

Religious Discrimination in Employment

Laws prohibiting employment discrimination involve primarily the need to guarantee to all members of American society unfettered access to the labor market, and to all of the economic and social benefits that flow from active participation in it.

Religious discrimination in employment has been the subject of state as well as federal legislation and courts have been called upon to define the circumstances under which particular conduct constitutes illegal religious discrimination in employment under state statutes. For example, in *Finnemore v. Bangor Hydro Electric Co.* (Me. 1994), the Maine Supreme Judicial Court concluded that a genuine issue of fact existed about whether sexually explicit comments directed at a fundamentalist Christian constituted illegal religious harassment violating state law. Other courts applying state antidiscrimination statutes have reached varying results, depending on the particular circumstances involved and the language of the statute in question.

Many states have enacted statutes to prevent employers from discriminating based on race, color, national origin, or religious creed, with respect to personnel decisions or the terms and conditions of employment. State laws barring employment discrimination based on religion, like state civil rights laws generally, vary considerably. These state laws sometimes closely follow the equivalent federal law contained in Title VII of the Civil Rights Act of 1964, although other state statutes differ significantly from the federal civil rights laws.

Title VII of the Civil Rights Act of 1964 prohibits employers covered by the Act from discriminating against persons because of their religion. This statute greatly impacts the employment market because it applies to most forms of private, as well as government, employment and the activities of labor unions.

The Act itself is fairly straightforward in its approach to this problem. It prohibits an employer from discriminating in the hiring, payment, or treatment of employees on the basis of their religion. Similarly, the statute makes it unlawful for a labor organization to exclude or burden a worker on the basis of religion.

In 1972 the Act was amended to include a definition of religion that also defines and employer's duties in this area. The Act now reads:

The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The goal of Title VII is to reduce or eliminate most religion-based barriers to labor market participation. In 1966 the Equal Employment Opportunity Commission (EEOC) interpreted Title VII's antidiscrimination provision as imposing an affirmative duty upon employers to accommodate the religious practices of employees if accommodation did not cause