

Whitten & Lublin is a team of legal experts who provide practical advice and advocacy for workplace issues.

REGULATING WORKPLACE ATTIRE

After a bitterly long and icy winter, the warm summer weather is finally around the corner. As a result, people will soon be shedding their winter wear, if they haven't done so already.

Many employers will undoubtedly agree that seasonal wardrobe changes often result in questions or issues with respect to appropriate dress at work. Consequently, employers are encouraged to proactively address them.

One of the biggest mistakes employers make with respect to dress codes is the failure to implement clear guidelines, or any guidelines at all. This can create uncertainty within a workforce, which can lead to workers believing they have a lot of leeway when it comes to their clothing selection.

A person's choice of clothing may seem trivial to most people. However, issues pertaining to proper work attire can escalate quickly, especially with an unwary employer. The most common problems include safety, sexual harassment, discrimination, and damage to a company's image. Not only can these types of workplace problems increase an employer's liability, but they can also impact staff morale and negatively impact a business' brand.

The good news is that there is a simple solution to preventing these types of problems. They can be easily avoided through the implementation of clear policies.

There are no limits to the specificity with which an employer can dictate proper work attire. The more specific a dress code is, the less room there is for interpretation. The extreme example is the implementation of employer-issued uniforms. There are seldom issues with uniforms, unless they are found to be humiliating, embarrassing and/or demeaning. However, uniforms are not desirable or appropriate in all work environments. If uniforms are not utilized, employers are strongly encouraged to implement specific guidelines that can be objectively viewed by all staff as fair and reasonable.

When it comes to developing an appropriate dress code, it is important to keep in mind that the rights of an employer and the rights of its employees must be balanced. For example, employers have the right to control their image and prevent safety risks. On the other hand, employees have the right to be free from intrusions into their personal lives. Arbitrary rules regarding facial hair, jewelry, tattoos and religious garb, for example, could be viewed as unreasonable if they unnecessarily intrude in an individual's personal life, unless, of course, they form part of a *bona fide* occupational requirement. Therefore, while dress codes should be very specific, they should not be overly broad in scope, should contemplate reasonable forms of accommodations for special circumstances, and should not discourage self-expression.

The following are tips on how to create and enforce a successful dress code policy:

- Have clear and concise rules on workplace attire;

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- The rules should contemplate the appropriate attire during different seasons, as well as for specific events/circumstances (e.g. casual Fridays, client meetings, business trips, etc.);
- The rules should be communicated to all staff in writing;
- Employees should be required to acknowledge that they have read and understand the rules;
- Repercussions for breaking the rules should be set out clearly in the policy;
- Steps should be taken to ensure that those individuals tasked with enforcing the rules know them well;
- The rules should be enforced consistently with all staff; and
- Repeat offenders should be appropriately disciplined.

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