

EEOC Issues New Guidance Regarding Religious Accommodations for COVID-19 Vaccine Mandates

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The U.S. Equal Employment Opportunity Commission (EEOC) has issued new FAQs addressing requests for religious exemptions to COVID-19 vaccine mandates in the workplace. The EEOC established in December 2020 that employers may require employees to be vaccinated against COVID-19, subject to the obligation to consider requests for disability and religious accommodations. The following is a summary of the new advice:

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?

Employees are required to tell their employer if they are requesting a religious exemption to a COVID-19 vaccination requirement, but they do not have to use any “magic words.” The EEOC has provided an example of its own internal religious accommodation **request form**.

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?

An employer should assume that a request for religious accommodation is based on sincerely held religious beliefs. However, if there is an objective basis for questioning the sincerity or religious nature of a particular belief, the employer would be justified in making a limited factual inquiry and seeking additional supporting information. Objections that are based on social, political, or personal preferences, or on nonreligious concerns about possible side effects, do not qualify as religious beliefs.

Factors that may undermine an employee’s credibility include whether the employee has acted in a manner inconsistent with the belief, whether the accommodation is particularly desirable and likely to be sought for nonreligious

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reasons, whether the timing of the request renders it suspect (e.g., it follows an earlier request by the employee for the same accommodation for secular reasons), and whether the employer otherwise has reason to believe the accommodation is not sought for religious reasons.

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

Requiring an employer to bear more than a minimal cost to accommodate an employee’s religious belief is an undue hardship, including the risk of the spread of COVID-19 to other employees or the public. Safety considerations during the COVID-19 pandemic include whether the employee works outdoors or indoors, works in a solitary or group setting, or has close contact with other employees or members of the public, especially medically vulnerable individuals. Employers may also consider the number of employees seeking a similar accommodation.

If an employer grants some employees a religious accommodation, does it have to grant the requests of all employees?

No. Whether a proposed religious accommodation imposes an undue hardship on the employer is determined on a case-by-case basis, depending on factors such as the employee’s duties, the type of workplace, how many people physically enter the workplace, and the number of employees who are fully vaccinated.

Must an employer provide the religious accommodation preferred by an employee?

No. If there is more than one reasonable accommodation available, the employer may choose which one to offer.

If an employer grants a religious accommodation to an employee, can it later reconsider?

Yes. The obligation to provide religious accommodations takes into account changing circumstances. An employer has the right to discontinue a previously granted accommodation if it is no longer used for religious purposes or if it subsequently poses an undue hardship on the employer’s operations.

The full list of FAQs can be found [here](#).

If you have any questions, please contact **Rebecca Green** or **Darrelle Field**.