

Förderprogramm "Integration durch Qualifizierung (IQ)"



www.nobi-nord.de | © 2015

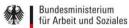
# Hygienic standards versus religious clothing regulations? Non-discrimination rules as standard for the development of a good practice

Workshop: Either participation or else concealed exclusion? Religious clothing regulations in work life drawn on the example of the healthcare sector

IQ-Congress. December 7th, 2016

Eliza-Maimouna Sarr

Das Förderprogramm "Integration durch Qualifizierung (IQ)" wird durch das Bundesministerium für Arbeit und Soziales gefördert.



um In Kooperation mit: 🙀



Bundesagentur für Arbeit









#### Scienctific Approach to Hygiene and Infection Prevention

- Evidence-based measures
- Systematic risk analysis
- Clinical and epidemiological studies
- Microbiological and experimental research





### Discrimination

- Direct discrimination: different or worse treatment of a person based on personal charecteristics
- Harassment
- Victimization
- Indirect discrimination: rule, guideline, practice or procedure is applied to all but disadvantages some based on a personal charecteristic





### **Religious and Ethnic Discrimination**



Sandra Bauer

18,8 %

13,5 %

4,2 %

Source: Institute for the Study of Labor Discrimination against Female Migrants Wearing Headscarves, from 2016





#### **Legal Perspectives**

- Limits emposed on the freedom of religion or belief have to respect principles of proportionality and must limit arbitrary repercussions on employment
- Religious discrimination might only be permissible when reasonable and objective rationales are given





## Legal Norms

The General Equal Treatment Act (AGG)

- $\rightarrow$  § 7 AGG Prohibition of Discrimination
- $\rightarrow$  § 12 AGG Preventative Measures

The German Constitution

- $\rightarrow$  Art. 3 GG Equal Rights
- $\rightarrow$  Art. 4 1st and 2nd column GG Religious freedom
- $\rightarrow$  Art 33 GG Access to public offices disregarding religion





#### **Questions for the Discussion**

- What can be done to ensure religious freedom and hygienic standards in the healthcare sector?
- How to deal with the situation in an adequate and practicable way?
- Which reasonable accommodations should be made?



Förderprogramm "Integration durch Qualifizierung (IQ)"



www.nobi-nord.de | © 2015

# Thank you very much for your attention!

Das Förderprogramm "Integration durch Qualifizierung (IQ)" wird durch das Bundesministerium für Arbeit und Soziales gefördert.



für Arbeit und Soziales



Bundesagentur für Arbeit









#### **Equality Impact Assessment tool**

	Yes/No	Comments
Does the policy/guidance affect one group less or more favourably than another on the basis of:		
• Race	No	
<ul> <li>Ethnic origins (including gypsies and travellers)</li> </ul>	No	
Nationality	No	
• Gender	No	
Culture	No	
Religion or belief	No	
<ul> <li>Sexual orientation including lesbian, gay and bisexual people</li> </ul>	No	
• Age	No	
<ul> <li>Disability - learning disabilities, physical disability, sensory impairment and mental health problems</li> </ul>	No	
Is there any evidence that some groups are affected differently?	No	
If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No	There is no discrimination in this guidance
Is the impact of the policy/guidance likely to be negative?	No	
If so can the impact be avoided?	N/a	
What alternatives are there to achieving the policy/guidance without the impact?	N/a	
Can we reduce the impact by taking different action?	N/a	
	<ul> <li>more favourably than another on the basis of:</li> <li>Race</li> <li>Ethnic origins (including gypsies and travellers)</li> <li>Nationality</li> <li>Gender</li> <li>Culture</li> <li>Religion or belief</li> <li>Sexual orientation including lesbian, gay and bisexual people</li> <li>Age</li> <li>Disability - learning disabilities, physical disability, sensory impairment and mental health problems</li> <li>Is there any evidence that some groups are affected differently?</li> <li>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</li> <li>Is the impact of the policy/guidance likely to be negative?</li> <li>If so can the impact be avoided?</li> <li>What alternatives are there to achieving the policy/guidance without the impact?</li> <li>Can we reduce the impact by taking different</li> </ul>	Does the policy/guidance affect one group less or more favourably than another on the basis of:No• RaceNo• Ethnic origins (including gypsies and travellers)No• NationalityNo• NationalityNo• GenderNo• CultureNo• Religion or beliefNo• Sexual orientation including lesbian, gay and bisexual peopleNo• AgeNo• Disability - learning disabilities, physical disability, sensory impairment and mental health problemsNoIs there any evidence that some groups are affected differently?NoIs the impact of the policy/guidance likely to be negative?NoIf so can the impact be avoided?N/aWhat alternatives are there to achieving the policy/guidance without the impact?N/a

Source: NHS 'Bare below the elbow' Supplementary Policy for Hand Hygiene 2.0, from 2016





#### **Prevention of Discrimination**

Unternehmenskultur und Arbeitsorganisation

Flexible Regelungen zur Arbeitszeitgestaltung (Rücksichtnahme auf Gebetszeiten etc.)

Arbeitsplatzgestaltung (Gebets-, Ruheraum o.ä.)

Angemessene Maßnahmen mit Bezug auf bestimmte Arbeitsplatzvorschriften (z. B. Hygiene-Vorschriften)

Möglichkeit der Freistellung zu religiösen Anlässen und an religiösen Feiertagen (Freitagsgebet, Sabbat- und Sonntagsruhe, Ende des Ramadan etc.)

Berücksichtigung religiöser Feste im Betriebsablauf (multireligiöser/-konfessioneller)

Existenz und Unterstützung von Mitarbeitenden-Netzwerken für religiöse Vielfalt (z.B. Unterstützung von Gebetskreisen)

Religiös angemessenes Kantinenangebot

Gestaltung von Betriebsfeiern

Weitere Maßnahmen

Source: *Umgang mit religiöser Vielfalt am Arbeitsplatz Praxisbeispiele aus Unternehmen und Verwaltungen* German Federal Anti-Discrimination Agency, from 2016





#### **Possible Plan of Action**

- Full sleeves are allowed to be worn at all times except during clinical procedures with a patient and during handwashing, where sleeves will have to rolled up to threequarter length between the wrist and the elbow.
- no sleeves below the elbow in clinical areas and provision of disposable sleeves for those who might want to use them to cover their arms

Source: Department of Health Uniforms and Workwear – Guidance on uniform and workwear policies for NHS employers, from 2010





#### **Possible Plan of Action II**

- three-quarter length sleeves and provision of disposable gloves to cover the rest of the arm
- no sleeves below the elbow but separate sleeves that are worn from the shoulder to the wrists, easy to roll up and can be laundered with uniforms
- disposable sleeves which are elasticated at the wrist and elbow when in contact with patients.

Source: Department of Health Uniforms and Workwear – Guidance on uniform and workwear policies for NHS employers, from 2010