promote a level of religious expression commensurate with the least amount of faith-related exhibition allowed by law. Unfortunately, the exact contours of the legal and societal landscape regarding faith at work are uncertain. Therefore, leaders adopting this strategy may act at considerable risk in attempting to gauge correctly legal rights and responsibilities affecting faith in the workplace.

Such a minimalist approach may fail to adequately recognize opportunities for improvement in several areas. Recent empirical studies have shown that certain dimensions of religion and spirituality in the workplace, such as meditation, and sense of mission, relate positively to job satisfaction, job involvement, and productivity (Garcia-Zamor, 2003; Millman, Czaplewski, & Ferguson, 2003). These positive outcomes may benefit companies as well as their employees. Also, companies shown to have strong spiritual corporate cultures economically outperformed others in investment return and shareholder value (Thompson, 2000).

Another difficulty with prohibiting or limiting God at work is the problems it creates for human resource professionals. These managers often must bridge conflicts between the implementation of top management's strategic objectives and the interests of individual employees (Mello, 2000). A strategy that minimizes religious expression in the
workplace will alienate the increasing number of employees who desire to bring their faith to work. Furthermore, the ability to attract and retain high-performing employees may also be endangered where management adopts an overly restrictive view and thereby engages in self-handicapping behavior since “it is often employees themselves—its human resources—who possess the competitive edge” (Rowden, 1999, p. 27). Leading organizations realize that their most valuable resource is competent employees and the information they possess (Pfeffer, 1994). The old aphorism, “people are our most important asset,” is actually true (Pfeffer, 1998). As a means of attracting and retaining competent workers and the information they possess, firms are becoming more worker-friendly and responsive to their employees’ increasing interest in faith at work. It seems only logical then that the next best-practice frontier for firms is to develop faith-friendly policies and practices to honor, respect, and dignify the spiritual dimension of employees’ lives. An inclusive organization must certainly embrace employees’ faith concerns.
References

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