

# Workplace Dress Codes Can Be Different If Equal



**Question:** In my workplace, our company owner prefers that women look and dress traditionally and conservatively. This includes clothing, jewelry, no tattoos and no piercings except for earrings. How do I enforce a policy of conservative dress and appearance only for women without being accused of discrimination?

## **Different Application But the Same Rules**

Many of today's workplaces celebrate individuality. Employees wear clothing, hairstyles, jewelry, and tattoos that exhibit personal style. However, not all workplaces want to encourage as much individual expression.

Organizations may desire a company culture that presents a conservative appearance and will ask employees to conform their appearance to specific standards. Although some workplace dress codes can feel too restrictive, employers do have a decent amount of leeway in defining their company attire and appearance standards, as long as they do not discriminate on the basis of a protected human right such as gender, religion, disability, or gender identity.

## **Putting the Same Burden on All**

In Canada, employers do have a right to establish a dress code policy that enforces different, but equal, standards on men and women. However, equality is essential. That means organizations can establish different standards and guidelines for men and women as long as the dress code does not put a heavier burden on one gender compared to the other and as long as it is not demeaning to one gender.

If your owner allows men to wear anything they like but requires women to conform to a specific standard, then this creates a different burden for female employees relative to male employees. If the owner allows men to wear short sleeves and shorts but requires women to wear long sleeves and be covered head to toe, this could be difficult to justify. There would need to be a specific reason as to why women would be required to conform to this standard where men are not.

Lets look at a few examples:

- **Hairstyle:** An organization may say that men must keep their hair short and that women with long hair must keep their hair neatly pinned up or held back. Although the expectations are different, both genders face a similar 'burden'.

- Clothing: If your standard requires women (and individuals who identify or live as women) to wear floor length skirts and males are required to wear full-length pants this would be a similar burden. However, unless there was a specific reason the women had to wear a skirt, such as it was a uniform or costume, the chances are you would have to provide women with the option of wearing pants.
- Tattoos: If your owner requires women to cover-up tattoos but does not have a similar requirement for men, this could be a case of discrimination. However, it could be considered acceptable if your company had a policy that applied to both genders which prohibited the exhibition of tattoos entirely.
- As long as you apply a similar burden to men and to women such that you are not holding one gender to a different standard, you can enforce workplace dress codes that allow for different details based on gender (or gender identity). Keep in mind, however, that the rules are still being written. When you write a policy, think it through and ensure you are in a position to justify these differences if required.

## **HR Insider Resources**

[HR and Dress Codes: An Interview With Attorney Cedric Lamarche](#)