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# EEOC COVID-19 Vaccine Mandate FAQ Updates Address Religious Objections

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The EEOC again updated its COVID-19 vaccination Frequently Asked Questions (FAQs) – this time to address several issues surrounding employees’ religious objections to vaccines. Under EEO laws, employees can request an exception from an employer’s mandatory vaccination policy if the vaccination requirement conflicts with the employee’s sincerely held religious belief, practice, or observance (“religious beliefs”). An employer need not accommodate the employee’s religious beliefs if doing so would cause an undue hardship on its operations. Personal, political or social views regarding vaccinations are not “religious beliefs” entitled to reasonable accommodations.

## **Burden on Employee**

Employees must notify their employer about the need for a religious exemption but are not required to use any “magic words” such as the word “accommodation.” Employees seeking an exemption may be asked to explain the religious nature of their beliefs and how those beliefs conflict with the vaccine policy.

## **Sincerely Held Religious Beliefs**

The EEOC directs employers to assume that a request for a religious accommodation is based upon an employee’s sincerely held belief. The sample Religious Accommodation Request Form published by the EEOC simply asks an employee to:

- Identify the employer’s requirement, policy or practice that conflicts with the employee’s sincerely held religious beliefs;
- Describe the nature of the sincerely held religious belief;
- Set forth the accommodation requested; and

- Describe any alternatives that would eliminate the conflict between the policy and the religious belief.

The FAQs indicate that employers should only ask for supporting documentation (e.g., documentation from a clergyman or spiritual advisor) or make supplemental inquiries beyond the above questions where an employer has an objective basis for questioning the religious nature or sincerity of the employee's belief.

The EEOC cites factors that may undermine an employee's credibility and, thus, provide an employer with an objective basis to ask for additional information or documentation. These factors include, but are not limited to:

- The employee acting in a manner inconsistent with the professed belief;
- The accommodation being a particularly desirable benefit that is likely to be sought for non-religious reasons;
- The timing of the request following the employee's request for an exception to the policy for non-religious reasons; and
- The employer having reasons to otherwise believe the requested accommodation is not for religious reasons.

While an employee's prior inconsistent conduct with a religious belief is relevant to his or her sincerity in that belief, the FAQs note that an employee's religious beliefs and adherence may change over time. Simply because an employee adheres to some religious tenets and not others does not automatically mean the employee's beliefs requiring accommodation are insincere.

### **Undue Hardship**

Employers need not provide a religious accommodation that causes an undue hardship on its operations. Requiring an employer to expend more than a "de minimus" (or minimal) cost would cause an undue hardship. When evaluating this burden, an employer should consider direct and indirect monetary costs as well as other non-monetary burdens such as diminishing workplace safety and efficiency and causing other employees to take on a greater share of hazardous or burdensome work. The FAQs recognize that the risk

of spreading COVID-19 to other employees and the public can factor into an undue hardship analysis.

In light of the EEOC's updated guidance, employers should:

- Proceed carefully when questioning the sincerity of an employee's religious belief; and
- Exactingly evaluate the burdens, including safety risks, caused by proposed exemptions to mandatory vaccine policies.

Employers would be wise to consult with counsel before refusing to grant a religious exemption to a mandatory vaccine policy.

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