

COVID-19 Religious Accommodations & Vaccinations

On October 25, 2021, the U.S. Equal Employment Opportunity Commission (EEOC) posted updated and expanded technical assistance related to the COVID-19 pandemic, addressing questions about religious objections to employer COVID-19 vaccine requirements and how they interact with federal equal employment opportunity (EEO) laws.

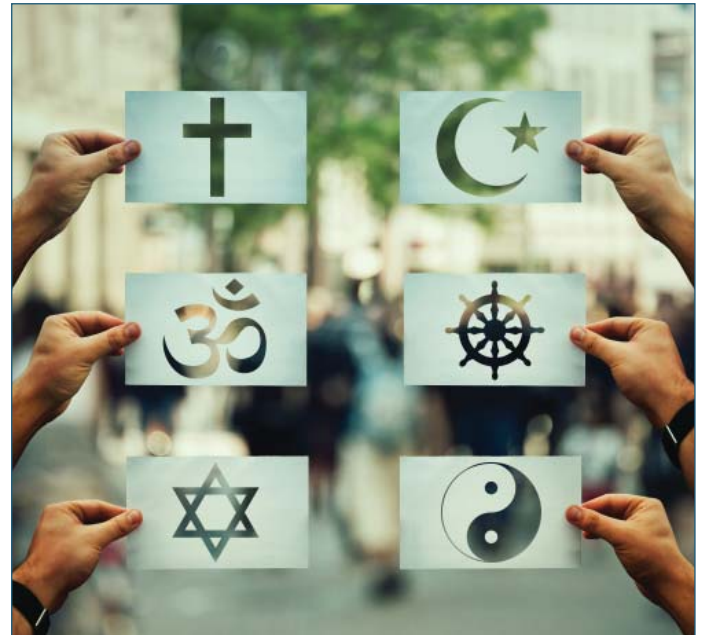
Key updates to the technical assistance:

- ▲ Employees and applicants must inform their employers if they seek an exception to an employer's COVID-19 vaccine requirement due to a sincerely held religious belief, practice, or observance.
- ▲ Title VII requires employers to consider requests for religious accommodations but does not protect social, political, or economic views, or personal preferences of employees who seek exceptions to a COVID-19 vaccination requirement.
- ▲ Employers that demonstrate "undue hardship" are not required to accommodate an employee's request for a religious accommodation.

This technical assistance answers COVID-19 questions only from the perspective of the EEO laws. Other federal, state, and local laws come into play regarding the COVID-19 pandemic for employers, employees, and applicants. As new developments occur, the EEOC will consider any impact they may have on EEOC's COVID-19 technical assistance and will provide additional updates and assistance to the public as needed.

Vaccinations – Title VII and Religious Objections to COVID-19 Vaccine Mandates

The EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on religion. This includes a right for job applicants and employees to request an exception, called a religious or reasonable accommodation, from an employer requirement that conflicts with their sincerely held religious beliefs, practices, or observances.



If an employer shows that it cannot reasonably accommodate an employee's religious beliefs, practices, or observances without undue hardship on its operations, the employer is not required to grant the accommodation. Although other laws, such as the Religious Freedom Restoration Act (RFRA), may also protect religious freedom in some circumstances, this technical assistance only describes employment rights and obligations under Title VII.

Do employees who have a religious objection to receiving a COVID-19 vaccination need to tell their employer? If so, is there specific language that must be used under Title VII?

Employees must tell their employer if they are requesting an exception to a COVID-19 vaccination requirement because of a conflict between that requirement and their sincerely held religious beliefs, practices, or observances (hereafter called "religious beliefs"). Under Title VII, this is called a request for a "religious accommodation" or a "reasonable accommodation."

Continued on Next Page

Continued From page 12

When making the request, employees do not need to use any “magic words,” such as “religious accommodation” or “Title VII.” However, they need to notify the employer that there is a conflict between their sincerely held religious beliefs and the employer’s COVID-19 vaccination requirement.

The same principles apply if employees have a religious conflict with getting a particular vaccine and wish to wait until an alternative version or specific brand of COVID-19 vaccine is available.

As a best practice, an employer should provide employees and applicants with information about whom to contact, and the procedures (if any) to use, to request a religious accommodation.

Does an employer have to accept an employee’s assertion of a religious objection to a COVID-19 vaccination at face value? May the employer ask for additional information?

Generally, under Title VII, an employer should assume that a request for religious accommodation is based on sincerely held religious beliefs. However, if an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief, the employer would be justified in making a limited factual inquiry and seeking additional supporting information. An employee who fails to cooperate with an employer’s reasonable request for verification of the sincerity or religious nature of a professed belief risks losing any subsequent claim that the employer improperly denied an accommodation.

The definition of “religion” under Title VII protects nontraditional religious beliefs that may be unfamiliar to employers. While the employer should not assume that a request is invalid simply because it is based on unfamiliar religious beliefs, employees may be asked to explain the religious nature of their belief and should not assume that the employer already knows or understands it. By contrast, Title VII does not protect social, political, or economic views, or personal preferences. Thus, objections to COVID-19 vaccination that are based on social, political, or personal preferences, or on nonreligious concerns about the possible effects of the vaccine, do not qualify as “religious beliefs” under Title VII.



The sincerity of an employee’s stated religious beliefs also is not usually in dispute. The employee’s sincerity in holding a religious belief is “largely a matter of individual credibility.” Factors that – either alone or in combination – might undermine an employee’s credibility include: whether the employee has acted in a manner inconsistent with the professed belief (although employees need not be scrupulous in their observance); whether the accommodation sought is a particularly desirable benefit that is likely to be sought for nonreligious reasons; whether the timing of the request renders it suspect (e.g., it follows an earlier request by the employee for the same benefit for secular reasons); and whether the employer otherwise has reason to believe the accommodation is not sought for religious reasons.

The employer may ask for an explanation of how the employee’s religious belief conflicts with the employer’s COVID-19 vaccination requirement. Although prior inconsistent conduct is relevant to the question of sincerity, an individual’s beliefs – or degree of adherence – may change over time and, therefore, an employee’s newly adopted or inconsistently observed practices may nevertheless be sincerely held. An employer should not assume that an employee is insincere simply because some of the employee’s practices deviate from the commonly followed tenets of the employee’s religion, or because the employee adheres to some common practices but not others. No one factor or consideration is determinative, and employers should evaluate religious objections on an individual basis.

When an employee’s objection to a COVID-19 vaccination requirement is not religious in nature,

Continued on Next Page

Continued From page 13

or is not sincerely held, Title VII does not require the employer to provide an exception to the vaccination requirement as a religious accommodation.

How does an employer show that it would be an “undue hardship” to accommodate an employee’s request for religious accommodation?

Under Title VII, an employer should thoroughly consider all possible reasonable accommodations, including telework and reassignment. In many circumstances, it may be possible to accommodate those seeking reasonable accommodations for their religious beliefs, practices, or observances without imposing an undue hardship.

If an employer demonstrates that it is unable to reasonably accommodate an employee’s religious belief without an “undue hardship” on its operations, then Title VII does not require the employer to provide the accommodation. The Supreme Court has held that requiring an employer to bear more than a “de minimis,” or a minimal, cost to accommodate an employee’s religious belief is an undue hardship. Costs to be considered include not only direct monetary costs but also the burden on the conduct of the employer’s business – including, in this instance, the risk of the spread of COVID-19 to other employees or to the public.

Courts have found Title VII undue hardship where, for example, the religious accommodation would impair workplace safety, diminish efficiency in other jobs, or cause coworkers to carry the accommodated employee’s share of potentially hazardous or burdensome work.

An employer will need to assess undue hardship by considering the particular facts of each situation and will need to demonstrate how much cost or disruption the employee’s proposed accommodation would involve. An employer cannot rely on speculative hardships when faced with an employee’s religious objection but, rather, should rely on objective information. Certain common and relevant considerations during the COVID-19 pandemic include, for example, whether the employee requesting a religious accommodation to a COVID-19 vaccination requirement works outdoors or indoors, works in a solitary or group work setting, or has close contact with other employees or members of the public (especially

medically vulnerable individuals). Another relevant consideration is the number of employees who are seeking a similar accommodation (i.e., the cumulative cost or burden on the employer).

If an employer grants some employees a religious accommodation from a COVID-19 vaccination requirement because of sincerely held religious beliefs, does it have to grant the requests of all employees who seek an accommodation because of sincerely held religious beliefs?

No. The determination of whether a particular proposed accommodation imposes an undue hardship on the conduct of the employer’s business depends on its specific factual context. When an employer is assessing whether exempting an employee from getting a vaccination would impair workplace safety, it may consider, for example, the type of workplace, the nature of the employee’s duties, the number of employees who are fully vaccinated, how many employees and nonemployees physically enter the workplace, and the number of employees who will in fact need a particular accommodation. A mere assumption that many more employees might seek a religious accommodation to the vaccination requirement in the future is not evidence of undue hardship, but the employer may take into account the cumulative cost or burden of granting accommodations to other employees.

Must an employer provide the religious accommodation preferred by an employee if there are other possible accommodations that also are effective in eliminating the religious conflict and do not cause an undue hardship under Title VII?

No. If there is more than one reasonable accommodation that would resolve the conflict between the vaccination requirement and the sincerely held religious belief without causing an undue hardship under Title VII, the employer may choose which accommodation to offer. If more than one accommodation would be effective in eliminating the religious conflict, the employer should consider the employee’s preference but is not obligated to provide the reasonable accommodation preferred by the employee. If the employer denies the employee’s proposed accommodation, the employer should explain to the employee why the preferred accommodation is not being granted.