CHAPTER 10 RELIGIOUS DISCRIMINATION
NOTES OUTLINE

I. Religious Discrimination under Title VII
   a. Duty to “reasonably accommodate” employee’s religious beliefs in regard to employment policies, schedules, etc.
   b. “Undue hardship” is the “outer limit” – employers do not have to provide an accommodation that will create an unreasonable burden on the employer/workplace.
   c. Religion and the Religious Institution as Employer
      i. Generally, religious institutions are exempt from Title VII liability for religious discrimination
      ii. May use BFOQ defense for non-religious activities such as sales clerk for a book store: reasonably necessary for normal operation of business.
         1. case-by-case basis: math professor at a university with religious affiliation cannot be discriminated on the basis of religion, but a philosophy professor might. (see Pime p. 391)

II. Employer’s Duty to Reasonably Accommodate
   a. In the event of a conflict between employee’s religious beliefs/practices and employer’s requirements, the employee must first attempt to provide accommodation.
   b. This duty does NOT mean “any and all” accommodation must be provided.
   c. “bridge the gap” between the employee’s needs and the employer’s requirements.
   d. e.g. switch or modify schedule, shift marginal duties to another employee, allow break at different time or more frequently, exempt from policy or modify policy accordingly (such as dress).
   e. Wilson p. 373: note the attempts at reasonable accommodation taken by employer.
   f. Williams p. 376: change in schedule would cause undue hardship: could terminate the employee.
   g. Chalmers p. 379: employers do not need to “accommodate” the harassment of other employees: proselytizing at work could lead to a religious harassment claim by other employees. (see V below)

III. Employee’s duty to cooperate in accommodation
   a. Vargas p. 384: employee’s refusal to cooperate with reasonable accommodation creates defense for employer in lawsuit based on subsequent termination.
   b. TWA v. Hardison p. 387: an accommodation that would violate a valid seniority or collective-bargaining agreement creates an undue hardship.

IV. Religion as BFOQ (see above)
V. Religious Harassment
   a. Customers, suppliers, vendors, etc.: add to the environment at work, and therefore can help create a "hostile work environment." Do not allow them to harass employees - address employee’s concerns seriously.
   b. Proselytizing at work: trying to convince others of the "rightness" of one’s religious beliefs/conversion
      i. 1997 Federal workplace guidelines: allowed to discuss religion with employees, and might even try to persuade them to "see" their way, but must stop once told to stop, or if employee appears not to welcome these comments.
   c. Harassing employees about their beliefs:
      i. As serious as sexual harassment
      ii. Remember: hostile work environment type of harassment is created by conduct of a (religious) nature that is unwelcome, and severe and pervasive so as to alter the terms and conditions of employment for members of a certain religion over others.