

Dress Codes: Can you force employees to dress a certain way?

Dress Code should reflect the organizational culture and not gender stereotypes

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No doubt, most of us have seen some dramatic shifts in terms of how people dress for work. What was once considered proper attire in the workplace is really quite “passé”. Formality has given way to more informal and comfortable attire. Smart casual appears to be the norm in many white-collar workplaces. Much of this trend originated in the high-tech world and has spilled over into other sectors.

But, in certain situations or workplaces, it may become apparent that an employee is not reflecting the organization’s brand and an employer has to intercede.

This is not an issue that specifically target one gender over another... it crosses gender lines. Often organization struggle to ensure that proper attire is maintained in portraying a professional public image to its clientele and customers.

In Ontario, gender expression and gender identity are protected grounds under the human rights legislation. Therefore, when an organization has an ostensibly antiquated personal appearance and dress code policies that prohibit certain types of dress or physical appearance, such as tops that expose mid-drifts, no spandex shorts, no tattoos, no body piercings and so on – it become apparent that the employer may need to undertake a review of

their policies to reflect more recent standards – standards that are more tolerant of today’s more liberal views of dress and personal appearance. For instance, at one time, an organization could reinforce a no-tattoo/body piercing policy; however, in more recent times, there is jurisprudence out there that don’t make it so easy to have a blanket policy prohibiting tattoos/body piercing.

When requesting employees to have a professional appearance, it is important to steer away from making gender-specific recommendations/policies. Gender stereotypes in policies shouldn’t attempt to usurp, from human rights perspective, the right to gender expression and gender identity. As an employer, the organization maintains the right to ensure professionalism on the part of its employees as long as it doesn’t not infringe on their human rights. As an illustration of this movement towards genderless dress codes, France is moving toward policies that are appropriate for your organizational culture. For instance, if the organization’s workplace culture is one of a business-casual style, it should then be reflected in its policy; while on the other hand, if the accepted standard is denim and tee-shirt, then the policy should be reflective of this type of workplace environment.

It has been our experience that employers can often afraid to broach the topic of dress with its employees. They feel that it is awkward and can lead to an emotion-filled/controversial conversation. We have always counselled our many clients to put some thought before approaching employees on the topic of dress or personal appearance. Reflect on what you are going to say and explain why it is important for them to follow some sense of decorum in fostering a pleasant and professional environment. The conversation should be centered on how the dress and/or personal appearance is not in line with the organizational culture that the employer is wanting to portray to its clientele and customers. When broaching the topic of inappropriate dress/personal appearance, it

is also important that you be as specific as possible in providing examples as to what is improper and keep the conversation gender-neutral.

For some organizations, concerns about branding, reputation, health and/or safety lead them to adopt explicit dress code policies relating to their employees' dress and personal appearance. However, we are often asked whether such policies are legally permissible? The short answer is **yes**. However, as with anything in the world of law, this is a "**qualified yes**" - in other words there are some exceptions – and the nature of those exceptions differs depending on whether or not your employees are unionized.

Some companies are of the view that no dress code allows employees to be creative with their outfits, which may translate to job creativity and productivity. To sum it up, employers can have a dress code or rules about dress that meet the business needs of the organization, as long as they comply with the *Code*. Rules about dress may include having to wear a uniform or having to wear protective gear. Design such rules to be inclusive of all employees, including men and women, people with disabilities, and anyone who needs accommodation for religious reasons. Make sure that any requirements are made in good faith and are genuinely required to do the job.

Source:

<http://www.ohrc.on.ca/en/iv-human-rights-issues-all-stages-employment/7-pay-benefits-dress-codes-and-other-issues>