

# MANAGING RISK



THE ADDIS GROUP

A Susquehanna Company

2500 RENAISSANCE BOULEVARD  
KING OF PRUSSIA, PA 19406-2772  
(610) 279-8550  
FAX (610) 279-8543  
WWW.THEADDISGROUP.COM



## RISKNotes

NIOSH relaxes ban on contact lens wear while working with hazardous chemicals. Since 1978, the National Institute for Occupational Safety and Health (NIOSH) has recommended that workers not wear contact lenses during work with chemicals that present an eye irritation or injury hazard. NIOSH now recommends allowing workers to wear contact lenses when handling hazardous chemicals, if safety guidelines are followed and contact lenses are not banned by regulation or contraindicated by medical or industrial hygiene recommendations. Wearing contact lenses does not reduce the need for eye and face protection. For more information and safety recommendations, please call Jim Sheridan, manager of The Addis Group's risk management services division.

Fatal work injuries among Hispanic or Latino workers increased 11 percent from 2003 to 2004, reported the Bureau of Labor Statistics. Although homicides decreased 27 percent, increases in the number of fatalities due to falls, transportation accidents and contact with objects or equipment increased. This points out the need to ensure all workers understand safety procedures. For safety communication advice, please call your Addis Group account manager.

## ALSO IN THIS ISSUE

- **Protecting Hearing  
– A Sound Investment**
- **Portable Space Heater  
Warning**

### *Liability*

## Religion at Work: Do's and Don'ts

In fiscal year 1994, the U.S. Equal Employment Opportunities Commission (EEOC) received 1,546 complaints of religious discrimination. By 2004, it received 2,466 complaints—an increase of nearly 60 percent. Dollar awards for religious discrimination complaints have also increased during this time. In fiscal year 1994, the EEOC reported complainants received \$1.5 million in “monetary benefits.” In fiscal year 2004, that amount totaled \$6.0 million. These amounts include fines and settlements obtained by the EEOC and do not include any awards resulting from litigation or out-of-court settlements not mediated by the EEOC. In fact, a single workplace discrimination case can result in a multimillion dollar verdict.

### Religious discrimination in the workplace

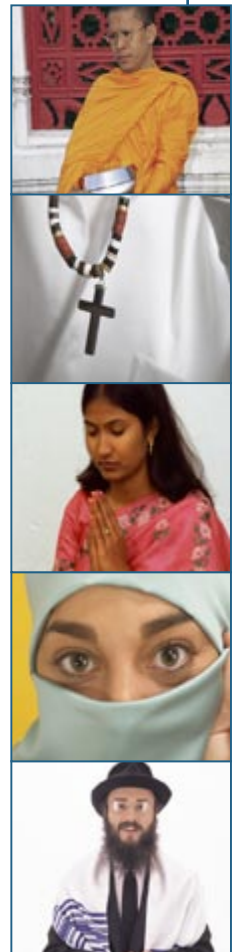
Some real-life examples of the religious issues employers have had to grapple with include:

- ✱ In 2001, the New York Police Department fired Amric Singh, a Sikh, for refusing to remove the turban required by his religion. After three years of legal action and press coverage, the NYPD settled the case and allowed Mr. Singh to return to the job wearing a turban.
- ✱ An employee sued Costco, whose dress code prohibited facial piercings. She said Costco's dress code discriminated against her religion as a member of the Church of Body Modification, which requires body piercings. Costco rejected her initial offer to cover her piercings with flesh-colored bandages, which led to many more months of legal haggling.

### What does the law say about discrimination?

Title VII of the Civil Rights Act prohibits discrimination or harassment on the basis of religion, in addition to race and gender. It generally applies to employers with 15 or more employees during every working day for twenty or more calendar weeks in the current calendar year. It exempts departments and agencies of the U.S. government, Indian tribes and private membership clubs (other than labor organizations) that are tax-exempt under section 501(c).

The types of religious discrimination complaints employers face usually fall into one of these categories:



# Protecting Hearing – *A Sound Investment*

**A**pproximately 30 million workers face occupational exposure to noise levels that could damage their hearing. Occupational exposure to chemicals and metals puts an additional 9 million at risk. At present exposures, one in four workers will develop permanent hearing loss.

## Occupational vs. age-related hearing loss

Workers' compensation pays claims for hearing loss caused or likely caused in the course of work. A single hearing loss claim can cost a maximum of \$9,000 to \$150,000, depending on the state.

When faced with a hearing loss claim, employers might question whether workplace exposure, or simply aging, caused the hearing loss. Aging does not impair hearing in the typical healthy person before age 60. But people who are exposed to noise and do not protect their hearing begin to lose hearing at an early age. For example, by age 25 the average carpenter has the same hearing as a 50-year-old who has worked in a quiet job.

Of the 28 million Americans with some degree of hearing loss, about one-third can attribute their hearing loss, at least partly, to noise.

Noise-induced hearing loss (NIHL) results when loud noise damages nerve cells of the inner ear. NIHL can occur with a single exposure to an extremely loud noise, such as an explosion, or with repeated exposure to sounds at various loudness levels. NIHL is 100 percent preventable, but once acquired is permanent and irreversible.

## How to we tell if we have a noise problem?

Sound levels are measured in units called decibels (dB). For comparison's sake, the rustling of leaves measures 10 decibels, normal conversation about 60 decibels, and city traffic noise can reach 80 decibels. Sounds of less than 80 decibels, even after long exposure, are unlikely to cause hearing loss. Sounds over 80 decibels can cause discomfort, pain and possibly hearing loss.

Short of measuring, two simple rules can help you determine if noise levels might be dangerous: First, if you have to raise your voice to talk



to someone who is an arm's length away, the noise is likely hazardous. Second, if your ears are ringing or sounds seem dull or flat after leaving a noisy place, you probably were exposed to hazardous noise.

## What are employers' responsibilities?

OSHA requires employers to identify employees exposed to noise levels at or above 85 decibels (dB) averaged over 8 working hours. You do this by testing and mapping noise levels. The employer must notify each employee who is exposed at or above the action level of the monitoring's results.

Employers with workers whose noise exposure meets or exceeds this threshold must develop a hearing conservation program. To satisfy OSHA requirements, it must include annual monitoring, audiometric (hearing) testing, hearing protectors, training and recordkeeping. You can

find specific requirements at [www.osha.gov/Publications/osh3074.pdf](http://www.osha.gov/Publications/osh3074.pdf).

## Noise not the only risk factor

As we said earlier, exposures to chemicals and other substances can also cause hearing loss. Combined exposures to noise and chemicals can cause more hearing loss than exposure to either agent alone. Vibration and extreme heat are also potentially harmful to hearing when combined with noise.

Some common substances associated with hearing loss are tobacco, toluene, styrene, carbon disulfide, trichloroethylene, xylene, lead, arsenic, mercury and carbon monoxide. Workers exposed to any of these have a higher risk of occupational hearing loss than their exposure to noise alone would indicate. Employers whose workers contact these substances will likely want to implement a hearing conservation program, whether or not noise levels require one. For more information on protecting workers' hearing, please contact Jim Sheridan, manager of The Addis Group's risk management services division. □

- 1 Discrimination in hiring or promotion
- 2 Failure to make reasonable accommodations for religious beliefs
- 3 Harassment

To avoid charges of religious discrimination, avoid these common traps:

- 1 “Customers (or co-workers) will feel uncomfortable with a person who has different religious beliefs (or who wears a hijab or turban, etc.)” Avoid discrimination in hiring/promotion by making your human resource policies “religion blind.” Do not ask applicants questions on religious beliefs, and ensure that all decisions on promotions, terminations and layoffs are made using quantifiable performance criteria. Having job descriptions, performance standards and regular performance evaluations can help you support personnel decisions IF they are well-documented!
- 2 “Where do we draw the line on accommodations?” Some employers fear that employees use their religion as an excuse for getting time off. How can you decide what’s a “reasonable accommodation”?

The Civil Rights Act requires employers to accommodate workers’ religious beliefs, unless it would create an “undue hardship” to the business. But the EEOC has rather high standards for considering a hardship “undue.” The EEOC says an accommodation should not be denied unless it “...requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees’ job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee’s share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.”

The U.S. Supreme Court, however, has a lower standard of what constitutes hardship. In a 1977 decision, *Trans World Airlines Inc. v. Hardison, et al.* (1977), the court ruled that any accommodation that cost more than a “minor amount” could give employers grounds to refuse religious accommodation. According to an article in *Workforce Management* magazine, some employers use this decision as grounds to refuse religious accommodation “for the flimsiest of reasons.”

Workplace religious discrimination cases can cause tensions in the workplace and negative publicity. For this reason, we recommend trying to accommodate your workers’ religious beliefs whenever feasible. The EEOC suggests flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers and modifying workplace practices, policies and/or procedures as examples of how an employer might accommodate an employee’s religious beliefs.

- 3 “But is it really a religion?” Don’t fall into this trap! The Civil Rights Act defines “religion” as “all aspects of religious observance and practice, as well as belief.” The EEOC defines “religious practices” to include moral or ethical beliefs as to right and wrong that are sincerely held with the strength of traditional religious views. So, even when confronted with obscure or out-of-the-mainstream beliefs and practices, your best bet is to grant accommodations whenever possible, without questioning their validity.

- 4 “What about proselytizing?” Employees have the right to engage in religious expression if they are allowed to engage in other personal expression at work. For example, you must allow an employee to display religious items, such as crucifixes, in his/her work area if you allow other personal items to be displayed. And if you allow employees to discuss politics, or to conduct any kind of recruiting activities, you must allow people to discuss their religion and invite others to church or meetings. That said, employers must walk a fine line between upholding the proselytizer’s rights to free speech and other employees’ rights not to be harassed on the basis of religion. A case-by-case approach works best, but any claims of harassment or intimidation need investigation.

- 5 “Can we require employees to attend prayer meetings?” Proselytizing at work can cause other problems when the person doing the proselytizing is the employer or a supervisor. Requiring attendance at prayers or other religious events is religious discrimination, along with hiring only people who hold certain beliefs or belong to a certain faith group.

- 6 “What about onsite chaplains?” Some companies hire chaplains to serve their employees’ spiritual and emotional needs. If your company does this, you need to make sure chaplains don’t cross the line between counseling and proselytizing. They can discuss employees’ spiritual questions and needs when approached by an employee, but should never approach an employee on these matters first.

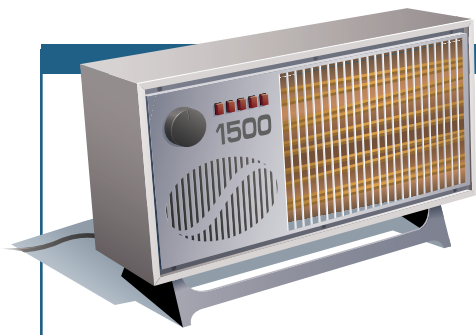
- 7 “We don’t need employment practices liability insurance, because we’ve never had a discrimination claim.” Employment practices liability insurance (EPLI) covers a wide range of employment-related liability claims, including claims of religious discrimination or harassment. These types of claims are growing in number and in cost—for more information on protecting your company from this financial risk, please call your account manager at The Addis Group. □

## Disaster Preparedness Planning

If you missed our recent disaster preparedness seminar, here are some tips for creating a business continuation plan that can help your business recuperate from disaster:

- 1 Form a committee and set a timetable for implementation.
- 2 Determine maximum allowable downtime for vital company functions — those that impact customer service, reputation, revenue, market share and compliance.
- 3 Determine the resources (personnel, equipment and funds) needed to perform each vital function — outsourcing is an option.
- 4 A list of key customers.
- 5 Assign post-disaster responsibilities, such as ensuring facility safety, employee communications, media relations, restoring information systems, etc.
- 6 Decide which employees must be on-site. Nonessential employees can telecommute or work in temporary space as needed.
- 7 Determine who will be responsible for identifying employees suffering from stress and what type of assistance the company will provide.
- 8 Create a system to track and submit extra expenses to your insurer for reimbursement under your business income policy.

We can help you analyze operations to develop a disaster recovery and business continuation plan. We can also review your current business continuation policies to determine whether you have adequate coverage. The future of your business could depend on it — please call your account executive at The Addis Group for more information. □



# Portable Space Heater Warning

**W**ith the cold weather here or fast approaching, many workers will rely on portable electric heaters to warm their work area or cubicle. While this is a practical and effective solution for the individual employee, the federal Consumer Product Safety Commission estimates that there are more than 21,000 fires every year because of space heaters, and almost 300 people die as a result of these fires.

If portable heaters are permitted in your workplace, keep in mind the following safety precautions:

- ✓ Use heaters on the floor. Never place heaters on furniture, since they may fall, dislodging or breaking parts in the heater, which could result in a fire or shock hazard.
- ✓ Unless certified for that purpose, do not use heaters in wet or moist places, such as bathrooms; corrosion or other damage to parts in the heater may lead to a fire or shock hazard. Never use where flammable vapors may be present.
- ✓ Do not hide cords under rugs or carpets. Placing anything on top of the cord could cause the cord to overheat and can cause a fire.
- ✓ Do not use an extension cord unless absolutely necessary. Using a light-duty, household extension cord with high-wattage appliances can start a fire. If you must use an extension cord, it must be marked #14 or #12 A WG; this tells the thickness or gauge of the wire in the cord. (The smaller the number, the greater the thickness of the wire.) For example, a cord sold as an air conditioner extension cord will have these heavy wires. Do not use a cord marked #16 or #18 AWG. Only use extension cords bearing the label of an independent testing laboratory such U.L.
- ✓ Be sure the plug fits snugly in the outlet. Since a loose plug can overheat, have a qualified repairman replace the worn-out plug or outlet. Since heaters draw lots of power, the cord and plug may feel warm. If the plug feels hot, unplug the heater and have a qualified repairman check for problems. If the heater and its plug are found to be working properly, have the outlet replaced. Using a heater with a hot cord or plug could start a fire.
- ✓ If a heater is used on an outlet protected by a ground fault circuit interrupter (GFCI) and the GFCI trips, do not assume the GFCI is broken. Because GFCIs protect the location where leaking currents can cause a severe shock, stop using the heater and have it checked, even if it seems to be working properly.
- ✓ Broken heaters should be checked and repaired by a qualified appliance service center. Do not attempt to repair, adjust or replace parts in the heater yourself.

If you permit portable heaters in your workplace, we recommend you implement a formal procedure to oversee the use of this equipment. Please call Jim Sheridan, vice president of risk management services at The Addis Group at (610) 755-4808 with any questions. □

## Seminar Series Continues

Nacia Lipton, vice president and technical director at Myers Risk Services, conducted an energetic seminar on the timely subject of disaster recovery and business continuity at the offices of The Addis Group on November 10, 2005. The seminar stressed the importance of pre-planning for emergencies and disasters and also provided the attendees with sample plans and strategies to address this important issue.

The next seminar in our continuing Risk Leadership Series will be led by an area director from the OSHA Region III office. The seminar will focus on OSHA initiatives for 2006 and will include a question-and-answer session.

For more information on our Risk Leadership Series, please call Jim Sheridan, vice president of risk management services at The Addis Group, at 610-755-4808. □



A Susquehanna Company

THE ADDIS GROUP  
2500 RENAISSANCE BOULEVARD  
KING OF PRUSSIA, PA 19406-2772

MANAGING **RISK** Newsletter