

Human Resource Guide

SEPARATION OF CHURCH AND OFFICE?

By Carolyn K. Wong, Esq.

We have all heard of separation of church and state. Is there separation of church and office? Do individuals leave their religious beliefs at the door when they enter the workplace? The general answer is that employers are required to make "reasonable accommodations" for an employee's religious beliefs, absent undue hardship. However, there are limitations which take into account the needs of businesses and that not all employees share the same beliefs.

Federal and Hawaii laws require an employer, once on notice, to reasonably accommodate an employee whose sincerely held religious belief, practice or observance conflicts with a work requirement, unless providing the accommodation will create undue hardship.

An employee must make the employer aware of: (1) the need for accommodation and (2) that the accommodation is being requested due to a conflict between religion and work. The request must be held due to a sincerely held religious belief. If an employer has an objective basis for questioning either the religious nature or the sincerity of the belief, the employer may seek additional supporting information.

There should be an interactive dialog to identify options. The employer should discuss the request with the employee to determine what accommodations may be effective, and the employee must cooperate in this process.

Factors to consider include: the type of workplace, the nature of the employee's duties, the identifiable cost of the accommodation in relation to the size and operating costs of the employer, and the number of employees who will in fact need a particular accommodation.

Examples of accommodations that may be reasonable include allowing voluntary substitutes or swaps, flexible arrival and departure times, floating or optional holidays, "make up" time policies, and exceptions to dress and grooming rules (e.g. shaving, hair length, religious dress, head or face coverings, jewelry).

Ideally, the accommodation granted should eliminate the conflict between religion and work, if there is no undue hardship in doing so. In a October 2009 court decision, a female salesperson who converted to a new religion objected to her employer's "sexy" dress code. Due to her religion, she could only wear conservative, long skirts that were not form-fitting. In contrast to most workplaces, the employer

was a trendy retailer that encouraged its female staff to wear miniskirts. After the employee objected to wearing miniskirts, the employer proposed that she could wear miniskirts with leggings underneath. The court ruled that this was not a "reasonable accommodation" because it did not eliminate the employee's religious conflict (e.g. nothing short and nothing form-fitting) and the employer couldn't show that it was an "undue hardship" to excuse the salesperson from wearing short or form-fitting attire.

The employee's "first choice" of accommodation need not be given if there is more than one possible accommodation. For example, an employee requests Sundays off but wants to work Thursdays instead. The employer agrees to grant Sundays off but schedules the employee on Saturdays instead of Thursdays, which the employee doesn't want due to her social schedule. This is a reasonable accommodation even though the employee did not get her "first choice."

Examples of undue hardship include the regular payment of overtime, needing to hire additional employees, reduced efficiency, impairment of safety, or where co-workers have to carry the burden of hazardous work. Coworkers' general resentment or jealousy of an employee who receives religious accommodations is generally not undue hardship.

Disruption of work or infringement on other employees' job rights or benefits is another example of undue hardship. For example, if repeated questions regarding religious beliefs are offensive to a coworker, and the coworker requests that such questions stop, the employer may direct the employee asking questions about religion to stop. It is an undue hardship to prevent the employer from taking actions to respect the differing religious beliefs, or lack of religious beliefs, of coworkers. An undue hardship also includes an accommodation that would deprive another employee of a job preference or other benefit guaranteed by a collective bargaining agreement.

In conclusion, religious accommodation involves careful balancing of individual employees' beliefs, business needs, job requirements, and the rights of coworkers.

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Talking With Your Mouth Full!

Our mothers always told us not to talk with our mouths full. But, how do you conduct proper business social communications without choking on your words? Business social communications happen with co-workers, management meeting, client luncheons and casual conversations in social settings.

SHRM Hawaii Educational Foundation, in conjunction with Pinnacle Performance Company is conducting a morning workshop to help you and your organization improve your business relationships by becoming a more engaging communicator when speaking with business relationships in both social and work settings. You will learn how to properly utilize your body and voice to communicate messages as effectively as possible.

Whether it be at lunch with a client, in an elevator with the CEO or sitting on a plane next to your boss, the Pinnacle Method™ teaches you to become a more engaging person socially. The workshop will cover Performance-Based Training® techniques that make actors believable and captivating on stage and can do the same thing for you.

This fast paced, informative, energetic and FUN rouser session will cover three essential areas in social business communications -

- Understand the importance of social communications in business.
- Sharpen active listening skills.
- Overcoming social anxiety and nervousness.
- Utilize effective ice breakers.
- Utilize body language effectively.
- Accurately read nonverbal clues from others.
- Identify topics to avoid in social situations.

The workshop will be held Tuesday, January 12, 2010.

7:30 Breakfast and Registration
8:00 - 11:30 Program at Dole Ballrooms
735 Iwilei Road, Second Floor
Honolulu, Hawaii 96817

\$75.00 SHRM Hawaii Chapter Members
\$100.00 Non-SHRM Hawaii Chapter Members
\$50.00 SHRM Student Chapter Members

To register, please visit us at www.shrmhawaii.org.

SHRM Hawai'i Member Company Spotlight



Kāhi Mōhala Behavioral Health

A Sutter Health Affiliate

Kāhi Mōhala Behavioral Health is Hawaii's only private, not-for-profit licensed center for psychiatry in Hawaii exclusively specializing in behavioral health care. Since 1984, Kāhi Mōhala has provided psychiatric, emotional and behavioral health care services for children, adolescents and adults.

Kāhi Mōhala is dedicated to recovery through empowerment. A fundamental goal in the treatment and recovery process is to teach individuals the skills to self-manage and self-regulate to the fullest possible extent.

Services include Acute Inpatient Care, Psychiatric Evaluation/Treatment and Medication Management, Clinical Assessment, and Psychological Testing, Substance Abuse/Dual Diagnosis Services, Eating Disorder Services, Occupational Therapy, Recreational Therapy, and Individual, Family and Group Therapy.

Kāhi Mōhala has Hawaii's highest concentration of medical professionals certified in a full range of emotional, physical and behavioral health care. Indeed, the special environment that Kāhi Mōhala is known for is created by its dedicated family of Board-certified medical and clinical professionals and support staff who embrace an inter-disciplinary and team-driven approach to services. According to Chief Executive Leonard Ličina, they "embody the Kāhi C.A.R.E.S. philosophy (Culture of Aloha, Relationship Based, Environment of Safety), incorporating the feedback of both consumers and staff to foster a positive healing environment."

Proudly maintaining the highest professional credentials, Kāhi Mōhala has celebrated several milestones over the past 26 years, pointing to an organization that is both resilient to challenges and highly respected in the industry. In 1992, Kāhi Mōhala was acquired by Sutter Health, one of the nation's leading not-for-profit networks of community-based health care providers. As a Sutter affiliate, Kāhi Mōhala has access to quality resources, compliance programs and business services. Additionally, "under our not-for-profit model, Kāhi Mōhala is not beholden to stockholders and any resources go toward meeting community needs," says Ličina.

This spring, Kāhi Mōhala will re-launch its ROPES (Reality-Oriented Physical Experiential Services) program, an innovative therapeutic course that uses a series of wood beams, pulleys and ropes to create safe physical challenges where cooperation, problem-solving and self-awareness are developed.

"We are grateful that for more than a generation, Hawaii has entrusted us to deliver the highest standards in behavioral health care to those who struggle in their daily lives," says Ličina. "We look forward to many more years of service to the community."

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