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EEOC Issues Guidance for Employers on Handling Religious Accommodations to Vaccine Mandates

Federal OSHA recently published its Emergency Temporary Standard (ETS) requiring certain private employers to adopt mandatory vaccination and/or COVID testing policies. Considering the ETS and other local/state vaccine mandates, we expect the number of employees submitting requests for religious accommodations to workplace vaccine mandates to only increase.

The Equal Employment Opportunity Commission (EEOC) issued new [guidance](#) for handling these religious exemptions to COVID-19 workplace vaccination mandates (See [Section L, Vaccinations – Title VII and Religious Objections to COVID-19 Vaccine Mandates](#)). The handling of an employee’s request for an accommodation for a religious exemption generally goes as follows:

1. The employee notifies their employer that they are requesting an exemption to the COVID-19 vaccination requirement.

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

As a best practice, employers should submit their request in writing. Employers should provide employees and applicants with information about whom to contact, and the procedures (if any) to use, to request a religious accommodation.

2. Employer reviews the request for an accommodation.

An employer should generally assume that a request for religious accommodation is based on sincerely held religious beliefs. *If* an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief, employers should consider the following specific factors:

- (1) whether the employee has behaved in a manner markedly inconsistent with the professed belief;
- (2) whether the accommodation sought is a particularly desirable benefit that is likely to be sought for secular reasons
- (3) 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

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- (4) whether the employer otherwise has reason to believe the accommodation is not sought for religious reasons.

Additional information may be requested from the employee as part of the interactive process, but as always we recommend consulting with employment counsel before requesting additional documentation.

3. Determine if there is a reasonable accommodation to grant the employee's request.

Similar to other accommodation requests (e.g., disability accommodations), employers are required to grant an employee's requests for accommodation unless doing so would cause an "undue hardship" on the property. To assess whether allowing an exemption from the COVID-19 vaccine is an undue hardship, employers must consider the specific facts of each situation and demonstrate how much cost or disruption the accommodation would involve.

An employer cannot rely on speculative hardships when faced with an employee's religious objection. Employers may only consider objective factors, including but not limited to the following:

- whether the employee works outdoors or indoors;
- whether the employee works in a solitary or group work setting, or has close contact with other employees or members of the public (especially medically vulnerable individuals);
- whether exempting an employee from vaccination would impair workplace safety;
- the number of employees who are seeking a similar accommodation (i.e., the cumulative cost or burden on the employer);
- whether the religious accommodation would diminish efficiency in other jobs;
- whether the accommodation would cause coworkers to carry the accommodated employee's share of potentially hazardous or burdensome work.

As always, COVID-19 guidance is evolving, and lawsuits related to the denial of accommodations are increasing. As a best practice, employers should handle these requests carefully, document the process in writing, and consult counsel if they have any concerns.

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