



# Rethinking Tattoo and Piercing Policies in the Modern Workplace: An Employer's 5-Step Guide

Insights

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While visible tattoos, facial piercings, and bright hair colors were once largely viewed as taboo in the workplace, attitudes have changed significantly in recent years — which means you may have difficulty attracting and retaining top talent if you adhere to rigid rules of the past. To align with the current workforce, many employers are seeking a balance that allows employees to express themselves at work, while also complying with health and safety standards, and creating a positive and productive work environment. Your policies will obviously be influenced by your industry, location, and company culture – but there are a few essentials you should note as you decide whether it's time to update your employee handbook and hiring standards. Read on for your five-step guide to appearance policies and dress codes in the modern era.

## 1. Note the Sea Change

Tattoos have clearly become mainstream in recent years. Indeed, here are some interesting statistics from [a 2023 Pew Research Center study](#):

- 32% of U.S. adults have at least one tattoo
- 51% of LGBTQ+ adults have at least one tattoo
- Women, Black and Hispanic adults, and those under age 50 are more likely to have tattoos
- 80% of adults say society has become more accepting of people with tattoos
- 66% of untattooed adults say their opinion of someone is not impacted negatively or positively by their tattoos

Additional research from Pew found a significant uptick in popularity to have unique hair colors and various piercings. While this may not come as a surprise, the growing acceptance of tattoos, piercings, and colorful hair is part of the workplace.

As workplaces become more casual and companies focus on employee well-being and self-expression, it's a good idea to create a clear policy on what is and isn't acceptable for your employees. Think about the parameters you want to set on body art and appearance standards and communicate your expectations with employees. But you'll want to consider the points below, too, as you develop your plan.

## 2. Set a Standard that Fits Your Culture

Employers generally have the right to adopt and enforce dress or appearance policies that help create and maintain their image. You can require employees to maintain a professional appearance, and except in certain situations, you can typically set and enforce guidelines on clothing, hair, tattoos, piercings, shoes, and more.

You can even set different standards for different jobs. For example, a policy may prohibit piercings for safety-sensitive jobs if there's a risk that jewelry could get caught in machinery or equipment.

As a starting point, your policy should require that all employees present a professional and well-groomed appearance. But do you want to be more specific? The answer will depend on your business, industry, and company culture. Notably, while you can set limits on tattoos, piercings, gauges, and extremes in dress, jewelry, and hairstyles, many employers have found a zero-tolerance policy too strict. Indeed, many permit body piercings or tattoos with limits on the number, size, placement, content, or visibility.

Although each business is unique, creating flexibility in your appearances standards can help you attract and retain employees, particularly if your competitors have relaxed dress and appearance policies.

## 3. Look for Legal Landmines

Tattoos, piercings, and colorful hair may be forms of self-expression, but employees at private companies have no First Amendment rights at work. However, while you generally can require all workers to follow a uniform dress code, you may also be legally required to make exceptions to your policies.

For example, if your appearance policy conflicts with an employee's religious practices, you'll need to consider requests for reasonable accommodations and determine if allowing the accommodation would result in undue hardship. Notably, however, employees can't simply argue that a tattoo needs to be allowed because it's a religious symbol (such as a Christian cross or a Muslim crescent moon). Rather, a tattoo would need to be accommodated when covering it would violate a certain religious belief. While this may be a rare occurrence, you should avoid knee-jerk reactions and take religious-based requests seriously.

On the flipside, if your policy is lenient on body art and other forms of self-expression, you should still consider developing a written appearance policy that bans offensive content. Be sure to consult with legal counsel, however, to ensure your policy doesn't run afoul of federal, state, and local employment and labor laws, including the National Labor Relations Act.

Additionally, you should note that while various hair colors may not be legally protected, many states and cities have passed laws shielding workers from discrimination based on natural or protective

hairstyles. These laws aim to combat racial bias in the workplace based on hairstyle. So, you should ensure your requirements for employees to appear professional and well-groomed don't create standards that unfairly restrict covered hairstyles.

#### **4. Apply Your Policy Consistently**

Once you have created an appearance policy and shared it with your employees, be sure to enforce it consistently – otherwise you run the risk of a discrimination claim.

Having a robust policy in place and enforcing it consistently can help protect your public image, promote a productive environment, comply with health and safety standards, and even prevent claims of discrimination and harassment.

#### **5. Consult Your Attorney**

Since so many evolving areas of law may impact your employee appearance policy and dress code, it's a good idea to have experienced legal counsel review your standards for compliance before communicating any updates to your employees.

You should also note that state and local laws may provide additional workplace protections for employees. So, be sure to account for local nuances as you create your policies.

### **Conclusion**

Recent workplace shifts mean it's time to review and potentially revise your employee appearance standards and dress code to reflect the current workforce and ensure compliance with the latest legal developments. Keep in mind that consistency is key. We will continue to monitor developments in this area, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact the authors of this Insight or your Fisher Phillips attorney.

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