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EEOC Issues Expanded Guidance on Religious Objections to COVID-19 Vaccine Mandates

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On October 25, 2021, the US Equal Employment Opportunity Commission (EEOC) updated and expanded its technical assistance related to the COVID-19 pandemic by addressing questions regarding vaccine mandates and religious accommodations at a time when COVID-19 vaccination mandates are becoming more widespread. This expanded technical assistance provides important information for employers, employees, and applicants when navigating vaccine-related religious accommodation requests.

The EEOC enforces Title VII of the Civil Rights Act of 1964 (“Title VII”), which prohibits employment discrimination based on religion. Title VII provides a right for applicants and employees to request religious accommodation from employer requirements that conflict with their sincerely held religious beliefs, practices, or observances. If an employer can show that a religious accommodation would cause an undue hardship on its operations, the employer is not required to grant the accommodation.

The EEOC's expanded technical assistance addresses key questions related to Title VII's religious accommodation requirements, including the following:

- How an employee or applicant may request a religious accommodation;
- The process required of the employer when determining whether a religious accommodation request is protected under Title VII;
- Documentation that may be requested from an applicant or employee by an employer to assist the employer when it considers the religious accommodation request;
- What would constitute an “undue hardship” on an employer when refusing to accommodate an employee's request for religious accommodation; and
- Whether an employer must grant all employees a religious accommodation from a COVID-19 vaccination requirement if it grants some employees a religious accommodation.

Employers should carefully review on a case-by-case basis all requests for religious accommodation from COVID-19 vaccination mandates. Such requests must be based upon the employee's sincerely held religious belief as opposed to an employee's political, social, economic, or personal

views, which are not protected under Title VII. According to the EEOC, an employer should assume that a religious belief is sincerely held unless it has an objective basis for questioning the sincerity of a particular belief. Under these circumstances, an employer is justified in making a reasonable request for documentation supporting the employee's religious request. An employee who refuses to comply with the reasonable documentation request risks losing any subsequent claim that the employer improperly denied an accommodation.

If the accommodation request is based upon a sincerely held religious belief, the employer must grant an accommodation unless it can demonstrate that granting the accommodation would cause an “undue hardship” to the employer's operations, which must amount to a “significant difficulty or expense.” Simple inconvenience or “*de minimus* cost” is not be enough to prove an undue hardship.

In conclusion, it is important that employers carefully consider all religious accommodation requests on a case-by-case basis. Do not deny requests for religious accommodation based on assumptions about the employee's lack of sincerity or simply because the employee is not a member of an organized religion. The EEOC's technical assistance should be reviewed when considering any religious accommodation requests. Employers should also be aware that there may be additional federal, state, and local COVID-19 vaccination mandates which may impose additional requirements upon applications, employees, or employers when a religious accommodation is requested.

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