



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF EQUITY, DIVERSITY AND INCLUSION

December 3, 2014

MEMORANDUM FOR ALL EMPLOYEES

FROM: Monica H. Davy, Executive Director
Office of Equity, Diversity and Inclusion

A handwritten signature in cursive script that reads "Monica H. Davy".

SUBJECT: Religious Expression in the Workplace policy

The following serves as the IRS policy and guidance to all IRS employees regarding religious expression in the workplace. The IRS is committed to creating an environment that encourages professional development, recognizes the contributions of all employees and enables all of us to reach our full potential. This policy represents another step toward creating an environment that values diversity and encourages people to share their different perspectives, styles, thoughts and ideas.

General Authority

The federal government generally has the authority to regulate an employee's private speech, including religious speech, where the employee's interest in that speech is outweighed by the government's interest in promoting the public services it performs.

- The IRS may, in its discretion, reasonably regulate the time, place and manner of all employee speech, provided such regulations do not discriminate on the basis of content or viewpoint. The IRS will exercise this authority fairly, within the requirements of the law, with the understanding that Americans are used to personal expressions of disagreement on controversial subjects, including religious ones.
- IRS personnel will not be permitted to pursue religious or ideological agendas or campaigns during work hours.

Religious Expression

a. Verbal Expression

In general, personnel are permitted to engage in private, religious expression in personal work areas not regularly open to the public to the same extent they may engage in private, non-religious expression.

- Religious expression is permitted as long as a reasonable observer would not interpret the expression as government endorsement of religion.

- Any expression must not interfere with an employee's official IRS duties.
- The IRS may regulate any speech that has a reasonable likelihood of causing a disruption in the workplace.
- An employee may attempt to persuade fellow employees of the correctness of his or her religious views to the same extent those employees may engage in comparable speech not involving religion (e.g. sports, television shows, weather, traffic, food, travel, hobbies and other personal interests).
- An employee may urge a colleague to participate or not to participate in religious activities to the same extent they may urge their colleagues to engage in or refrain from other personal endeavors.
- An employee must refrain from such expression when a fellow employee demonstrates that it is unwelcome (e.g., the employee asks that it stop, uses a stop hand gesture, says he or she does not want to hear it, walks away, or shows a negative facial expression).

Supervisors occupy positions of authority. Therefore, employees may reasonably perceive their manager's religious expression as coercive even if not intended as such. Accordingly, although supervisors retain the same right to religious expression as their employees, supervisors must not use their authority, or be perceived as using their authority, to require or discourage religious expression among their employees as a condition of employment.

- If circumstances indicate a manager's expression is merely his or her personal view and employees are free to accept, reject or ignore the supervisor's point of view or invitation without any harm to their careers or professional lives, such expression is permitted.
- A person holding supervisory authority over an employee may not, explicitly or implicitly, insist an employee participate in religious activities as a condition of continued employment, promotion, salary increases, preferred job assignments or any other incidents of employment. Nor may a supervisor insist an employee refrain from participating in religious activities outside the workplace.
- Supervisors must ensure staff meetings, holiday parties and other IRS functions are inclusive of all employees.
- Management-led prayer must either be nondenominational or allow equal opportunity for other religious beliefs and not be part of an official business meeting (e.g., office holiday parties and other office social events).

Approved employee organizations and employee resource groups may have religious expression at meetings, conferences and other events provided that a reasonable observer would not interpret the expression as government endorsement of religion. For more information regarding these organizations and groups, please refer to the [Employee Organization and Employee Resource Group Policy](#) maintained on the Office of Equity, Diversity and Inclusion's website.

b. Communications (including email) & Information Technology

In official government correspondence, including email messages, the agency will determine what is appropriate for inclusion. Per [IRM Exhibit 1.10.3-2](#), your email signature should include only the identifying information that would otherwise be identified in any official IRS communication (i.e. business card, memorandum, letter, etc.). Therefore, employees should refrain from including quotes or other personal messages as part of the signature section.

Per [IRM Exhibit 10.8.27-1\(13\)](#), the IRS policy on Limited Personal Use of Government Information Technology Resources, regardless of an employee's work status, employees are prohibited from using government IT resources to participate in activities that are illegal, inappropriate, or offensive to fellow employees, contractors, vendors, outsourcing providers, or the public in general, including hate speech or material that ridicules others on the basis of a protected class such as religion.

c. Posters, Signage, Art and Literature

Posters, signage, art and literature containing or representing religious expression are subject to the same guidelines as those containing no religious expression. In addition, such items must not create a reasonable impression that the government is sponsoring, endorsing, or inhibiting religion generally, favoring or disfavoring a particular religion, or be perceived as distasteful.

Employees may display these items in the workstation so long as fellow employees and the viewing public would reasonably understand the religious expression to be that of the employee acting in his or her personal capacity and not that of the government.

d. Dress

Employees are entitled to display religious messages on items of clothing to the same extent that they are permitted to display other non-religious messages. Per [IRM 6.735.1.2\(4\)](#), "Employees are expected to groom themselves in a manner fitting to the surrounding into which their work assignments take them."

- Personnel may wear religious jewelry over their clothes.

- Wearing religious apparel is permitted if wearing such attire during the workday is part of the employee's religious practice or expression; and, the wearing of such apparel does not unduly interfere with the functioning of the workplace.
- Any dress must not create the reasonable impression that the government is sponsoring, endorsing, or inhibiting religion generally, or favoring or disfavoring a particular religion.

e. Holiday Activities/Decorations

Regarding decorations, the Establishment Clause of the First Amendment to the U. S. Constitution (which prohibits the government from establishing an official religion and unduly favoring one religion over another) is not violated if the context reveals that the display is “not an endorsement of religious faith but simply recognition of cultural diversity.” County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter, 492 U.S. 573, 619 (1989). The display must be understood as conveying the “secular recognition of different traditions for celebrating the winter holiday season.” Id. at 620. “The Christmas tree, unlike the menorah, is not itself a religious symbol. Although Christmas trees once carried religious connotations, today they typify the secular celebration of Christmas.” Id. at 616.

- Secular holiday symbols (e.g., Christmas trees, wreaths, candy canes, Santa Claus, reindeer, toys, presents, snowflakes, icicles and lights) may be displayed alone or as a group.
- If religious holiday symbols (e.g., menorah and nativity) are displayed, they need to be part of a display that also contains secular objects representing the winter holiday season. Religious symbols should be reflective of the diversity that exists in the workplace where displayed.

Accommodation

Employees' exercise of their religion will be accommodated unless such accommodation would impose an undue hardship on the conduct of the IRS's operations. The IRS is not required to make an accommodation that will result in more than a de minimis cost to the agency, that cost or hardship nevertheless must be real rather than speculative or hypothetical (i.e., the accommodation should be made unless it would cause an actual cost to the agency, or to other employees, or an actual disruption of work, or is otherwise prohibited).

Hostile Work Environment and Harassment

Whether particular conduct gives rise to a hostile environment, or constitutes impermissible religious harassment, will depend upon its frequency and severity. A hostile environment is not created by the bare expression of speech with which some employees might disagree.

Religious expression should not be permitted if it is part of a larger pattern of verbal attacks on fellow employees (or a specific employee) not sharing the faith, or lack of faith, of the speaker. Such speech, by virtue of its excessive or harassing nature, may constitute religious harassment or create a hostile work environment.

Additional Resources

More information about diversity and inclusion can be found at edi.web.irs.gov. For information on how to file a discrimination complaint, please see erc.web.irs.gov, which includes information on how to contact an EEO counselor, or call (866) 743-5746, or hearing impaired employees can call (866) 924-3578. Managers may also contact their servicing [labor relations specialist](#) for ethics and conduct guidance.

Authorities

- [Guidelines on Religious Exercise and Religious Expression in the Federal Workplace, The White House, Office of the Press Secretary, August 14, 1997](#)
- Religious Freedom Restoration Act of 1993
- Title VII of the Civil Rights Act of 1964
- Establishment Clause of the First Amendment to the U. S. Constitution