

EEOC Notice N-915.022

- 1. SUBJECT:** Policy guidance on "new age" training programs which conflict with employees' religious beliefs.
- 2. PURPOSE:** This policy guidance is intended to provide guidance in the handling of cases where an employee objects to participating in a training program because it utilizes techniques or exercises which conflict with the employee's religious beliefs.
- 3. EFFECTIVE DATE:** Upon receipt.
- 4. EXPIRATION DATE:** As an exception to EEOC Order 203.001, Appendix B. Attachment 4, § a(5), this Notice will remain in effect until rescinded or superseded.
- 5. ORIGINATOR:** Office of Legal Counsel.
- 6. INSTRUCTIONS:** This notice supplements the instructions in § 628 of Volume II of the Compliance Manual, Religious Accommodation, and should be inserted after p. 628-20.

I. INTRODUCTION

Employers are increasingly making use of training programs designed to improve employee motivation, cooperation, or productivity through the use of various so-called "new age" techniques. **1/** For example, a large utility company requires its employees to attend seminars based on the teachings of a mystic, George Gurdjieff, which the company claims has helped improve communications among employees. **2/** Another corporation provides its employees with workshops in stress management using so-called "faith healers" who read the "auras" of employees and contact with the body's "fields of energy" to improve the health of its employees. **3/** Specialists in employee training say that "most of the nation's major corporations and numerous government agencies have hired some consultants and purveyors of similar 'personal growth' training programs in recent years." **4/** The programs utilize a wide variety of techniques: meditation, guided visualization, self-hypnosis, therapeutic touch, biofeedback, yoga, walking on fire, and inducing altered states of consciousness. **5/** These programs focus on changing individual employee's attitudes and self-concepts by promoting increased self-esteem, assertiveness, independence, and creativity in order to improve overall productivity. **6/** Some employees have objected to participating in these programs because they view them as promoting values different from their own and as conflicting with their religious beliefs. **8/** Another employee argued that a training program that "focused everything on the self" as the center and source of energy conflicted with his belief that human fate is dependent on the "will of God." **9/**

Although the courts and the Commission have not addressed the particular conflicts raised by the "new age" training programs, this issue can be resolved under the traditional Title VII theory of religious accommodation. While there may be some disagreement over whether the training programs themselves are religious, an employee need only demonstrate that participation in the programs in some manner conflicts with his/her personal religious beliefs.

II. THE NATURE OF RELIGIOUS BELIEF UNDER TITLE VII

The Commission defines religious practices to include moral or ethical beliefs as to what is right or wrong which are sincerely held with the strength of traditional religious views. **10/** This is adopted from the Supreme Court's determination in *Seeger* that religion need only be "(a) sincere and

meaningful belief which occupies in the life of its possessor a place parallel to that filled by ... God [in other religions]." **11/** Even those religious beliefs that others may find "incomprehensible or incorrect" are protected under Title VII. **12/** Therefore, an employer may not judge the veracity or reasonableness of the religious beliefs of an employee. **13/** A religious belief or practice need not be based upon a traditional religion **14/** and does not have to be a belief held as tenet by others of the same religion **15/** Moreover, the Commission has held that protected religious belief also includes the freedom not to believe. **16/** The only limitations on a belief protected under Title VII are that it must be religious as opposed to social, political, or economic in nature **17/** and it must be sincerely held. **18/**

That the employer or the sponsor of a "new age" program believes there is no religious basis for, or content to, the training or techniques used is irrelevant to determining the need for accommodation. If an employee believes that some aspect of the training program conflicts with his/her own beliefs, an employer may only inquire as to what the employee's beliefs are and consider the sincerity with which the employee holds those beliefs. The employer may not base its decision to accommodate the employee's religious beliefs on its (the employer's) own evaluation of whether the training or the techniques used actually conflict with the employee's religious beliefs. An employer may not reject an employee's request for accommodation on the basis that the employee's beliefs about the "new age" training seem unreasonable.

III. EMPLOYER'S DUTY TO ACCOMMODATE

Under § 701(j) of Title VII an employer must provide reasonable accommodation for an employee's or prospective employee's religious needs unless to do so would create an undue hardship on the conduct of the employer's business. **19/** The need for accommodation most frequently arises where an individual's religious belief, observances, or practices conflict with a specific task or requirement of the employee's job. For example, an employee may object to participating in a training exercise involving self-hypnosis because his religion teaches that a person should always be in control of his/her thoughts in order to make correct moral choices. The employer's duty to accommodate will usually entail making a special exception from or adjustment to the particular training requirement so that the employee is able to comply with the dictates of his/her religious beliefs.

Where an employee notifies an employer that his/her religious beliefs conflict with a particular training technique or method used in a "new age" training program, an employer may accommodate the employee's belief by substituting an alternative technique or method not offensive to the employee's belief or by excusing the employee from that particular part of the training program. The employer may have to excuse the employee from the entire program where the employee contends that the program is based on a concept contrary to his/her beliefs, unless the employer can show undue hardship. **20/** Because an employer may not impose any religious requirements on the terms or conditions of employment, an employer who in any way penalizes an employee who has been excused from participating in a training program because of religious conflicts discriminates on the basis on religion. Moreover, an employer may be required to provide alternative training as part of reasonably accommodating the employee's religious beliefs unless it can show undue hardship. Exempting an employee from a training program without providing alternative training may disadvantage the employee with respect to his/her employment opportunities.

Example: R requires its employees, as part of a training program, to participate in a form of meditation that involves emptying one's mind of all thoughts by repeating a meaningless word. CP objects to participating in this exercise because it conflicts with his religious belief that a person should always keep his mind open to "divine inspiration." R must accommodate CP's religious belief by excusing him from this exercise even though R, the sponsor of the training program, and other employees believe that this form of meditation does not conflict with any religious beliefs.

The employer may also be liable where the training program is explicitly based upon religious beliefs. **21/** Under Title VII an employer is obligated to maintain a working environment free of coercion or intimidation based on religion. **22/** In this situation, an employer discriminates not only against employees and potential employees whose individual religious beliefs conflict with the training program but also against employees and potential employees who choose not to have religious beliefs.

Example: R requires its employees, as part of a training program, to participate in a form of meditation that involves emptying one's mind of all thoughts by repeating a meaningless word. The employees are taught that this meditation will bring them into contact with the "ultimate reality of the universe" which empowers them to reach the "supreme authentication" of their "True Self" and to become one with "All That That Is." R must accommodate the religious beliefs of its employees by excusing from this exercise, not only those employees who object because this conflicts with their religious beliefs, but also employees who object because they have chosen not to have religious beliefs. In addition, R's policy of requiring employees to attend a religiously oriented program discriminates on its face against all employees and potential employees on the basis of religion.

The issue of "new age" training programs is Non-CDP. Charges involving this issue should be sent to Headquarters until further notice. Contact Coordination and Guidance Services at FTS 634-6423 for instructions.

Approved: Clarence Thomas
Chairman
Date 9/2/88

1/ *Gurus Hired to Motivate Workers Are Raising Fears of 'Mind Control.'* (hereinafter *Gurus*) N.Y. Times, April 17, 1987, § A at 18; *New Age Harmonies*, Time Mag., Dec. 7, 1987 at 62.

2/ *Gurus, supra*, n.1.

3/ *New Age Harmonies, supra*, n.1 at 62-63.

4/ *Gurus, supra*, n.1.

5/ *New Age Harmonies, supra*, n.1 at 64, 69.

6/ *Gurus, supra*, n.1.

7/ *Id.*

8/ *Id.*

9/ *Id.*

10/ Guidelines on Discrimination Because of Religion, 29, C.F.R. § 1605.1, "Religious" nature of a practice or belief.

11/ Commission Decision No. 76-104, CCH EEOC Decisions (1983) 6500 (The Commission determined that if religion were construed more narrowly for Title VII purposes than it is in the context of § 6(j) of the Military Training and Service Act, then Title VII's proscription of religious discrimination would conflict with the First Amendment's Establishment Clause), *citing United States v. Seeger*, 380 U.S. 163, 176 (1965) (the Court defines religion under § 6(j) of the Universal Military Training and Service Act, 50 U.S.C.A. App. § 456(j) (1968); see Compliance Manual § 628.4(b), "Religious" Nature of a Practice or Belief, p. 628-4.

12/ *See Commission Decision No. 76-104*, CCH EEOC Decisions (1983) ¶ 6500, *citing Welsh v. United States*, 90 S. Ct. 1792, 1796 (1970).

- 13/** See *Callan v. Woods*, 663 F.2d 679, 685 (9th Cir. 1981) (held "in applying the free exercise clause of the First Amendment, courts may not inquire into the truth, validity, or reasonableness of a claimant's religious beliefs,"); *United States v. Rasheed*, 663 F.2d 843, 847 (9th Cir. 1981) (validity of religious beliefs cannot be questioned); (note that since the Commission has adopted the standards enunciated by the Supreme Court in *Seeger* and *Welsh*, guidance can also be obtained from lower courts applying the same rule).
- 14/** Commission Decision No. 81-33, CCH EEOC Decisions (1983) ¶ 6828 (CP who sincerely holds a belief with the strength of traditional religious views does not have to prove that others hold or share his belief); 29 CFR § 1605.1.
- 15/** *Thomas v. Review Board of Indiana Employment Security Division*, 450 U.S. 707, 715-16, 25 EPD 31.622 (1981) (religious beliefs need not be universally held within religion in order to qualify as religious or in order to be entitled to protection); 29 CFR § 1605.1.
- 16/** Commission Decision No. 72-1114, CCH EEOC Decisions (1973) ¶ 6347 (however, the Title VII protection which is given to those who have chosen not to believe is only applicable to those who choose not to believe in a particular religious practice, belief, or in religion itself); see *Young v. Southwestern Savings and Loan Association*, 509 F.2d 140, 9 EPD 9995 (5th Cir. 1975) (supervisor told employee that she had a duty to attend staff meetings at which prayer and devotionals were conducted; held, employer obligated to accommodate employee's religious beliefs which include the freedom not to believe).
- 17/** See *Seeger*, 380 U.S. at 173; see also *United States v. MacIntosh*, 283 U.S. 605, 633-634 (1931); for an example, see Compliance Manual § 628.4(2), p. 628-6.
- 18/** *United States v. Rasheed*, 663 F.2d 843, 847 (9th Cir. 1981) ("although the validity of religious beliefs cannot be questioned, the sincerity of the person claiming to hold such beliefs can be questioned," citing *Seeger*, 380 U.S. at 185); see Compliance Manual § 628(b)(2), p. 628-5, for instructions for determining whether a religious practice or belief requires protection.
- 19/** 42 U.S.C § 2000(e)(j) (1976); 5 CFR § 1605.2(b)(1).
- 20/** The mere assumption that many more people with the same religious belief as the individual may also need accommodation is not sufficient evidence of undue hardship. See Commission Decision Nos. 81-83 and 72-0606, at CCH EEOC Decisions 6828 (1983) and 6310 (1973) and Compliance Manual § 628.7(a), pp. 628-23 & 24.
- 21/** See C.D. No. 72-0528, CCH EEOC Decisions (1973) ¶ 6316 (R has continuing policy of conducting, on its premises and during regular work hours, a weekly meeting which includes prayer recitals, hymn singing and sermons from local clergymen; all employees, regardless of individual religious persuasion or moral code, are urged to attend; R's policy on its face discriminates against all employees and potential employees who do not desire to attend such meetings because of their individual religious beliefs or lack of any religious beliefs); *State of Minnesota v. Sports and Health Club*, 392 N.W.2d 320, 41 EPD 36.617 (1986) (employer permitted only born again Christians to hold management positions, required managers to attend weekly Bible studies, and suggested that other personnel also attend, held employer wrongfully imposed religious beliefs on employees); *Young v. Southwestern Savings and Loan Association*, *supra n. 16*.
- 22/** Commission Decision No. 72-1114, CCH EEOC Decisions (1973) ¶ 6347 (R's failure to provide a working environment free of religious intimidation is violative of Section 703(a) of Title VII: CP's supervisor discussed his religious convictions with CP and other employees on the job).