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Few legal limits on workplace dress codes

Under California's Fair Employment & Housing Act, employers may require their employees to follow 'reasonable workplace appearance, grooming, and dress standards'

By [Dan Eaton](#) PUBLISHED: June 30, 2025 at 6:00 AM PDT

Many post-pandemic workplaces still have formal or informal dress codes. In May, for example, Starbucks started requiring its employees to wear a solid black shirt and black or blue denim bottom. Starbucks says the required dress makes its iconic green aprons stand out and gives customers a sense of familiarity.

Under California's Fair Employment & Housing Act, applicable to employers with five or more employees, employers may require their employees to follow "reasonable workplace appearance, grooming, and dress standards." This broad discretion has limits.

Importance of consistent, evenhanded enforcement

Late last year, U.S. District Court Judge Andre Birotte Jr. of Los Angeles ruled Southern California Gas Company did not act unlawfully when it enforced its dress code in a nondiscriminatory way, especially where enforcement of the policy did not materially affect the plaintiff-employee's employment.

Employers may face legal trouble, however, by enforcing stricter appearance standards for one sex, race, etc. than another. In a 2005 ruling, the California Supreme Court noted "Courts in other jurisdictions have uniformly held that an appearance standard that imposes more stringent appearance requirements on employees of one sex than on employees of the other sex constitutes unlawful sexual discrimination unless such differential treatment can be justified as a bona fide occupational qualification. We believe it is clear that such unjustified disparate treatment also would constitute unlawful sex discrimination under" California's FEHA.

Even a seemingly neutral prohibition on "distracting" clothing at work may be risky. Fashionista Dominique Bird, quoted in a recent [CNBC.com post](#) offering advice on what to wear in the post-pandemic workplace, said "I think telling women that certain things that they wear is distracting is rooted in sexism."

Rules on gender, gender identity

FEHA requires employers to allow employees “to appear or dress consistently with the employee’s gender identity or gender expression,” whether male, female or nonbinary. Another FEHA provision makes it illegal for an employer “to refuse to permit an employee to wear pants on account of the sex of the employee.” A subsection of the same FEHA provision authorizes an employer to require “employees in a particular occupation to wear a uniform.” Neutrality is key.

Appearance rules related to race, religion

The definition of race under FEHA includes “traits (the word “historically” was removed from the statute effective this year) associated with race, including, but not limited to, hair “texture” and “protective hairstyles,” such as braids, locs, and twists. An employer may not apply a requirement that hair be neat and clean to bar such hairstyles.

Similarly, FEHA requires employers to accommodate their employees’ religious clothing and hairstyles. The prohibition on employment discrimination based on a person’s “religious creed” includes a person’s religious dress or grooming practices. FEHA defines the term “religious dress” broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts and any other item that is part of how a person observes his or her religious creed. “Religious grooming practice” includes all head, facial and body hair that is part of how a person observes his or her religious creed.

Employers must accommodate an employee’s religious beliefs unless accommodation would impose an undue hardship on the business, which is tough to prove. An employer specifically may not accommodate an employee’s religious dress or grooming practice by keeping the employee away from contact with the public.

Impact on employee recruitment, retention

Beyond considering these limited legal constraints, employers should evaluate the impact of their dress codes on attracting and retaining staff. Starbucks faced some employee resistance to its new dress code.

But some guidance may be beneficial in a post-pandemic workplace in which “business casual” and “appropriate dress” are all but meaningless. Jill Chapman, an executive with HR service company Insperity, quoted in a [Business Journals article](#) earlier this year, recommends employers adopt “an approach which finds that balance between self-regulation and enforcement.” That is sound guidance, even if finding that balance in a particular situation may be challenging.

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