

Religious Staffing Checklist

Making employment decisions based on religion is *legal*, not illegal, for faith-based organizations. But your organization has to be demonstrably religious. Its employment policy needs to be specifically linked to its religious character. (Note: some government programs require every grantee or contractor, religious or secular, to agree not to hire according to religion.)

Don't hide the religious identity of your organization.

The religious identity of the organization should be clear to an observer because of several practices such as these:

- religious terms and concepts appear in the name or mission statement;
- the religious inspiration or basis is clearly stated through quotations and references to religious texts and principles;
- the organization is controlled by a church or denomination;
- the website, publicity materials, and fundraising materials state the religious identity and mission;
- the staff engages in religious discussions and activities as part of the work day;
- the religious identity and purpose is noted in founding documents (e.g., by-laws, the application to the state for nonprofit status, the application to the IRS for 501(c)(3) status).

(Note: Most faith-based organizations that provide social services, education, or health care received their 501(c)(3) status as a “public charity” and not as a “religious organization.” These are IRS categories, independent of the religious hiring freedom. A religious organization classified by the IRS as a public charity is still a religious organization that may hire according to religion.)

Show the connection between the religion and the employment practices.

Job applicants, the staff, and observers should be able to see how the religious convictions of the organization are tied to its employment practices, through some combination of means such as:

- the religious hiring policy is in writing and was approved by the board of directors;
- the religious hiring policy, whether it applies to all employees or only some, is specifically connected to the organization's religious convictions (for example, sacred scriptures are cited to show why the organization takes account of religion in making some or all job decisions);
- the actual employment practices of the organization correspond to the stated policy (hiring, firing, and discipline decisions reflect the policy; the policy is applied fairly to every applicant and staff member in the relevant job positions);
- the religious nature of the organization and the religious employment policy is evident in job descriptions, job ads, and the website (e.g., in the section about careers and job openings);

- it will be obvious to job applicants whether there are religious expectations connected with the staff position (e.g., religion is a criterion for hiring, staff meetings include worship, there are faith-based behavioral standards);
- employment contracts state and reflect the religious expectations and requirements;
- the human resources manual discusses the religious hiring policy and how to fairly and consistently apply it;
- human resources practices reflect the stated religious hiring policy;
- employee evaluation documents and the employee job manual discuss and reflect the religious hiring policy.

□ Discuss your organization and its employment policies and practices with a lawyer who is familiar with religious organizations and knows federal, state, and local employment law.

NOTE: This checklist does not comprise legal advice. Consult a qualified lawyer.