

**CONFIRMATION PREPARATION SCHEDULE**

as of 7/14/94 - 5:30 p.m.

**Friday, July 15**

- ◆ **NOTE:** Due to Gil's illness, the meetings with the Religious Community and the Disability Rights Coalition have been postponed and will be rescheduled for a later time.

9:30 a.m. Confirmation Preparation: Continuation of Question and Answer Development

We will try to finish all of the topics that were not covered today, specifically including ADA, Federal Sector, and remaining issues on Age and Religion. Chai Feldblum, and probably Pat Wright, can join for an hour or so to discuss ADA issues around 1:00 p.m., so I would strongly recommend that we plan to work until at least 2:00 p.m.

The meeting will be held at:

EEOC Headquarters, Conference Room 3rd Floor  
1801 L Street NW  
Ph. (202) 663-4900

- Claire will meet participants in lobby. Claire's noble assistant, Julie, has volunteered to get us lunch if we want to work through, so bring your pennies. (Office of Management informed us that there are no funds available to buy you lunch.)

**Saturday, July 16**

9:30 a.m. Confirmation Preparation and Briefing

The meeting will be held at:

EEOC Headquarters, Conference Room 3rd Floor  
1801 L Street NW  
Ph. (202) 663-4900

- Claire will meet participants in the lobby.

**Sunday, July 17**

**Time: TBA**

**Confirmation Preparation: Question and Answers**

**The briefing group will decide the meeting time on Saturday.**

**The meeting will be held at EEOC Headquarters, 1801 L Street NW  
Ph. (202) 663-4900**

**Tuesday, July 19**

**5:30 p.m.**

**Courtesy Meeting with Senator Paul Simon**

**The meeting will be held at:**

**6462 Dirksen Senate Office Bldg.**

**\*Paul Igasaki and Paul Steven Miller will also attend.**

**Thursday, July 21**

**10:00 a.m.**

**CONFIRMATION HEARINGS**

**schedl.gil  
cg:7/13/94-4:00pm**

CIVIL RIGHTS



CALL DAWN RE: EEOC brief - 209



**ORAL STATEMENT**  
**OF**  
**DOUGLAS GALLEGOS, EXECUTIVE DIRECTOR**  
**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**BEFORE THE**  
**SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE**  
**COMMITTEE ON THE JUDICIARY**  
**UNITED STATES SENATE**  
**JUNE 9, 1994**

## Oral Statement

Good Afternoon, I am Douglas Gallegos, Executive Director of the Equal Employment Opportunity Commission. I would like to introduce Elizabeth Thornton, EEOC's Acting Legal Counsel, and Dianna Johnston, Assistant Legal Counsel for Title VII policy.

We are here today to testify before the Subcommittee regarding the Equal Employment Opportunity Commission's Proposed Consolidated Guidelines on Harassment, particularly focusing our comments on the religious harassment provisions. These guidelines would protect from unlawful harassment those wishing to express their faith at work, just as the guidelines would protect workers from being forced to comply with someone else's religious beliefs.

Let us be clear that the guidelines are intended to explain existing law, consolidating existing judicial and Commission precedent, not to create any new legal theories or in any way abridge the free exercise of religion in the workplace. The guidelines provide that conduct towards an employee constitutes unlawful harassment only when it is unwelcome and when it severely or pervasively denigrates or shows hostility on the basis of religion.

Contrary to some erroneous commentary, the guidelines do not prohibit religious expression in the workplace. Such a prohibition would itself violate Title VII of the Civil Rights Act of 1964. Thus, while the proposed guidelines would prohibit

using repeated and offensive religious epithets in the workplace, the guidelines would not forbid wearing a cross or a yarmulke at work, having a Bible on one's desk, or inviting a colleague to church. As you know, the Commission has vigorously defended the right of employees in the workplace to exercise their religious faiths.

The public comment period for the proposed guidelines will continue until June 13, 1994. Any final guidelines would make clear not only that an employer is not required to prohibit non-intrusive religious expression, but that employers could not lawfully ban such expression.

In reiterating existing law, the proposed guidelines are fully consistent with the principles embodied in the Religious Freedom Restoration Act, signed by the President this past fall.

We would be glad to answer any questions you may have. However, because we are still in the comment period and because any action on these proposed guidelines requires approval by the full Commission, it would be inappropriate to commit at this time to any conclusions concerning or suggested changes to the guidelines.

# NEWS

FOR IMMEDIATE RELEASE  
Thursday, June 9, 1994

CONTACT: Claire Gonzales  
Reginald Welch  
(202) 663-4900  
TDD (202) 663-4494

## EEOC DEFENDS INCLUSION OF RELIGION IN PROPOSED CONSOLIDATED GUIDELINES ON WORKPLACE HARASSMENT

WASHINGTON -- The staff of the U.S. Equal Employment Opportunity Commission (EEOC) testified before a Senate subcommittee today about the Commission's Proposed Consolidated Guidelines on Harassment, particularly focusing those comments on the religious harassment provisions. These guidelines would protect from unlawful harassment those wishing to express their faith at work, just as the guidelines would protect workers from being forced to comply with someone else's religious beliefs.

The Commission staff made clear that the guidelines are intended to explain existing law, consolidating existing judicial and Commission precedent, not to create any new legal theories or in any way abridge the free exercise of religion in the workplace. The guidelines provide that conduct towards an employee constitutes unlawful harassment only when it is unwelcome and when it severely or pervasively denigrates or shows hostility on the basis of religion.

The Commission staff also made clear that, contrary to some erroneous commentary, the guidelines do not prohibit religious expression in the workplace. Such a prohibition would itself violate Title VII of the Civil Rights Act. Thus, while the proposed guidelines would prohibit using repeated and offensive religious epithets in the workplace, the guidelines would not forbid wearing a cross or yarmulke at work, having a Bible on one's desk, or inviting a colleague to church. The staff noted that the Commission has vigorously defended the right of employees in the workplace to exercise their religious faiths.

The public comment period for the proposed guidelines will continue until June 13, 1994. Any final guidelines would make

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clear not only that an employer is not required to prohibit non-intrusive religious expression, but that employers could not lawfully ban such expression.

In reiterating existing law, the proposed guidelines are fully consistent with the principles embodied in the Religious Freedom Restoration Act, signed by the President this past fall.

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**QUESTIONS AND ANSWERS ON PROPOSED CONSOLIDATED GUIDELINES**

**A. Protected and prohibited religious practices**

1. Can supervisors wear religious symbols such as crosses, yarmulkes, or turbans?

Answer: Yes. The wearing of religious symbols does not denigrate another's religion and is not harassment.

2. Can a coworker ask an individual to attend a church service or function with him?

Answer: Generally yes. Repeated requests might, however, amount to harassment if the individual has told the employer that he finds the requests objectionable.

3. May a supervisor ask an employee to attend a church service with him?

Answer: As with a coworker, a supervisor may ask an employee to attend a church service unless the employee indicates that he is offended by such requests or repeatedly refuses to go. A supervisor may not, however, force an employee to attend a church service or take employment action against the employee for failure to attend.

4. May a supervisor keep religious posters or artifacts in her office?

Answer: Yes. In limited circumstances, a supervisor might be obliged to hold meetings outside of her office with any employee who objected on religious grounds to meeting in her office.

5. May an employer sponsor a Christmas party with religious holiday decorations?

Answer: Yes. An employer could not, however, require employees to attend the party.

6. May an employer conduct a weekly prayer breakfast?

Answer: Yes, although employees may not be forced to attend and may not be sanctioned for failing to attend.

7. May an employer force employees to participate in new age training programs?

Answer: No. Employees who object to doing so may not be forced to participate in religious training programs.

8. May an employer encourage employees to attend new age training programs or prayer breakfasts?

Answer: Generally, an employer may invite employees to attend religious events. An employer may not, however, take or threaten to take action against employees who do not attend. An employer may also may have to stop repeatedly inviting particular employees who indicate that they find such invitations unwelcome on religious grounds.

9. May an employer broadcast a prayer over the loudspeaker system each morning?

Answer: Generally yes. However, if an employee protests that the message conflicts with her/his religious beliefs, the employer may have to try to reasonably accommodate him/her.

10. May an employer hire a chaplain?

Answer: An employer may hire a chaplain, for example, to conduct the prayer breakfasts or other religious observances the employer is permitted to sponsor in the workplace.

11. May an employer use stationery that states that the company is "Christ centered" or place a religious poster in a common area?

Answer: The Townley case suggests that the answer is, generally, yes. However, we know of no case that has addressed this issue directly. However, principles of accommodation law -- not harassment law -- would seem to suggest that if an employee explains that such practices conflict with his/her religious beliefs, the employer may be required to attempt to reasonably accommodate the employee.

12. May an employer say grace before a company sponsored social event?

Answer: Yes, although any employee who objected on religious grounds to hearing or saying grace would have to be excused from participating in that portion of the company sponsored event.

13. May a supervisor speak to employees about his religious faith?

Answer: Generally, yes. It would not be harassment for a supervisor to make positive statements to employees about the existence or content of his religious faith. It would be unlawful for a supervisor to make severely