

HR COMPLIANCE OVERVIEW

Employer Best Practices for Religious Accommodations

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal equal employment opportunity (EEO) laws, including Title VII of the Civil Rights Act (Title VII). Title VII requires employers to provide reasonable accommodations for an employee's and applicant's sincerely held religious beliefs. Failure to provide reasonable accommodations can have significant consequences for employers, including costly litigation and claims and decreased employee morale.

Some best practices employers may implement to comply with their religious accommodations requirements include:

- Establishing a written religious accommodations policy;
- Training managers and supervisors;
- Recognizing when a request for a reasonable accommodation has been made;
- Engaging in the interactive process;
- Creating records of the accommodation process;
- Considering undue hardship; and
- Selecting a reasonable accommodation.

LINKS AND RESOURCES

- EEOC religious discrimination [overview](#)
- EEOC [fact sheet](#) on religious accommodations
- EEOC religious discrimination [compliance manual](#)

Highlights

Employers that fail to accommodate an individual's religious belief or practice may be subject to penalties and litigation. Some best practices for accommodating religious beliefs include:

- Establishing a written policy;
- Training managers and supervisors;
- Recognizing requests for accommodations;
- Engaging in the interactive process;
- Creating records of the accommodation process;
- Considering undue hardship; and
- Selecting a reasonable accommodation.

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Title VII Religious Accommodations Overview

Title VII requires most private employers with **15 or more employees** for each working day in each of 20 or more calendar weeks in the current or preceding calendar year (other than certain religious corporations, associations, educational institutions or societies with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities) to provide **reasonable accommodations** for an employee's or applicant's sincerely held religious belief, observance or practice, unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment allowing the employee to practice their religion. Examples of religious accommodations include but are not limited to:

- Flexible scheduling to accommodate religious obligations and observance;
- Voluntary shift substitutions or swaps;
- Job reassignments;
- Lateral transfers;
- Permitting employees to engage in religious expression at work; and
- Exceptions to dress or grooming rules (e.g., allowing employees to wear a cross necklace, hijab, turban, yarmulke or kippah, abaya, or ash mark, or to have facial hair or carry a kirpan).

Employers are also prohibited from refusing to hire, terminating or otherwise discriminating as to any term or condition of employment because someone may need a religious accommodation that could be provided without undue hardship. Employers are also prohibited from retaliating against an individual for seeking an accommodation or otherwise asserting their rights under the law.

Enforcement and Penalties

Individuals alleging violations of Title VII's religious accommodation requirements may file a charge of discrimination with the EEOC. If there is a local or state law similar to Title VII, individuals may be required to file a charge with the state or local agency that enforces the law, and the EEOC may work with the agency to investigate and resolve the charge. Under Title VII, individuals have **180 days** from the date the alleged violation occurred to file a charge with the EEOC. The filing deadline is extended to **300 days** if a state or local agency enforces a state or local law similar to Title VII. Individuals must file an EEOC charge before filing a lawsuit in federal court.

If a court determines that an employer violated Title VII, the employer may be subject to the following penalties:

- Injunctive relief;
- Back pay;
- Reinstatement or front pay;
- Compensatory and punitive damages; and
- Attorney fees and costs.

Employer Best Practices for Religious Accommodations

Establish a Clear Accommodation Policy

As an initial step, employers should ensure a clear, fair and consistent written religious accommodation policy. Employers may consider including the following:

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- A definition of religion and religious beliefs;
- A description of the accommodation process, including:
 - How to request an accommodation;
 - Documentation an employer may request; and
 - Examples of common reasonable accommodations;
- Clarification that not all accommodations requested may be granted if they impose an undue hardship on the business; and
- A statement that retaliation for needing or requesting a religious accommodation is prohibited.

In general, the policy should note that all accommodations will be made on a case-by-case basis. Employers should generally avoid making any written guarantees of accommodations in any policy, as the reasonableness of any given accommodation will likely depend on the position in question and related business considerations.

Conduct Training

Employers may also consider training managers and supervisors on their responsibilities under Title VII's religious accommodation requirements. Such training can provide guidance on how to identify requests for a reasonable accommodation, steps to take after receiving an accommodation request, creating appropriate documentation and how to ensure managers and supervisors do not discriminate against individuals based on their need for religious accommodations.

Recognize Requests for Reasonable Accommodations

To request a reasonable accommodation, employees and applicants are not required to use specific words or make the request in any particular format (e.g., a written request). In most cases, an employee or applicant will notify the employer of their need for an accommodation based on a conflict between the individual's religious belief or practice and their work duties or workplace rules. Less typically, even without receiving a clear request for an accommodation, an employer may be on notice that an individual's religious observance or practice conflicts with a work policy and that an accommodation may be needed. In each case, an employer must provide a reasonable accommodation unless doing so would impose an undue hardship.

To simplify the process, employers may consider providing an accommodation request form that employees may use to submit accommodation requests. Employers may consider either a written or electronic form and may include requests for a description of the requested accommodation and the reason for the accommodation (i.e., the specific religious belief, practice or observation) along with basic information about the employee.

Engage in the Interactive Process

Unlike requests for reasonable accommodations for an individual's disability under the Americans with Disabilities Act or for an individual's pregnancy, childbirth or related medical condition under the Pregnant Workers Fairness Act, requests for religious accommodations under Title VII do not **require** employers to engage in the interactive process before making a determination with respect to a religious accommodation. However, the EEOC recommends that employers engage in the interactive process prior to making a determination with respect to a request for a religious accommodation.

To make a reasonable accommodation, an employer generally needs enough information to be aware of the existence of a conflict between the applicant's or employee's religious observance, practice, or belief and a job requirement. If the employer reasonably needs more information, the employer may request such information during the interactive process

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(which is generally a discussion between the parties to determine an effective accommodation). For example, if an employee requests a schedule change to accommodate daily prayers, an employer may request additional information about such practice, such as the time and duration of the prayers.

Sometimes, an employer may doubt the sincerity of an individual's religious belief or practice or whether it requires an accommodation. In this case, the employer may make a limited inquiry into the facts and circumstances of the employee's claim that the belief or practice at issue is religious and sincerely held and gives rise to the need for the accommodation. However, the employer may not require this information to take any particular form and may not reject less conventional religious beliefs as insincere. For example, if an employer requests third-party verification, such verification does not need to come from a clergy member or fellow congregant, but by another individual who has knowledge of the employee's religious practice or belief. However, employers should be careful when making such requests, as employers who request unnecessary or excessive information could be held liable for denying a reasonable request or engaging in retaliation or harassment.

Create and Maintain Records of the Request and Accommodation Process

As soon as an employer receives an accommodation request or becomes aware of an individual's need for an accommodation, the employer should create a written record. The documentation should include all relevant information regarding the request, including the conflict between the employee's sincerely held religious beliefs and work rules, any written or verbal interactions with the employee to discuss the accommodation, any documentation in support of the employee's request, any approved or denied accommodations and the reason for such approval or denial.

Consider Undue Hardship

Under Title VII, employers may refuse to provide a reasonable accommodation if it would impose an undue hardship on the employer. A 2023 U.S. Supreme Court decision held that showing more than a de minimis cost does not establish undue hardship under Title VII. Instead, undue hardship is shown when a burden is **substantial in the overall context of an employer's business**, taking into account all relevant factors, including the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of an employer. Such evaluation should be done on a case-by-case basis.

Employers may consider any burden on the conduct of the employer's business, not just monetary costs. Potential burdens that could impose an undue hardship include diminished efficiency in other jobs, infringement on other employees' job rights or benefits, impairment of workplace safety or requiring coworkers to carry the accommodated employee's share of potentially hazardous or burdensome work. For example, if a manufacturing employer requires employees to wear pants for safety reasons, a request by an individual to wear a skirt due to their religious practices may impose an undue hardship on the employer. However, mere resentment by other employees for perceived "special treatment" and customer preference may not be considered an undue hardship.

Select a Reasonable Accommodation

Employers are not required to provide an employee their preferred accommodation if there is more than one effective alternative to choose from. However, employers should generally consider the employee's proposed accommodation and, if it is denied, explain to the employee why their proposed accommodation was not granted. Additionally, if a particular accommodation would impose an undue hardship on an employer, the employer should consider any other effective accommodations that would not cause an undue hardship rather than rejecting the request outright.

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In general, an accommodation is considered reasonable if it eliminates the conflict between religion and work. However, if all accommodations that would eliminate the conflict impose an undue hardship on the employer, the employer should still reasonably accommodate the individual's religious belief or practice to the extent it can do so without suffering an undue hardship. Finally, employers should generally grant requests for religious accommodations if they grant the same or similar requests for nonreligious reasons (such as accommodations for an individual's disability).

Employer Takeaways

To avoid potential costly and time-consuming claims and litigation and to promote an inclusive workplace, employers should ensure their practices comply with Title VII's religious accommodation requirements. Employers may implement the best practices outlined in this Compliance Overview to mitigate the risk of failing to accommodate an individual's sincerely held religious beliefs or practices.