

Beyond Neutrality: Uncovering Gender Bias in Workplace Dress Codes - Legal Frameworks, Unequal Burdens, and Intersectional Perspectives

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Abstract. Workplace dress codes and grooming standards are often shown as neutral rules that keep professionalism and company image. But these rules often bring inequality. They put more cost in money, health, and time on women and gender-nonconforming workers. They also follow old ideas about gender and class, not real work needs. This paper looks at dress codes from law and sociology. From law, it shows how antidiscrimination rules cover appearance and how employer defenses are limited. It also shows that laws give some tools to fight unfair rules, but rulings are not always the same and protections for some groups are weak. From sociology, it shows that dress codes work as control and keep gender roles and hierarchies. The analysis shows that dress codes are not only about style but rules that shape identity and keep inequality. The study concludes that meaningful change requires gender-neutral policies, stronger legal protections, and cultural shifts that redefine professionalism in more inclusive ways.

Keywords: dress codes, gender inequality, workplace discrimination

1. Introduction

Dress codes are common in many workplaces. They are shown as neutral rules that help keep a formal and respectful environment. Employers also say they are important for company image and professionalism. At first, these rules look the same for everyone. But they often bring gender expectations that are not equal. They set different standards for men and women, and they keep old stereotypes and give extra burdens. For example, men may be told to wear suits, and women may need to wear makeup or high heels. This means women spend more time and money and may also feel physical pain [1].

The Civil Rights Act of 1964 helped stop open forms of sex discrimination. But dress codes show that hidden problems still exist. Women are often judged more by how they look, and men are judged more by their work. This is what West and Zimmerman [2] call “doing gender.” People are pushed to act in ways that repeat gender roles in daily life. So, dress codes are not only about style. They are rules that make inequality continue in the workplace.

Scholars also show that professionalism standards are not neutral. They are linked to white, male, and middle-class ideals. Bartlett says that workplace rules about looks follow community norms that

hurt women [1]. Casanova says that in modern workplaces, clothing rules are about discipline and control more than about equality [3]. Ford says that laws about fashion and appearance have shaped ideas of order and hierarchy for a long time [4]. This shows that dress codes today are part of a bigger history.

In law, we need to ask if they fit with Title VII of the Civil Rights Act. In sociology, we need to see how workplace rules keep inequality. Stamarski and Son Hing say that organizations often repeat disadvantages instead of fixing them [5]. Dress codes are one example of this, as they keep stereotypes in everyday rules at work. This paper argues that dress codes at work, even when they look neutral, are rules that keep inequality. They break anti-discrimination law and also shape how gender, race, and other identities are treated in the workplace. When we look at them through law and sociology, we see they are not just surface rules. They are a way that organizations make and keep power, identity, and inequality today.

2. Key concepts

2.1. Legal frameworks governing workplace dress codes

Workplace dress codes are shown as neutral rules for appearance. Employers say they keep respect and discipline, but this neutrality is false. Rules often follow norms that help some groups and hurt others [1]. They come from old gender roles and class ideals. In modern workplaces, clothing rules are more about control than fairness [3].

The main law is Title VII of the Civil Rights Act of 1964 in 42 U.S.C. § 2000e-2. It stops sex discrimination at work. Courts say it covers open bias and also unfair burdens. In *Price Waterhouse v. Hopkins* (1989), the Court said judging workers by gender stereotypes is sex discrimination. This matters because many dress codes are based on such stereotypes.

Employers often defend dress codes with the bona fide occupational qualification (BFOQ) rule. It allows different treatment if it is basic for the job. But courts read it very strictly. In *Wilson v. Southwest Airlines* (1981), the court said customer preference for female attendants was not valid. So BFOQ cannot be used to keep stereotypes or please customers. Employers must show the rule is truly needed for the job, and most dress codes do not meet this.

2.2. Sociological perspectives on gender and appearance

Sociology also helps explain why dress codes still have strong effects. Gender is not only traits but actions that people repeat each day [2]. This is called “doing gender.” Dress codes make workers “do gender” by forcing them to wear clothes or grooming that show male or female identity. This means dress codes are not only surface rules. They are ways that workplaces keep social order.

The Equal Employment Opportunity Commission, or EEOC, also gives rules about grooming and appearance. Its manual says dress codes must not give different burdens to men and women [6]. If women have to spend more time or money on grooming, the rule is not allowed. This shows that even small differences in rules can make real inequality.

3. Problem analysis

3.1. Critiques of professionalism and neutrality

Dress codes are often used as rules to keep a professional environment. But the idea of professionalism is not neutral. It is said to be based on performance, but it reflects norms made by

white, male, and middle-class ideals. Standards of appearance follow community rules that give power to some groups and hurt others [1]. In modern workplaces, clothing rules are more about control and discipline than fairness [3]. Dress codes, by asking workers to follow these ideals, act as social control instead of simple rules for work.

The “neutral appearance myth” says that appearance rules are the same for everyone. But when men and women must follow different rules, neutrality is only on the surface. For example, women may be told to wear skirts, high heels, or makeup, while men only need to wear suits or ties. These rules repeat gender stereotypes and give extra burdens. What counts as “professional” has been set by groups with power and still reflects their culture [4].

3.2. Disproportionate burdens of workplace dress codes

Rules that look neutral may still be unlawful if they give unequal burdens to one sex. This problem is common in organizations [5], and dress codes show it clearly.

The first is the economic burden. Women spend more money on clothes and grooming than men. This is not a free choice because not following the rules may bring penalties at work [7]. Buying makeup, accessories, and clothes becomes a demand, not an option. The second is the physical burden. High heels are often seen as part of women’s work wear. Research shows that high-heeled shoes increase muscular load and affect posture. Wearing them raises lumbar erector spinae activity and changes pelvis movement during gait, which may cause postural strain [8]. Men do not have the same demand, so the rule is unfair. The third is the time burden. Women spend more time preparing their looks than men. Makeup and hair routines take daily unpaid labor. This time could be used for rest or work tasks, but it is lost to meet grooming rules.

The unequal burdens can be seen in real cases. One example is *Jespersen v. Harrah’s* decided by the Ninth Circuit Court of Appeals in 2006. The court said it was lawful for the employer to make female bartenders wear makeup while men did not have the same rule. The majority said this was not an unequal burden. But Judge Kozinski, in dissent, said the rule pushed women into gender stereotypes and added extra costs in time, money, and dignity. This case shows how courts sometimes fail to see the wider harm in dress codes, allowing discriminatory practices to persist under the guise of neutrality.

3.3. Dress codes and gender identity

Dress codes also cause problems for transgender and non-binary workers. In 2020, the United States Supreme Court decided in *Bostock v. Clayton County* that discrimination based on gender identity or sexual orientation counts as sex discrimination under Title VII of the Civil Rights Act of 1964. This landmark ruling extended protection to LGBTQ workers, though debates about how dress codes apply to them remain unresolved.

Binary dress codes that push male or female choices ignore non-binary identity. For transgender workers, they may be forced to follow a code that does not fit them or face punishment. A clear example is the case of *EEOC v. R.G. & G.R. Harris Funeral Homes*, where a transgender woman was dismissed for refusing to comply with a male dress code. The Sixth Circuit Court of Appeals held that the dismissal was unlawful because it constituted sex discrimination. The ruling was later affirmed in part by the Supreme Court when it decided *Bostock*, further strengthening the principle that gender identity is protected under federal law. This shows how dress codes can clash with new legal protections and why reform is needed.

3.4. Dress codes at the intersections of race and religion

Dress codes also link with race and religion. Rules that ban natural hairstyles often target Black women. Styles like afros, braids, or locs are called “unprofessional,” even though they are cultural and natural. In 2016, the Eleventh Circuit Court of Appeals decided in *EEOC v. Catastrophe Management Solutions* that an employer could refuse to hire a Black woman because she wore locs. The ruling showed that courts sometimes failed to see racial bias in grooming policies. In 2019, California passed the CROWN Act in Section 12926 of the Government Code. This law bans employers from discriminating against natural hairstyles such as braids, afros, and locs. These examples show that rules about appearance are both racial and gendered.

Religious clothing also creates conflict. In 2015, the United States Supreme Court decided in *EEOC v. Abercrombie & Fitch* that it was unlawful for an employer to deny a job to a Muslim woman because she wore a hijab, even though the company banned head coverings. The Court said employers must allow religious clothing unless they prove it causes undue hardship for the business. This demonstrates that so-called neutral appearance rules can still harm workers whose clothing reflects religious obligations.

3.5. Broader implications

Taken together, these examples show that dress codes at work make inequality in many ways. They keep gender stereotypes by asking women to show femininity and men to show masculinity. They also give women more cost in money, health, and time. They make special problems for transgender and non-binary workers. At the same time, they connect with race and religion, so women of color and religious minorities face even more problems.

Dress codes are not just about style, but part of a long history of laws and culture that control bodies and keep hierarchies [4]. Workplace rules often keep inequality instead of ending it [5]. Thus, dress codes go beyond surface style: they function as mechanisms of discipline and exclusion in the workplace.

4. Policies and law

4.1. Civil rights act and related case law

Dress codes are not just workplace rules. They also act as legal and cultural tools that shape ideas of professionalism and hierarchy. Rules about fashion and appearance are linked to histories of control and identity [4]. So, workplace dress codes must be studied under Title VII of the Civil Rights Act of 1964.

Title VII of the Civil Rights Act of 1964, written in Section 2000e-2 of the United States Code, says employers may not discriminate by sex in hiring, firing, pay, or other work terms. At first, courts read this rule in a narrow way. Later, judges said it also applies to practices that use gender stereotypes and that it protects gender identity and expression.

In 1989, the Supreme Court decided *Price Waterhouse v. Hopkins*. Ann Hopkins was denied partnership at her firm because she was told to act and dress in a more feminine way. The Court ruled that judging workers by stereotypes is sex discrimination.

This ruling was important for workplace dress codes, because many appearance rules rest on the same stereotypes that Hopkins challenged. By declaring stereotyping unlawful, the Court gave employees a legal basis to resist dress codes that impose unequal demands on men and women. The

case also highlighted that Title VII addresses not only explicit discrimination but also the subtle biases built into workplace culture, and it continues to be cited in arguments about grooming and appearance standards today.

4.2. The Bona Fide Occupational Qualification, or BFOQ, defense

Employers often try to defend dress codes with the bona fide occupational qualification (BFOQ) rule. This rule allows different treatment if it is truly needed for the job. The courts have said this defense works only in very limited cases. In 1977, the Supreme Court in *Dothard v. Rawlinson* said sex could be a BFOQ only when it is required for the core of the business. In 1985, in *Western Air Lines v. Criswell*, the Court said employers must prove that the rule is needed for the business and that excluded groups cannot do the job safely.

In 1981, in *Wilson v. Southwest Airlines*, the company said it should hire only women as flight attendants because customers preferred them. The court rejected this and ruled that customer views are not a valid reason for gender-based hiring.

Scholars also say courts often fail to use equality ideas well in dress code cases. It has been shown that courts sometimes say burdens are “comparable” for men and women, but they ignore that the burdens are different in type [9]. This makes it hard for law to fully protect workers from the harm of gendered dress codes.

4.3. Equal Employment Opportunity Commission, or EEOC, guidance

The Equal Employment Opportunity Commission (EEOC) also makes rules for dress codes. It says grooming and appearance rules must not give unequal burdens by sex. Its 2015 guidance says that if one sex must spend more time, money, or effort, the rule is unlawful [6]. For example, asking only women to wear makeup or follow strict hairstyles would break Title VII.

The EEOC guidance matters because it gives steps for daily practice. Courts set rules through cases, but EEOC rules help workers and companies judge policies before they reach court. It also shows that small grooming rules can still create big inequality. By asking for equal burden, the EEOC pushes for gender-neutral and flexible dress codes.

4.4. Synthesis of law and policy

Title VII cases, the narrow BFOQ rule, and EEOC guidance all show that dress codes with unequal burdens or stereotypes go against anti-discrimination law. But courts do not apply these rules in the same way. In 1989, in *Price Waterhouse v. Hopkins*, the Supreme Court said denying Ann Hopkins partnership because she was told to act and dress more feminine was sex stereotyping. In 1981, in *Wilson v. Southwest Airlines*, the court rejected the claim that customer preference for female flight attendants could justify hiring only women.

Other rulings are less strict. In 2006, in *Jespersen v. Harrah's*, the Ninth Circuit said a rule that made women bartenders wear makeup while men did not have to was not an unequal burden. A dissenting judge said it gave women costs and reinforced stereotypes, but the majority did not agree.

The BFOQ defense is narrow, so most employers cannot use it to keep gendered rules. But many still try. It has been noted that law often falls behind workplace problems [9]. EEOC guidance helps, but only if employers follow it and workers feel safe to speak out [6].

4.5. Broader implications for workplace equality

The law on dress codes shows that rules can both limit and allow workplace practices. Title VII of the Civil Rights Act of 1964 in Section 2000e-2 of the United States Code says employers may not discriminate by sex in hiring, pay, or other work conditions. Later court rulings also set limits on appearance rules that give unequal burdens. Guidance from the Equal Employment Opportunity Commission supports this [6]. But gendered dress codes still remain, which shows that cultural norms are strong, and law alone cannot end them. Rules about dress are part of a long history of control over bodies [4]. Legal reform must also come with cultural change. Without a wider change in how professionalism is seen and valued, legal wins may only give partial results.

5. Evaluation of current policies

Evaluating policies on workplace dress codes means looking at both strengths and weaknesses. Title VII gives a strong base for equality. But inconsistent rulings, narrow defenses like the bona fide occupational qualification, or BFOQ, and weak protection for intersectional identities show the limits.

5.1. Strengths of current legal frameworks

One strength is the clear ban on open sex discrimination. Title VII of the Civil Rights Act of 1964 says employers cannot make rules that treat one sex worse than the other. Courts have confirmed this. In 1989, in *Price Waterhouse v. Hopkins*, Ann Hopkins was denied partnership because she was told to act and dress more feminine. The Court said judging workers by gender stereotypes is sex discrimination.

Courts also protect gender identity and sexual orientation. In 2020, in *Bostock v. Clayton County*, the Supreme Court said firing employees for being gay or transgender is sex discrimination under Title VII. In *EEOC v. R.G. & G.R. Harris Funeral Homes*, the Court of Appeals said firing a transgender woman for not following a male dress code was unlawful. The Supreme Court later affirmed this in the *Bostock* ruling.

The EEOC also gives guidance. Its 2015 rules say grooming codes cannot place unequal burdens [6]. If women must spend more money, time, or effort than men, the rule is not lawful. In 2019, California passed the CROWN Act in Section 12926 of the California Government Code. It bans discrimination based on hairstyles such as afros, braids, and locs linked to Black identity. These steps show that law is starting to cover more types of inequality.

5.2. Weaknesses and limitations of current legal frameworks

Even with these gains, weaknesses remain. One issue is that rulings are not always the same. In the 2006 case of *Jespersen v. Harrah's*, the Ninth Circuit Court of Appeals said it was lawful for the employer to require female bartenders to wear makeup while men did not have to. The majority said this was not an unequal burden, but a dissenting judge said the rule gave women extra costs and pushed harmful gender stereotypes. This shows that courts may not always see the harm in grooming rules that look small but have big impact.

Another issue is the misuse of the BFOQ defense. Employers still say that sex-specific dress codes are needed for business. In some cases, they say it is for customer choice or company image. Courts reject many of these claims, but the defense still gives room for unfair rules. It has been shown that courts sometimes call unequal burdens “balanced” and ignore how stereotypes are

reinforced [9]. Workplace standards, including dress and appearance rules, must be looked at in a broad way [10]. This means discrimination is not only about single rules, but also about overlapping harms that affect dignity in many ways.

A third issue is that current law does not give enough protection for workers who face more than one kind of discrimination. Dress codes often hurt women of color and religious minorities. Bans on natural hairstyles mostly affect Black women. Rules against head coverings have also been used to harm Muslim women. In 2015, the United States Supreme Court in *EEOC v. Abercrombie & Fitch* said it was unlawful to deny a job applicant because she wore a hijab, even though the company had a general ban on head coverings. The Court said employers must allow religious clothing unless it causes serious hardship.

Extra protection has been made at the state level. In 2019, California passed the CROWN Act in Section 12926 of the California Government Code. It bans discrimination against hairstyles such as afros, braids, and locs. But this law is not nationwide, so workers in many states still do not have the same protection. Rules of dress are part of a long history of control over bodies [4]. Workplace practices often repeat inequality instead of fixing it [5].

5.3. Assessment

Taken together, the strengths and weaknesses of current policies show that progress on dress code discrimination is uneven. The law now gives wider protection, especially for gender identity and expression. But court rulings are inconsistent, employers continue to rely on weak defenses, and intersectional issues remain underprotected. The law provides workers with tools to challenge unfair rules, yet cultural norms and workplace practices still limit meaningful change.

6. Recommendations for reform

Improving workplace dress codes needs action that goes beyond old gender rules and moves toward equality. Current policies often keep stereotypes, give extra burdens, and fail to accept diverse identities. So employers, policymakers, and regulators must work together to make rules that fit anti-discrimination law and reflect today's ideas of gender, race, and religion.

6.1. Adopting gender-neutral dress code policies

Employers should replace gendered codes with neutral rules. Instead of asking women to wear skirts or makeup and men to wear suits, rules should focus on professionalism and choice. Workers should be free to choose from equal options like skirts or pants, ties or scarves, without linking them to gender. This gives flexibility, respects identity, and still keeps standards. It also stops unequal burdens, as shown in the 2006 case of *Jespersen v. Harrah's* decided by the Ninth Circuit Court of Appeals. In that case, the employer required only women bartenders to wear makeup, and the court accepted the rule, even though a dissenting judge said it forced women into stereotypes and added unfair costs. Neutral codes are a direct way to reduce stereotypes in daily work life.

6.2. Mitigating economic, physical, and temporal burdens

Employers must also make sure rules do not create unfair costs in money, health, or time. Studies show that women spend more on grooming and clothes [7]. Research also shows that wearing high-heeled shoes increases lumbar erector spinae activity and changes pelvis movement when walking, which can cause discomfort and long-term health risks [8]. So rules should focus on comfort, safety,

and fairness. Shoes should be practical and not based on gender. Grooming should be limited to what is needed for hygiene or safety. When employers follow these standards, they avoid rules that look neutral but cause hidden discrimination.

6.3. Anti-discrimination training and policy compliance

Employers should also add anti-discrimination training and compliance reviews. Training helps managers and workers see how rules can cause harm, especially for women, people of color, and religious groups. One example is the case of *EEOC v. Abercrombie & Fitch* decided by the United States Supreme Court in 2015. A Muslim woman was denied a job offer because she wore a hijab, and the Court said the employer's refusal was unlawful. The Court made clear that companies must allow religious clothing unless it brings serious hardship.

Reviews also help check if company policies follow the law. This need for review is shown in cases such as *Bostock v. Clayton County* in 2020, where the Supreme Court said that discrimination based on sexual orientation or gender identity is sex discrimination under Title VII. Another case is *EEOC v. R.G. & G.R. Harris Funeral Homes*, where the Court of Appeals said that firing a transgender woman for refusing to follow a male dress code was unlawful. The Supreme Court later confirmed this idea in the *Bostock* ruling, giving stronger protection for gender identity in the workplace.

Regular reviews give a way to fix problems early, so workers do not need to wait for a lawsuit. This step also saves time and makes the workplace safer.

6.4. Need for legislative reform

Changes at the organizational level are not enough. Stronger laws are also needed. One step is the CROWN Act, passed in California in 2019 and written into Section 12926 of the California Government Code. This law bans discrimination against natural hairstyles such as braids, afros, and locs, protecting Black workers from bias. But its protection applies only in the states that have adopted it, leaving many workers without the same rights. A nationwide law would give equal protection to Black workers everywhere. At the federal level, reform could also make clear that gender identity and expression are part of the protections against sex discrimination under Title VII of the Civil Rights Act of 1964, written in Section 2000e-2 of the United States Code. This would fill gaps in the current law and make it harder for employers to keep unfair rules.

6.5. Promoting cultural and organizational change

Law alone cannot solve the problem. Rules on appearance are part of long histories of control over bodies [4]. So cultural norms must change too. Employers should shape professionalism in ways that are more open, not tied to old male or female ideals. This means asking why dress rules look "professional" and if they reflect bias. Workplace systems often repeat inequality instead of removing it [5]. So employers must act directly to change these systems. Without cultural shifts, dress codes will still exclude workers, even when laws improve.

7. Conclusion

This paper looked at how workplace dress codes, even when they seem neutral, still create inequality. The rules add extra costs in money, effort, and time, and women often face more of these burdens.

The findings also show that legal defenses are weak. Employers often try to use the bona fide occupational qualification, or BFOQ, but courts do not accept reasons like customer choice or company image. In 1981, in *Wilson v. Southwest Airlines*, the court rejected the airline's argument that it could hire only women as flight attendants because customers preferred them. The court said customer wishes are not a legal reason for gender-based hiring.

It is also noted that courts sometimes treat burdens as equal even when they are not. EEOC guidance gives clearer rules, saying that if one sex spends more money, time, or effort, then the rule is not lawful. Other protections like the CROWN Act and rulings such as *EEOC v. Abercrombie & Fitch* show how dress codes link with race and religion. These cases show that appearance rules often create more than one kind of disadvantage.

Overall, this study shows that dress codes are central workplace practices that shape identity and reinforce social hierarchies. They are legal, cultural, and social tools that control bodies and keep inequality. Employers should replace gendered codes with neutral rules that respect diversity. Policymakers should also make stronger protections to give equal treatment in all settings. Future research should study how dress rules affect different groups and how reforms can stop hidden discrimination.

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