

business, and would therefore, exceed the duty to accommodate Hardison.

In 1978, the Commission conducted public hearings on religious discrimination in New York City, Milwaukee, and Los Angeles in order to respond to the concerns raised by *Hardison*. Approximately 150 witnesses testified or submitted written statements.<sup>5</sup> The witnesses included employers, employees, representatives of religious and labor organizations and representatives of Federal, State and local governments.

The Commission found from the hearings that:

(1) There is widespread confusion concerning the extent of accommodation under the *Hardison* decision.

(2) The religious practices of some individuals and some groups of individuals are not being accommodated.

(3) Some of those practices which are not being accommodated are:

—Observance of a Sabbath or religious holidays;

—Need for prayer break during working hours;

—Practice of following certain dietary requirements;

—Practice of not working during a mourning period for a deceased relative;

—Prohibition against medical examinations;

—Prohibition against membership in labor and other organizations; and

—Practices concerning dress and other personal grooming habits.

(4) Many of the employers who testified had developed alternative employment practices which accommodate the religious practices of employees and prospective employees and which meet the employer's business needs.

(5) Little evidence was submitted by employers which showed actual attempts to accommodate religious practices with resultant unfavorable consequences to the employer's business. Employers appeared to have substantial anticipatory concerns but no, or very little, actual experience with the problems they theorized would emerge by providing reasonable accommodation for religious practices.

Based on these findings, the Commission is revising its Guidelines to clarify the obligation imposed by section 701(j) to accommodate the religious practices of employees and prospective employees.

<sup>5</sup>The transcript of the Commission's Hearings on Religious Discrimination can be examined by the public at: The Equal Employment Opportunity Commission, 2401 E Street NW., Washington, DC 20506.

## PART 1606—GUIDELINES ON DISCRIMINATION BECAUSE OF NATIONAL ORIGIN

Sec.

1606.1 Definition of national origin discrimination.

1606.2 Scope of title VII protection.

1606.3 The national security exception.

1606.4 The bona fide occupational qualification exception.

1606.5 Citizenship requirements.

1606.6 Selection procedures.

1606.7 Speak-English-only rules.

1606.8 Harassment.

AUTHORITY: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*

SOURCE: 45 FR 85635, Dec. 29, 1980, unless otherwise noted.

### § 1606.1 Definition of national origin discrimination.

The Commission defines national origin discrimination broadly as including, but not limited to, the denial of equal employment opportunity because of an individual's, or his or her ancestor's, place of origin; or because an individual has the physical, cultural or linguistic characteristics of a national origin group. The Commission will examine with particular concern charges alleging that individuals within the jurisdiction of the Commission have been denied equal employment opportunity for reasons which are grounded in national origin considerations, such as (a) marriage to or association with persons of a national origin group; (b) membership in, or association with an organization identified with or seeking to promote the interests of national origin groups; (c) attendance or participation in schools, churches, temples or mosques, generally used by persons of a national origin group; and (d) because an individual's name or spouse's name is associated with a national origin group. In examining these charges for unlawful national origin discrimination, the Commission will apply general title VII principles, such as disparate treatment and adverse impact.

### § 1606.2 Scope of title VII protection.

Title VII of the Civil Rights Act of 1964, as amended, protects individuals against employment discrimination on the basis of race, color, religion, sex or