

---

# How to Talk About Hygiene, Dress and Hairdo's

By Lynne Eisaguirre

---

Clearly, one of your responsibilities as a manager is to create an environment for everyone that's safe and where they're able to focus on getting their work done. If someone's dressing in a way that's distracting to the rest of the workforce it may be difficult for anyone to work as productively as they could. You have a right, and indeed, an obligation as a manager to step in and make sure that you create an environment that's safe and productive for everyone.

## **But Isn't That Harassment or Discrimination?**

Many managers, especially male ones, are afraid to confront women about their clothes, make-up or hair. While you may – if you're in this situation – want to consult with HR for some coaching before you approach this issue, you clearly have a right to discuss this in a way that is not harassment.

What you can't do is stereotype. Stereotyping *can* be a subtle form of discrimination and harassment. We all have some biases about one group or another. Most stereotypes probably are unconscious; they may even be well-meaning. It is so common, in fact, that for years it was not recognized as the basis for a discrimination lawsuit.

That changed in 1989, when the U.S. Supreme Court decided a case against Price Waterhouse. Ann Hopkins was one of 88 candidates for partnership in the Big Eight accounting firm. She brought more business to the firm than any other candidate. But she was not chosen for partner. The firm said she needed to “walk more femininely, talk more femininely, dress more femininely, wear make-up, have your hair styled, and wear jewelry.” The partners complained that she used

too much profanity “for a lady.” One said she needed “a course in charm school.”

The Supreme Court found that comments showed that stereotyped views of women were being used as criteria for partnership. If the defendants had used legitimate business standards, she would have made partner since she was an excellent employee.

Men are also protected against discrimination or harassment based on stereotypes about who is a “real man,” which can include comments or coaching about dress or hair. In one case, a man for example, worked as a waiter in a Mexican restaurant. He was heterosexual, but his supervisor and co-workers barraged him with insults every day, calling him “her,” “girl,” “whore,” or saying he “walked like a woman.” In ruling that the waiter could sue for sexual harassment, the court relied on the Price Waterhouse case, finding that harassing a man because he does not live up to a societal stereotype of virility is every bit as illegal as discriminating against a woman who is perceived not to be “feminine” enough.

The one exception to this kind of stereotyping is if you can show a strong business-related need for make-up or certain clothes. Actors, singer, dancers and other entertainers, cosmetologists, cosmetics salespeople, and beauticians might be included.

For other jobs, dress, appearance and grooming codes are usually permissible, even if they treat men and women differently. For instance, a may impose different hair length requirements on men and women, and may require men but not women to wear neckties. But, in California, a state law says employers can’t make women wear skirts!

A “good grooming” standard for both sexes would be fine. But a dress or appearance standard cannot impose substantially different *burdens* on men and

women. So, a restaurant can require men and women to wear different uniforms, but it cannot require only women to wear uniforms. An airline can require all flight attendants to wear contact lenses, but not just women. In fact, a federal appeals court recently ruled in favor of a class action by former United Airlines stewardesses who had been fired for exceeding the weight tables. Women were judged on having a medium frame; men were judged by weight tables based on a large frame. Similarly, if you're only counseling women and not men about their grooming or professional appearance, there may be grounds for a claim of sex discrimination.

You can have a dress or grooming standard that includes hiding such things as tattoos, hickeys, or piercings, especially in public contact positions. Again, make sure that you impose the same rules for both sexes.

Employees have tried to attack dress codes in all kinds of creative ways. Employers have a lot of leeway in deciding what dress is appropriate for the workplace. In one interesting case, a computer programmer was fired because he wore Hawaiian shirts to work, instead of the business attire called for in the dress code. He sued under the ADA, claiming that, because of a prior auto accident, he could not wear a tie, and he had a doctor's note supporting his need to wear shirts that were loose around the clavicle. A federal appeals court affirmed the decision to throw out his case without trial, finding that the inability to wear a tie was not a disability!

### **General Rules for Talking About Dress or Grooming Issues**

Before launching into a conversation with an employee that you believe has dress or grooming issues, consider whether you can meet these general rules:

- Have a dress and grooming code. It will be far easier to talk in the context of a specific code, less likely to be viewed as discriminatory or as if they're being

singled out in some way. If you don't have one, work with HR or an employment attorney to create one as a part of your employee manual.

- Focus on performance. How does this particular dress or grooming issue impact performance? If it doesn't, STOP! You may be creating privacy, discrimination or other issues. For example, does the dress or grooming issue create a distraction for other employees or customers? Does the perfume or body odor create triggers for other employees' allergies? These are legitimate reasons to require a different dress or grooming. You have a right and, indeed, an obligation to try and create a productive workplace for everyone.
- Seek coaching from HR or your employment attorney. These conversations can be difficult. You need to role play with someone else first, if possible. Write out what you plan to say. Be prepared, otherwise, it's easy to get tongue tied on this difficult topic.
- Talk in private. These conversations can be very embarrassing to the employee who frequently has no idea how they're affecting other people. Make sure that you give them the privacy they need and deserve.
- Be specific. You need to tell them specifically what is wrong with what they're wearing or doing and what would make their situation comply with your policy. If this were a person with good judgment, they wouldn't be in this muddle so don't assume that they can guess what you mean and what you want without some very specific suggestions from you.
- Don't beat around the bush. Get to the point and tell the truth fast.
- Don't stereotype or discriminate. Be careful if you're counseling women but not men. Be careful that you're not requiring certain standards about masculine or feminine unless you're in the entertainment industry and can justify a difference based on that.

- As with any emotional issue, give the employee time to think about it and respond. Listen so that you can hear opportunities for joint problem solving.