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Implementing Summer Dress Code Policies in the Workplace

Summer often means relaxed dress codes for businesses. The benefits of implementing a summer dress code include protecting or establishing a company's image, limiting harassment arising out of how people dress in the workplace, creating a productive work environment, boosting employee morale, and keeping employees comfortable. But like dress policies generally, summer dress policies should be drafted in a way that protects the employer against possible discrimination claims.

Here are some best practices for implementing summer casual dress policies in your workplace:

- **Decide how specific or broad you want your policy to be.** There are pros and cons to both approaches. A specific policy (no skirts shorter than 2 inches above the knee, for example) means the employer can more easily identify violations, but it may not allow for much discretion in determining whether to discipline an employee. Alternatively, policies that are very broad may allow for more variations (for example, among various office locations), but may also not provide sufficient guidance as to what is acceptable and what is not. The trick is to find the middle ground and draft a policy that clearly sets expectations but does not too narrowly restrict dress, as narrow restrictions expose the employer to possible discrimination claims. Then apply your policy uniformly.
- **Be mindful of potential discrimination claims.** While there is no federal law governing employee dress codes, employers must ensure that their policies do not discriminate on the basis of gender, race, religion, disability or other protected status. For example, employees who can prove that a dress code creates an unequal burden between male and female employees may be able to successfully bring a sex discrimination case against the employer. Employers may establish dress standards as they see fit if they can provide business justifications for them and the standards do not affect one group of people more than another.
- **Employers must accommodate employees' religious beliefs.** Employers must bear in mind that, whatever the dress policy, they must still make "reasonable accommodations" for requests pertaining to clothing and related to employees' religious beliefs.
- **Don't forget the NLRB.** The National Labor Relations Board (NLRB) has previously found that a company's prohibition on "pins, insignias, or other message clothing which are not provided to them by the company" is overly restrictive and a violation of the National Labor Relations Act (NLRA). Such forms of expression are more often seen with casual dress policies, and employers are urged to draft their policies carefully in order to comply with the NLRA.

Once a good policy is in place, it is important to fully and uniformly document violations in an employee's file. In addition, unless a dress code policy is in place for health or safety reasons, it is often prudent to implement dress codes on a "recommended" or "guidelines" basis, because termination decisions based on dress are highly scrutinized by the courts.

Reid and Riege's employment group can help you navigate these and other employment issues. If you have any questions, please contact Attorney Agnes Romanowska at (860) 240-1088 or Attorney Peter Rydel at (860) 240-1007.

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