



HR QUESTION of the



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Ban the Man Bun?

Question

Our employee handbook/dress code does not specifically mention a man bun. This person is in sales/merchandising. Can we ask him to not wear a man bun?

Answer

An employer can impose and enforce reasonable dress and grooming rules. Such an issue is not governed by any specific federal or state law, but rather generally is determined by each employer based on its objectives, and can include considerations such as the image the employer wishes to project to its customers, etc. As discussed below, such policies generally need to be uniform, and while limited gender-based distinctions may be permissible, the employer must be cautious before implementing gender-based grooming (including hair) and dress code requirements.

As an initial matter and with respect to long hair, an outright prohibition against men wearing it in a bun may be problematic, because a policy that is so gender-specific as this may violate Title VII of the Civil Rights Act of 1964, which expressly prohibits gender-based discrimination in employment. As well, even if such a policy is in place (and as discussed in this response, we do not recommend it), if an employee's hair style is required for religious reasons -- and some men do not cut their hair due to sincerely held religious beliefs -- the employer would still have to explore permitting the hairstyle as a reasonable accommodation, and would be unable to prohibit it absent a true "undue hardship" to the business operations if it were allowed. The EEOC's Guide on Religious Garb and Grooming in the Workplace sheds additional light on this issue: http://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm. Note as well that there can also be employee relations issues associated with employees who may view such a policy as "over reaching," and may resent the employer's effort to control individual appearance.

As noted, a policy that permits women to put their hair in a bun but prevents the same for men exposes the employer to potential liability for gender discrimination and other claims, and is not recommended. To be sure, the EEOC's general guidance does permit individual requirements that differ according to gender, but only if they don't place a greater burden on one gender than the other. In this regard, if an employer's overall grooming/appearance policy is a reasonable one and if it applies differently to both men and women for truly legitimate reasons, then while a gender discrimination claim is still

a potential risk, there is still only the possibility, and not a guarantee, that such a policy could withstand such a challenge. That said, it may be difficult for the employer here to articulate a legitimate business justification or true undue hardship associated with a policy prohibiting men from wearing their hair in a bun style while permitting women to do so.

Given these risks, the employer should carefully consider whether a "no man bun" policy is really the best way to achieve the employer's objective. If what the employer ultimately seeks is a neat, clean and professional appearance from all employees, the employer would do well to have its policy describe employee grooming and dress in these terms, rather than prohibiting a particular style of hair (and certainly not for a particular gender, as noted). In this regard, an individual who has long hair (whether male or female) may not be precluded from donning the bun hair style altogether, but can be expected to maintain it in a neat, clean manner so as to be consistent with the employer's professional appearance policy.

To the extent the company's policy is revised to indicate that all employees should have their hair groomed, and that they be present in a neat, clean and professional way each day, the employer would do well to ensure it is clearly communicated to all employees and then uniformly and consistently enforced as to all employees, regardless of gender. If an applicant or employee appears in violation of the policy, he or she can and should be told that this is the case. Current employees can be asked to bring their hair into compliance with the employer's policy or face being sent home, and disciplinary action can and should issue for policy infractions in accordance with the employer's ordinary policy and past practices. Applicants can and should be advised that this something the employer requires of its employees, and can be asked prior to hire whether this is a policy with which he or she could comply if hired.

In other words, if an applicant or employee does not wear his or her hair in an appropriate manner per the employer's policy requirement that all employees have hair groomed and styled in a neat and clean fashion -- as presumably could be the case with a messy or unkempt bun worn by a male or female -- then the employer should clearly state this both in its policies (handbook) and in any subsequent conversation with such individual, regardless of his/her gender.

We recommend that employers evaluate their policies to ensure that they meet the organization's needs without running afoul of any rights conferred upon employees. We make sample policies and tools available on our website as well and encourage employers to review these resources, as well.

Want to know more about dress codes and grooming policies, [click here](#) to listen to our podcast.



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