

WORDS ON WISE MANAGEMENT

Why can't I wear my Nikes?

by Valesca Y. Francis
F&H Solutions Group

Recently, a friend called me wondering if her employer could ban Nike apparel at work following the Colin Kaepernick "Just Do It" ad campaign controversy. In the midst of this much politicized time, a photo of a sign outside an unknown employer's business informing employees of its new zero-tolerance policy banning any Nike apparel from the workplace went viral on social media. Many employees are now asking, "Can my employer *really* ban me from wearing a brand that I like?"

Should you ban a brand at work?

While a companywide "no Nike" policy or a ban on some other brand of clothing could be legal, do you really want or need to do that? Before implementing such a ban, you should ask yourself what signal the policy sends to your employees. It's one thing to have a personal appearance policy (e.g., employees may not wear offensive clothing and must maintain a neat appearance), but it's quite another thing to ban a company's products because you disagree with its choice of spokesperson or what it represents.

Banning a particular brand of apparel isn't really reflective of a workplace that promotes and encourages differences in expression. A dress code is only one aspect of the workplace, but it can reflect the company culture and how management views its employees.

A slippery slope

Nike's association with Kaepernick is controversial because the former NFL quarterback claims he's been blackballed by the league for kneeling during the national anthem before games to protest race-based police brutality and inequality in the criminal justice system. Many Americans viewed Kaepernick's protests as anti-American or antimilitary, and his actions earned the public disdain of President Donald Trump.

An employee wearing Nike gear at work could argue that he is making a political statement. If your employees are represented by a union or you operate in a state that, unlike Arizona, offers legal protections for employees based on their political expressions, banning Nike apparel from your workplace could get you into trouble.

Uniforms and dress code policy

Employers are generally given a considerable amount of discretion in setting and enforcing dress code policies as long as the dress code doesn't discriminate on the basis of gender, race, or religion. Here are a few guidelines to consider when you review and revise an existing dress code policy:

- **Avoid gender-specific dress codes.** If you require dresses and heels for female employees, you would have to enforce equivalent attire for male employees, such as a suit and tie.
- **Be cost-conscious.** State and federal laws prohibit mandatory clothing costs that effectively lower employees' compensation below the minimum wage.
- **Be mindful of cultural differences.** Cultural awareness is key. Facially neutral policies aren't necessarily evenhanded, as the U.S. Army learned to its embarrassment after it issued a women's hairstyle policy (now updated) that failed to take racial differences into account.
- **Don't be too rigid.** Pay attention to disability issues. Be prepared to replace uniform buttons with Velcro or otherwise accommodate the needs of employees with disabilities.
- **Enforce your policy consistently.** Different jobs may call for different rules, but employees should be held to equal standards within each area or department.

Bottom line

If your goal is to avoid conflict in the workplace and keep your business running smoothly, focus on your employees' productivity rather than their choice of footwear or apparel. What employees wear has a major impact on how they feel and act. Changing your dress code to give employees more freedom is one of the easiest things you can do to show that you value them and want them to be comfortable. Before you institute any type of dress code, think about the culture you're striving to create in your workplace.



Valesca Y. Francis is a senior labor relations consultant with F&H Solutions Group. She can be reached at vf Francis@fhsolutionsgroup.com or 202-719-2024. ❖