
EEOC Issues Additional Guidance for Employers on Religious Objections to Employer COVID-19 Vaccine Mandates

October 2021

The Equal Employment Opportunity Commission (EEOC) on October 25, 2021, issued updated guidance for employers on COVID-19 vaccine employer mandates and applicability of various equal employment opportunity laws, including religious objections under Title VII of the Civil Rights Act of 1964 (Title VII).

The key updates to the guidance are summarized below:

- Employees and applicants must inform their employers if they seek an exception to an employer's COVID-19 vaccine mandate due to a sincerely held religious belief, practice, or observance. Employers should provide information about whom to contact and the procedures to use (if any) to request a religious accommodation.
- 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 vaccine mandate.
- The definition of "religion" under Title VII protects nontraditional religious beliefs that may be unfamiliar to employers. 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 about the accommodation request. An employer may ask for an explanation of how the employee's religious belief conflicts with the employer's COVID-19 vaccine mandate and should evaluate religious objections on an individual basis.
- The EEOC guidance notes, "The employee's sincerity in holding a religious belief is 'largely a matter of individual credibility.'" Factors that might undermine the credibility or sincerity of an employee's religious beliefs include:
 - Whether the employee has acted in a manner inconsistent with the professed belief (but because beliefs can change over time, a newly adopted or inconsistently observed practice may nevertheless be sincerely held);
 - 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.
- Employers that demonstrate “undue hardship” are not required to accommodate an employee’s request for a religious accommodation. An undue hardship means more than a de minimis cost would be imposed on the employer — including monetary costs and the burden on the conduct of the employer’s business (including the risk of the spread of COVID-19 to other employees or the public). The assessment of undue hardship requires consideration of the facts in each situation, but an employer can consider the cumulative cost or burden of granting accommodations to other employees.
- An employer is not required to grant the employee’s preferred accommodation if there is more than one accommodation that would resolve the conflict between the vaccine mandate and the sincerely held religious belief. Additionally, an accommodation that has been granted can later be reconsidered to take into account changing circumstances.

The EEOC guidance only addresses the application of equal employment opportunity laws to COVID-19 vaccine employer mandates. Employers will have to review their COVID-19 vaccine mandates for compliance with other laws, such as HIPAA, ERISA, and applicable state and local laws.

Resources

A news release on the guidance is available [here](#).

The guidance can be found on the EEOC’s website, Sections K and L, available [here](#).



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