

Workplace Speech, Pronouns, Facilities, and Dress Code

Policy Guide

PURPOSE

This member guide helps Christian employers prepare clear, mission-aligned policies for workplace speech, pronouns, sex-specific facilities, dress, grooming, and religious accommodation. It is a decision framework — not a substitute for legal review. Because federal and state law remain unsettled and fact-specific, employers should have qualified counsel review proposed language before adoption and before responding to an individual dispute.

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1 Why This Risk Moment Matters

A pronoun request, facility concern, or dress-code dispute can quickly become a discrimination, harassment, accommodation, or retaliation claim. The greatest risk often comes not from the written rule alone, but from an improvised response: a supervisor takes sides, an employee is disciplined before the facts are reviewed, or a complaint is discussed in public instead of being routed through a controlled process.

A handbook cannot eliminate legal risk, and religious language does not automatically make every policy lawful. A well-built handbook can, however, establish the organization's sincere religious identity, define expectations before conflict arises, create a fair review process, preserve decision-making authority, and help demonstrate consistent treatment.

The objective: prepare before a dispute occurs, respond without hostility, protect privacy, consider applicable accommodations, and involve counsel before making a high-risk decision.

2 The Legal Landscape

Several bodies of law may apply at the same time. The result depends on the employer's identity, size, location, policies, government relationships, the employee's role, the action being considered, and any injunction or other protection that applies to the organization.

Title VII and Bostock

Title VII generally applies to employers with 15 or more employees and prohibits employment discrimination because of race, color, religion, sex, or national origin. In *Bostock v. Clayton County*, the Supreme Court held that firing an individual merely for being homosexual or transgender violates Title VII's prohibition on discrimination because of sex. The Court did not decide every question involving bathrooms, locker rooms, dress codes, pronouns, religious liberty, or the ministerial exception.

EEOC guidance and the 2025 vacatur

In 2024, the EEOC issued harassment guidance addressing gender identity, pronouns, and access to sex-segregated facilities. In May 2025, a federal district court vacated portions of that guidance nationwide. The EEOC then marked the affected portions as vacated. Employers should not describe the vacated guidance as current binding law. At the same time, *Bostock* remains controlling, other harassment principles remain in force, and state or local law may impose separate requirements.

Religious accommodation after Groff

Title VII also protects employees' sincerely held religious beliefs and practices. When an employee requests a religious accommodation, the employer must consider a reasonable accommodation unless it would impose an undue hardship. Under *Groff v. DeJoy*, undue hardship requires a burden that is substantial in the overall context of the employer's business; a small or merely more-than-minimal cost is not enough. Employers should consider available alternatives and document the practical effect of each option.

Religious employer protections

Depending on the facts, a Christian employer may have protections under the Religious Freedom Restoration Act, Title VII's religious-organization provisions, the First Amendment's church-autonomy and ministerial-exemption doctrines, other constitutional protections, state religious-freedom laws, and court orders protecting defined organizations or members. These protections differ in scope and do not operate as a universal exemption from employment law.

CEA member injunction protections

CEA has obtained federal court protections addressing specified federal mandates for qualifying members. The scope of protection depends on the controlling orders, the member's eligibility and continued membership, its execution of required faith documents, and the particular government action at issue. Do not assume that an injunction resolves every pronoun, facility, dress-code, state-law, private-party, or individual-employment dispute. Confirm coverage with CEA counsel before relying on an injunction.

State and local law

State and local civil-rights laws may cover smaller employers, define protected traits differently, regulate facilities or dress standards, create broader remedies, or recognize different religious defenses. Multi-state employers should not adopt a single contested policy without a state-by-state legal review.

3 Build the Policy Foundation First

Contested policies should sit within a coherent religious-employer framework. They should not appear as isolated reactions to a particular employee or public controversy.

RELIGIOUS IDENTITY

Confirm the organization's religious identity. State the mission, core beliefs, and the way those beliefs shape the organization's work and workplace conduct.

STATEMENT OF FAITH

Adopt an accurate statement of faith. Use language the organization sincerely believes and consistently follows. Do not add theological language only to influence a pending dispute.

GOVERNANCE AND AUTHORITY

Identify who may interpret religious doctrine, approve exceptions, receive complaints, and make final employment decisions.

POLICY CONNECTIONS

Connect policies to mission where the connection is genuine. Explain operational, privacy, safety, professional, or religious reasons without making promises the law does not support.

ESCALATION PATH

Create one escalation path. Managers should receive concerns and preserve calm, but HR, designated leadership, and counsel should control high-risk decisions.

TRAINING AND ROLLOUT

Train before rollout. Employees should know what conduct is expected, where to bring a concern, and that retaliation is prohibited.

ACKNOWLEDGMENTS

An acknowledgment should confirm receipt and understanding of the handbook; it should not be written as a waiver of statutory rights or as proof that every employee personally affirms the organization's theology unless counsel has approved that requirement for the role.

4

Workplace Speech and Pronouns

The policy goal is respectful, workable communication without viewpoint-based hostility or impulsive discipline. Avoid treating every mistake, disagreement, or request as harassment. Also avoid allowing targeted ridicule, threats, persistent personal attacks, or conduct that materially disrupts the workplace.

RECOMMENDED POLICY ELEMENTS

MANAGER RESPONSE SEQUENCE

- Require professional and respectful communication from every employee, regardless of viewpoint or protected status.
 - Prohibit slurs, threats, ridicule, intimidation, and targeted harassment. Tie discipline to defined conduct, context, severity, frequency, and workplace impact.
 - Provide a process for an employee to raise a religious or conscience-based objection to requested speech.
 - Permit HR to explore practical alternatives such as names, titles, role descriptions, or restructuring communications.
 - State that employees may report concerns and request review without retaliation.
 - Reserve final interpretation and exception authority to designated leadership in consultation with counsel.
- 1 Listen privately and thank the employee for raising the concern.
 - 2 Do not demand an immediate declaration, apology, or agreement from either employee.
 - 3 Ask what occurred, when, who was present, whether the conduct is continuing, and what resolution is requested.
 - 4 Separate any immediate safety or disruption issue from the underlying legal and religious questions.
 - 5 Preserve relevant messages, schedules, prior complaints, and policy versions.
 - 6 Route the matter to HR or designated leadership. Contact counsel before discipline or a final accommodation decision.

5 Restrooms, Locker Rooms, and Other Private Facilities

Facility policies implicate privacy, dignity, safety, sex discrimination, religious conviction, building design, and state or local law. Do not assume that *Bostock* alone answers the question, and do not assume that a religious policy is automatically insulated from review.

- Identify which spaces are sex-specific, single-user, or available to all employees, using precise terms.

- Explain the organization's sincere religious, privacy, modesty, safety, and operational interests where those interests actually support the policy.
- Where feasible, offer a private or single-user option without requiring only one class of employees to use it. Do not label the option as punitive or inferior.
- Provide a confidential process for privacy concerns and accommodation requests.
- Address visitors, customers, travel, temporary sites, and shared facilities if those circumstances occur in the organization's operations.
- Require case-specific review before discipline. Counsel should assess the applicable state and local rules and any CEA injunction protection.

6 Dress, Grooming, and Appearance

A defensible appearance policy begins with legitimate job and mission needs, not stereotypes. Standards should be clear enough to administer, flexible enough to address accommodation requests, and consistent across similarly situated employees.

- State legitimate purposes such as safety, sanitation, identification, professionalism, modesty, customer-facing responsibilities, or the organization's sincerely held religious standards.
- Describe permitted and prohibited clothing or grooming in concrete, job-related terms. Avoid vague rules that invite subjective enforcement.
- Review whether sex-differentiated standards create unequal burdens or conflict with applicable law. Obtain counsel's review before adoption.
- Invite requests for religious accommodation and for other legally protected needs, including disability, pregnancy, or medical considerations where applicable.
- Apply comparable standards to comparable roles. Document legitimate reasons for differences based on safety, duties, location, or mission.
- Do not discipline while a timely accommodation request is under review unless immediate safety or serious misconduct requires action and counsel approves the response.

7 Accommodation Review Process

Use a consistent process for religious and other protected accommodation requests. Title VII does not require special terminology or a written request in every instance. If a manager has enough information to understand that a workplace rule may conflict with a religious belief or practice, the manager should route the issue for review.

1

Receive the request without debate.

Ask only for information needed to understand the conflict and the requested change.

2

Identify the applicable policy, essential job functions, affected operations, and relevant legal protections.

3

If the nature or sincerity of a religious belief is legitimately unclear, obtain counsel's guidance before requesting additional information.

Do not evaluate whether the belief is theologically correct or widely shared.

4

Explore reasonable alternatives.

Consider the employee's proposal and other options that may resolve the conflict.

5

Evaluate hardship using evidence.

For a Title VII religious request, document whether the accommodation would cause substantial increased costs or other substantial burdens in the context of the particular business.

6

Issue a written decision.

Identify the accommodation, any limits or review date, or the specific, evidence-based reason for denial.

7

Monitor the result.

Revisit an accommodation if facts, duties, law, or operational burdens materially change.

8

Documentation to Maintain

■ Current and prior statements of faith, bylaws, mission documents, and board-approved religious standards.

■ Current and prior handbook versions, effective dates, distribution records, and acknowledgments.

- The documented purpose and approval history for each contested policy.

- Training materials, attendance records, and manager instructions.

- Complaints, witness accounts, relevant communications, investigation notes, and preservation notices.

- Accommodation requests, alternatives considered, operational evidence, written decisions, and follow-up reviews.

- Comparable prior decisions used to check consistency, with confidential information appropriately restricted.

- Evidence of CEA membership and any documents required to establish eligibility for member-specific protection.

Keep medical information, accommodation records, and sensitive complaint materials separate from ordinary personnel files, with access limited to those who need the information. Follow the organization's retention schedule and any litigation hold.

9 Red Lines

- ✗ Do not promise that a religious statement, handbook clause, or CEA membership defeats every claim.

- ✗ Do not cite vacated EEOC guidance as current binding federal law.

- ✗ Do not treat *Bostock* as resolving every question about pronouns, facilities, dress, or religious exercise.
- ✗ Do not use *303 Creative* as a blanket employment-law exemption. Its compelled-speech principles may inform an argument, but the case did not decide workplace pronoun disputes.
- ✗ Do not investigate publicly, invite coworkers to take sides, or disclose sensitive information beyond those who need to know.
- ✗ Do not discipline an employee for requesting an accommodation, reporting discrimination, participating in an investigation, or asserting protected rights.
- ✗ Do not allow supervisors to improvise policy or make promises about legal protection.
- ✗ Do not rely on a template without reviewing the employer's states, size, workforce, mission, benefits, contracts, and government-funding relationships.

10 When to Contact Counsel

Seek qualified legal counsel before:

- adopting or materially revising a pronoun, speech, facility, dress, grooming, or faith-based conduct policy;
- relying on a CEA injunction or other court order;
- requesting supporting information about the sincerity or religious nature of a belief;
- denying an accommodation request;
- disciplining, reassigning, suspending, or terminating an employee in connection with a contested issue;
- responding to an attorney demand, agency inquiry, charge, subpoena, or threatened lawsuit;
- handling a matter in a state or city with separate gender-identity, facility, dress-code, or religious-accommodation requirements; or
- addressing a dispute involving a ministerial role, senior religious leader, government contract, federal funding, healthcare program, or employee benefit plan.

11 Leadership Readiness Check

- ☐ Our statement of faith and mission accurately describe beliefs the organization sincerely holds and practices.

- ☐ Governance documents identify who has authority to interpret doctrine and approve exceptions.
- ☐ Our speech, facility, dress, grooming, complaint, accommodation, and anti-retaliation policies work together.
- ☐ Counsel has reviewed the policies for every state and locality in which we operate.
- ☐ Managers know how to receive a concern without debating, promising, or disciplining.
- ☐ We have a confidential escalation path and a backup decision-maker.
- ☐ We can locate the policy version and acknowledgment that applied on any relevant date.
- ☐ We document alternatives and evidence before denying an accommodation.
- ☐ We have confirmed the current scope and eligibility requirements of any CEA injunction on which we may rely.
- ☐ We review these policies at least annually and whenever controlling law materially changes.

AUTHORITY**WHY IT MATTERS**

Bostock v. Clayton County, 590 U.S. 644 (2020)

Title VII prohibits firing an employee merely for being homosexual or transgender; the Court did not decide bathrooms, locker rooms, dress codes, pronouns, RFRA application, or the ministerial exception.

Groff v. DeJoy, 600 U.S. 447 (2023)

A Title VII religious accommodation may be denied for undue hardship only when the burden is substantial in the overall context of the employer's business.

Our Lady of Guadalupe School v. Morrissey-Berru, 591 U.S. 732 (2020) and *Hosanna-Tabor*, 565 U.S. 171 (2012)

The ministerial exception protects religious institutions' independence in selecting and controlling certain employees who perform vital religious functions.

303 Creative LLC v. Elenis, 600 U.S. 570 (2023)

The government may not compel certain custom expressive speech; the decision did not resolve employer pronoun policies.

EEOC, Federal Court Vacates Portions of EEOC Harassment Guidance, May 20, 2025

The EEOC acknowledged the nationwide vacatur of portions of its 2024 harassment guidance addressing gender-identity concepts including pronouns and facilities.

Applicable CEA injunctions and orders

Confirm the current order, protected class, covered conduct, member eligibility, and limitations directly with CEA counsel before reliance.

Legal Disclaimer

This guide is provided for general educational purposes only. It is not legal advice, does not address every federal, state, or local requirement, and does not create an attorney-client relationship. The law governing workplace speech, gender identity, religious exercise, facilities, dress and grooming, accommodations, and religious employers is fact-specific and continues to develop.

Do not adopt policy language, deny an accommodation, impose discipline, or rely on an injunction based solely on this guide. Consult qualified legal counsel regarding your organization, jurisdiction, workforce, and specific circumstances.

Need Counsel?

CEA members have access to pre-vetted employment counsel who understand Christian employers.

Log in to the Member Portal to connect with resources, or contact CEA directly at joinceanow.org.