



RELIGION IN THE WORKPLACE

Joseph E. Kalet
Associate General Counsel
Metropolitan Washington Airports Authority

LAWS ON RELIGION AT WORK

U.S. CONSTITUTION

First Amendment:

1. Freedom to practice religion/no religion
2. Freedom from State-sponsored religion

Title VII of 1964 Civil Rights Act:

1. Reasonable accommodation for a legitimate religious practice
2. Conflict with Union Contract?

STATE CONSTITUTION/ANTI-DISCRIMINATION LAW

WHAT IS A “RELIGION”?

Church of Universal
Consciousness

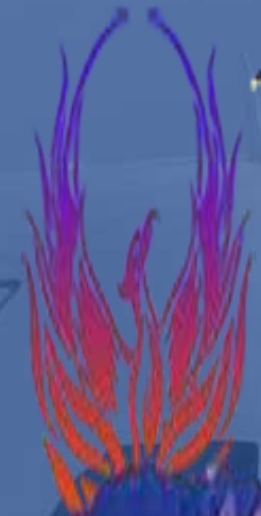
Our Lady of Perpetual Guilt

Our Lady of the Homecoming
Queen

PHOENIX GODDESS TEMPLE

Phoenix Goddess Temple

Lighting the Way with Her Love & Wisdom



WHO DECIDES?



WHAT IS A “LEGITIMATE PRACTICE”?



GENERAL RULE

U.S. Supreme Court has established a general rule:

- Beliefs are protected, but conduct is regulated by law



CASE 1: Christian Scientists



CASE 2: Police Officer at Abortion Clinic



CASE 3: Anti-abortion DMV Employee



CASE 4: Native American Church & Peyotism



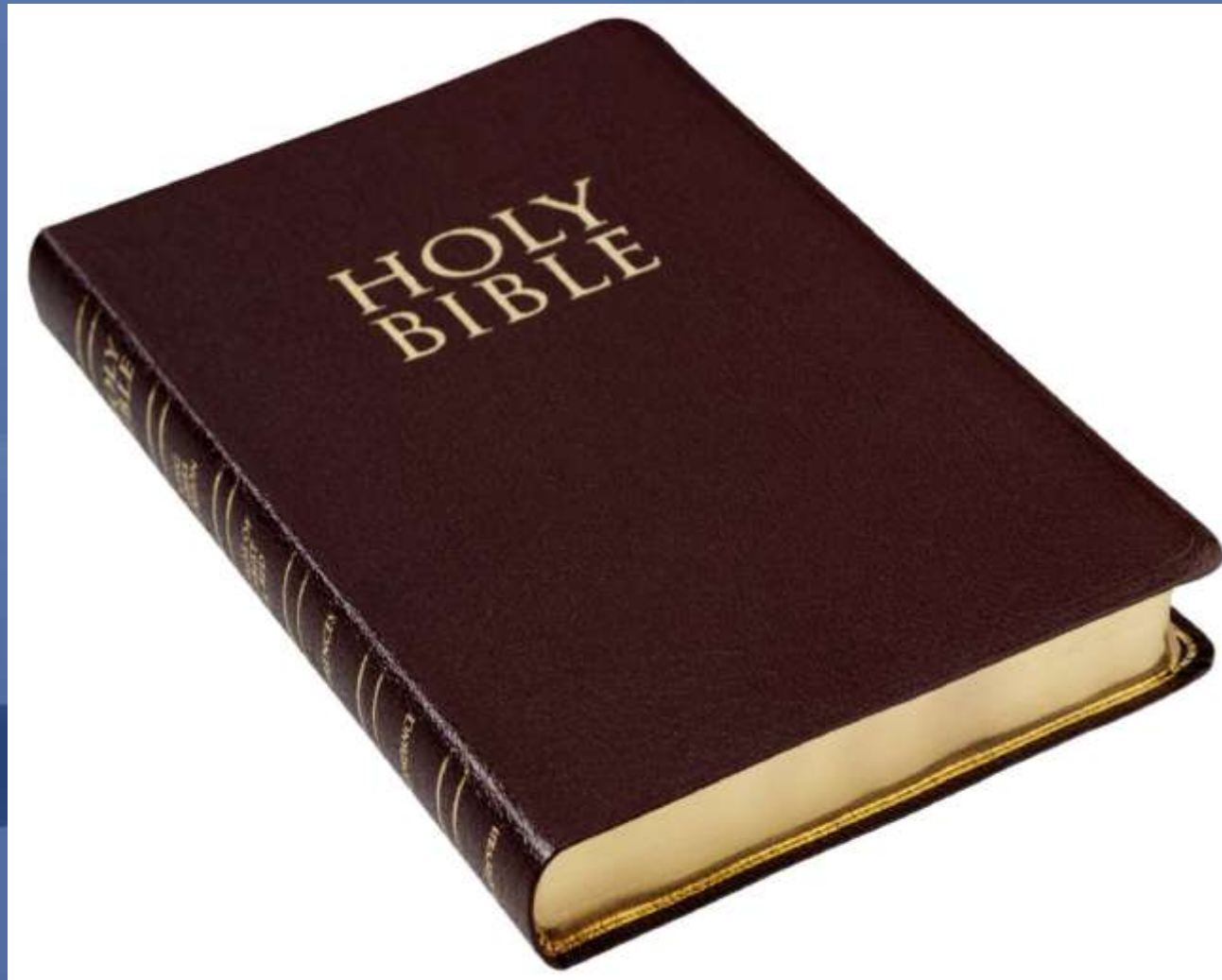
CASE 5: Santerianism



CASE 6: Mahmoud Abdul-Rauf & National Anthem



CASE 7: Diversity Training and The Bible



UNIQUE PROBLEM

UNION is exclusive bargaining representative of all rank-and-file Firefighters on “terms and conditions of employment”

FF Smith requests “reasonable accommodation” that requires a change in a term/condition of employment

HIDDEN DANGER 1

If Fire Chief talks with FF Smith, Chief violates long-standing prohibition on “direct dealing” with union members over terms and conditions of work.

If Fire Chief refuses to talk with Smith, Chief violates Title VII’s requirement to provide “reasonable accommodation”

SOLUTION 1

Chief must inform FF Smith that Chief cannot talk with Smith about his request unless Smith notifies the UNION that this negotiation is about to occur. Chief cannot notify UNION.

CBA = Collective Rights

Title VII = Individual Rights

HIDDEN DANGER 2

FF Smith notifies UNION of his need to talk with Fire Chief about “reasonable accommodation” and UNION agrees to allow it to happen.

Smith notifies Chief that Smith’s new religion requires him to stop work from sundown Friday to sundown Saturday. But this accommodation will violate the UNION contract.

SOLUTION 2

Chief informs UNION that FF Smith needs an accommodation that will violate the UNION contract and UNION refuses to agree.

If Chief refuses Smith's request, will this violate Smith's rights under Title VII?

Supreme Court: Violating a CBA is not a "reasonable" accommodation.

GOOD PRACTICES

1. Have clear, written rules and enforce them consistently
2. Take every request or complaint as if it will become a lawsuit
3. Avoid offensive comments: “We’re all Christians here. . . how about you, Mohammed?”

WHAT TO EXPECT

1. New Religions in the workplace
(Wiccan, Body Art)
2. New Religious practices in the workplace
3. New requests for religious accommodations in the workplace

HOW TO REACT

No matter how insane or offensive a person's religion or religious practice seems:

1. Treat employee with respect
2. Never make an immediate decision
3. Never make a decision alone

QUESTIONS?

