

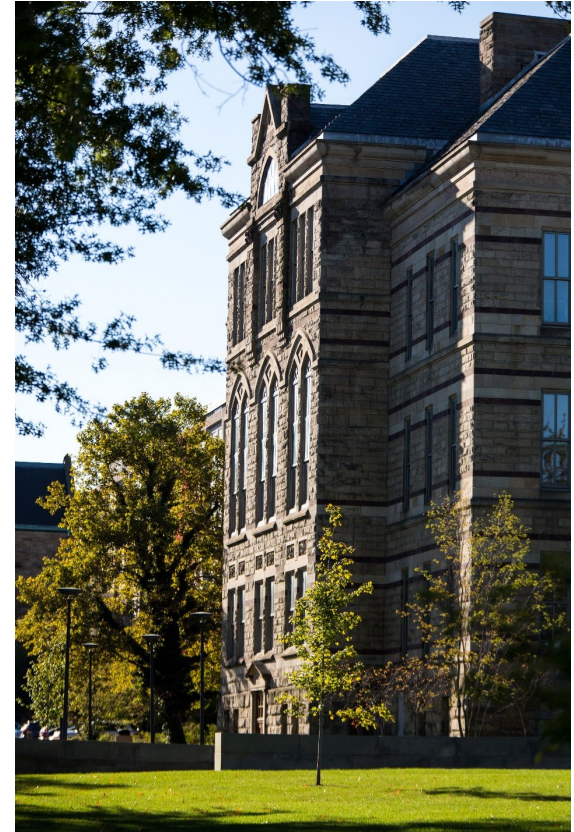
Case Western Reserve University  
Office for Equity  
Religious Accommodations  
Spring 2022

# Why are we discussing discrimination based on religion and accommodations?



# Presentation Objectives

- Introduce the Office of Equity
- Understand the prohibition against discrimination based on religion
- Identify possible religious accommodations
- Understand when it is not possible to grant a request for a religious accommodation
- Learn where to bring concerns about discrimination based on religion



# CWRU's Non-Discrimination Policy

- Case Western Reserve University does not discriminate in recruitment, employment, or policy administration on the basis of race, **religion**, age, sex, color, disability, sexual orientation or gender identity or expression, national or ethnic origin, political affiliation, or status as a disabled veteran or other protected veteran under U.S. federal law. In addition, the university expects all employees, students, vendors and associates to comply with the policy of non-discrimination.



# What does the prohibition against discrimination based on religion mean?

1. CWRU won't take any action against a person based on their religion.
2. CWRU won't harass a person based on religion.
3. CWRU will grant students' and employees' reasonable requests for an accommodation of a religious practice.
4. CWRU will investigate when there is information that a member of our community is experiencing discrimination or harassment based on religion.
5. If an investigation results in a finding of discrimination, steps will be taken to stop the discrimination, prevent it from reoccurring and fix any harm that was caused as a result of the discrimination.

# Examples of religious discrimination

- An employee is told that she must attend a monthly lunch meeting with her supervisor to study the principles of the Church of Scientology if she wants a promotion.
- A PI announces openings for post docs and students in the PI's lab due to a new grant, but doesn't want anyone who can't work both days of the weekend. One student states that Saturday is her Sabbath. The PI says, "I'm not interested in your personal beliefs; if you don't have availability, find a different lab."
- A supervisor who is a devout asks an employee, who is not religious, about weekly church attendance. The employee states she doesn't attend church. The supervisor says, "I'm looking for a few employees I can recommend to handle a major new project, but if you don't even have the discipline to attend church once a week, I don't think you're going to be right for the job."



# Harassment based on religion

A hostile environment based on religion is created when:

- The conduct is based on a person's religion
- The conduct is unwelcome
- A reasonable person would find the conduct offensive and serious
- The conduct is severe and pervasive, and objectively offensive
- And effectively denies a person equal access to the CWRU's education program or activities.



How many jokes does it take for conduct to be “offensive”?

# Which of these creates a hostile environment:

- Comments about 9/11 to a Muslim student or employee.
- Curious and interested students ask another about his/her religion, including food, dress and customs.
- A coworker teases a Mormon employee about his/her religion.
- A student responds to good things on a regular basis by stating, "Praise the Lord." The student's roommate, who is non-religious, is offended by that and asks the first student to stop saying that.
- An employee has a religious quote in his email signature. The employee's supervisor asks that the quote be deleted, saying its not appropriate.



# Reasonable religious accommodations

- Exceptions to dress codes for prescribed religious attire
- Rescheduling when there is a conflict between a class activity and a religious holiday; excused absences.
- Alternatives when a class or curricular activity conflicts with a religious practice; exceptions to policies.
- Exceptions to vaccination or booster requirements
- Alternative dining plans that enable students to eat a prescribed religious diet.
- Places for students to pray or practice their religion if they will be at school during times that require prayer.

# What is a “religious belief”?



- It is something that is sincerely held
- and faith-based in the person’s own scheme of things.
- There may be only 1 adherent to the belief, and that can be the person seeking the accommodation.
- The protection against discrimination extends well beyond traditional religions and include moral or ethical philosophies.
- Atheists may be entitled to a religious accommodation.

**How do you know if a person’s belief is “sincerely held”?**

*State and federal law regarding religious accommodation extends not only to traditional, organized religions, such as Christianity, Judaism, Islam, Hinduism and Buddhism, but also encompasses sincerely held religious beliefs that are “new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.” See EEOC Compliance Manual § 12-I(A)(1).*

*A student’s or employee’s beliefs must be accommodated if they are sincere, meaningful, and occupy a place in the life of the student similar to that filled by organized religion. A belief in God is not required for a student to have a sincere religious belief which requires accommodation.*



Professor Smith has a “no fault” attendance policy. All students may miss class for any reason, no questions asked, three times during the semester. Qiuli’s faith requires her to miss class three times this semester to observe certain holidays. Professor Smith asserts that Qiuli is accommodated because she can use her three “no fault” attendance days for her religious observance. Qiuli contends this is discrimination against her based on her religion.

Who is right?

Qiuli is correct – Professor Smith’s solution is discriminatory. If Qiuli uses her three “no fault” attendance days for religious observance, then she is **disadvantaged** compared to her peers who have three absences to use for any reason. To accommodate Qiuli, she must be given her three days for religious observance without using her “no fault” days.

# Limits on the right to an accommodation

- Reasonable accommodations should be made for students' and employees' religious beliefs, practices and observances.
- An accommodation isn't reasonable if it is an "undue hardship" to provide.
- "Undue hardship" in the context of a religious accommodation is "more than a de minimis" cost, disruption or burden.
  - Compare to "undue hardship" in the context of accommodations for disability which occurs when a reasonable accommodation will cause unduly extensive, substantial, or disruptive burdens and/or:
    - For students -, or those that would fundamentally alter the nature or operation of the academic program.
    - For employees – involved reassignment of an essential job function

# “Undue hardship” in the context of a religious accommodation means:

- Diminished efficiency
- Infringement on other employees’ or students’ rights
- Impairment of safety
- Creates more work for others
- Whether the proposed accommodation conflicts with another law (e.g. controlled substances)
- Disruption of operations
- Significant delay
- Additional costs
- Compromising exam security or ability to detect cheating



# The Office for Equity issues religious accommodations

- The student or employee contacts Equity to request an accommodation.
- Equity investigates whether the accommodation requested is reasonable by talking to the student or employee, and the faculty member, supervisor or others. This is the “[interactive process](#)”.
- Some accommodations are very simple and easily granted. In those cases, it may make sense for the faculty member or supervisor just to grant the accommodation, which completes the interactive process.
- Equity issues the accommodation.

# A request for an accommodation requires an interactive process:

- Not getting back to an employee or student who requested an accommodation is not an “interactive process.”
- “No” is not an “interactive process”.



Equity is available to provide the “interactive process” at CWRU.

# Sometimes there is more than one way to grant the requested accommodation.

Alfie needs to pray midday on Fridays. He proposes leaving work on Fridays at 1:00 and arriving at his temple by 1:45 to attend 2:00 prayer services. Services last an hour. That means Alfie won't be back at work until 2:45. He gets off at 4:00. Alfie proposes working from home when prayer services end, so he doesn't waste time driving back to CWRU.

Alfie's supervisor objects because she thinks (1) Alfie just wants to leave early on Fridays; (2) Alfie doesn't seem very religious; (3) Alfie's job can't be done from home; and (4) Fridays are busy in the office and the supervisor has refused to grant other staff members' requests to leave early on Fridays.

What now?

CWRU doesn't need to grant Alfie's preferred accommodation, and may grant an **alternative, effective** accommodation instead.

- Grant Alfie's requested accommodation.
- Permit Alfie to attend prayer services on campus on Fridays during his lunch hour.
- Permit Alfie to attend remote prayer services from an empty office on campus for one hour, and then return to work, but stay one hour later or skip lunch on Fridays.

# What to do if an accommodation is no longer “reasonable”?

- ❑ Sally is a student in the School of Dental Medicine. Last year, she requested and received an accommodation relating to the requirement that all students are vaccinated against the virus that causes COVID-19. Now, in Sally’s second year, she trains in the dental clinic. The School of Dental Medicine is concerned that patients in the dental clinic will assume that all students are vaccinated.
- ❑ How should this be handled?
  - ❑ Contact the Office for Equity to conduct a new “interactive process” based on Sally’s changed status now that she is in her second year in the School of Dental Medicine.

Maya requested and received a religious exemption from the COVID vaccine. As a result, CWRU assigns Maya to live in the residence hall where other unvaccinated students are also assigned to live, and won't permit Maya to live in a sorority. Is this religious discrimination?

- This is not religious discrimination.
- An accommodation is an **alternative**, that is often **not identical** to the conditions for others who did not request and receive an accommodation.
- Maya wanted to be able to be on campus while unvaccinated. Her request was granted. Part of the accommodation, such as living in a particular residence hall, are other measures CWRU is taking to keep the campus safe.





# QUESTIONS????

