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CA Governor Signs New Law Expanding Protection for Religious Dress and Grooming in the Workplace

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On September 8, 2012, California Governor Jerry Brown signed into law Assembly Bill (AB) 1964 to amend Section 12926 of the California Government Code which embodies the California Fair Employment and Housing Act. The existing law protects individuals from employment discrimination based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation. The new law, which will take effect January 1, 2013, expands the definition of “religious creed” to include religious dress and grooming practices as part of an individual’s religious observance or belief.

“Religious dress practice” will be construed broadly to include “wearing or carrying of religious clothing, head or face covering, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed.” Religious grooming practice includes all forms of head, facial, and body hair that are likewise part of observing an individual’s religious creed.

Employers are required to reasonably accommodate the religious belief or observance of an individual unless the accommodation would be an undue hardship on the conduct of business of the employer. Under AB 1964, an accommodation that would require the individual to be segregated from the public or other employees would not be considered reasonable.

For an employer to show it is unable to reasonably accommodate the religious belief or observance of an employee without undue hardship on the conduct of its business, it must demonstrate that it has explored any available reasonable means of accommodating the religious belief or observance (such as excusing the individual from the duties that conflict with his or her religious belief or permitting those duties to be performed at another time or by another employee), but is unable to accommodate the religious belief or observance without undue hardship.

AB 1964 was coupled with AB 2386, which expands the protection from discrimination based on sex to include breastfeeding or medical conditions related to breastfeeding. AB 2386 was passed by the state legislature and is awaiting signature by the governor.

According to [Robert Jones](#), of counsel in Ogletree Deakins’ San Francisco office: “Employers

should anticipate a significant increase in claims, especially given the broad language of the statute and the lack of any significant precedential holdings that employers can rely upon.”

Additional Information

Should you have any questions about the new law or its impact on your workplace, contact the Ogletree Deakins attorney with whom you normally work or the Client Services Department at 866-287-2576 or via email at clientservices@ogletreedeakins.com.

Note: This article was published in the September 10, 2012 issue of the *California eAuthority*.

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