

What Employers Need to Know about Iowa's Religious Freedom Restoration Act

April 11, 2024

by William J. Miller and Joshua Hughes

On April 2, 2024, Governor Kim Reynolds signed Senate File 2095, the Iowa Religious Freedom Restoration Act, which became effective immediately. Iowa's Religious Freedom Restoration Act ("RFRA") is modeled on a similar law that Congress enacted in 1993. According to The Becket Fund, which supports the passage of RFRA-style laws, a total of 28 states have enacted state-level RFRA laws since Congress took action.

Iowa's RFRA limits the actions of employers in some cases, while empowering employers in other respects. In other words, it is a statute that can both be used *by* employers and *against* employers, depending on the circumstance.

As a restriction, the Iowa RFRA prohibits "state action" from "substantially burdening" a "person's" exercise of religion. Each of the quoted terms is given a specific meaning by the statute. "State action" means the application of any law, ordinance, regulation, or policy, or the actions of any public official as authorized by law. Actions taken by *public* employers, such as cities, counties, and related entities, fit directly within the definition of "state action." In certain cases, the conduct of *private employers* could be "state action," if the private employer is taking action to implement or apply a law or regulation. For example, a private employer that requires an employee to register with the state pursuant to a regulatory requirement could be taking "state action." State actions "substantially burden" religious practice if the conduct "constrains, inhibits, curtails, or denies the exercise of religion . . . or compels any action contrary to a person's exercise of religion[.]" Finally, "person" is defined broadly to include any "individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity."

State action that substantially burdens a "person's" exercise of religion is permissible if "the burden to that person's exercise of religion is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest." In other words, exceptions to the general rule require a very good justification *and* proof that the restriction is the least restrictive way to achieve that

Related People

- William J. Miller
- Joshua Hughes

Related Capabilities

- Labor & Employment

justification. For example, a general policy that requires individuals to shave their face and head for boot camp training presumably would be found to burden the religious practice of individuals for whom shaving or cutting hair is prohibited. Where the policy is only motivated by a general desire for unit cohesion, the policy does not support a compelling interest, nor is it the least restrictive means of achieving that goal.[1]

The Iowa RFRA authorizes employers to take action in other instances. Given the broad definition under the statute, many Iowa employers are also “persons” who also have protections against state action that substantially interferes with the exercise of religion. Perhaps the most well-known application of this principle came in the United States Supreme Court’s 2014 decision in *Burwell v. Hobby Lobby*. There, an employer objected on religious grounds to a regulation under the Affordable Care Act requiring insurance coverage for certain contraceptives. The Supreme Court, applying the federal RFRA, determined that the requirement was not the least restrictive means of achieving the goal of providing contraceptive coverage, and granted an exception from the general regulation to the employer. Employers in other states have also argued RFRA laws provide exceptions to generally applicable laws, such as child labor codes and emergency medical care statutes.

When a “person’s” exercise of religion is substantially burdened, the Iowa RFRA allows the person to go to court and obtain “appropriate relief, including damages, injunctive relief, or other appropriate redress[,]” including attorney’s fees. Where conduct is religious in nature and challenged, a “person” can also assert an RFRA affirmative defense to justify otherwise (presumably) unauthorized conduct.

It remains to be seen how Iowa courts will apply this statute. Given the developing state of the law in this area, there are a few key points for employers to keep in mind:

- **Discrimination is still prohibited by the Iowa Civil Rights Act and federal law.** The enactment of the Iowa RFRA makes no changes to Iowa Code Chapter 216, the Iowa Civil Rights Act. Employment, education, and public accommodation discrimination remains prohibited on the basis of race, color, creed, national origin, religion, sex, sexual orientation, gender identity, pregnancy, and disability. Similarly, while an employer can be a “person” entitled to justify certain actions based on its religious beliefs, an employer who adopts a “favored” religion in the workplace may still face religious discrimination claims from members of the “non-favored” group. Employers should consult with legal counsel *before* taking an employment action that could be perceived as motivated by an individual’s membership in a protected class.
- **Review religious accommodation policies.** While most employers maintain reasonable accommodation policies relating to disability, it is important to ensure religious accommodations are also available where appropriate. Revising and updating religious accommodation policies is especially timely given the Supreme Court’s *Groff v. DeJoy* decision last summer, which discussed an employer’s obligation to accommodate an employee’s religion. Public employers specifically should ensure the process for asserting religious objections is controlled by a written policy.
- **Additional trainings may be appropriate.** Iowa’s RFRA protects the exercise of all religions, whether that exercise is unfamiliar or well known. Employers may choose to use this opportunity to adopt policies that support and reflect a religiously diverse

workforce.

While Iowa's RFRA is modeled on federal and out-of-state counterparts, it remains to be seen how Iowa courts will interpret and implement it. Employers seeking to mitigate RFRA-related risk should contact their trusted Dorsey & Whitney counsel for advice and best practices.

[1] *Singh v. Berger*, 56 F.4th 88 (D.C. Cir. 2022).