

RELIGIOUS ACCOMMODATIONS

Title VII of the Civil Rights Act of 1964 (“Title VII”) requires an employer, once on notice, to reasonably accommodate an employee whose sincerely held religious belief, practice, or observance conflicts with a work requirement, unless providing the accommodation would create an undue hardship.

Under Title VII, the **undue hardship defense** to providing religious accommodation requires a showing that the proposed accommodation in a particular case poses a **“more than *de minimis*”** cost or burden.

Religious Accommodations

A reasonable religious accommodation is **any adjustment to the work environment** that will allow the employee to **comply with his or her religious beliefs**. However, it is subject to the limit of more than *de minimis* cost or burden.

The need for religious accommodation most frequently arises where an individual’s religious beliefs, observances, or practices **conflict with a specific task or requirement of the job or the application process**.

Duty to Accommodate

The employer’s duty to accommodate will usually entail making a special exception from, or adjustment to, the particular requirement so that the employee or applicant will be able to practice his or her religion. Accommodation requests often relate to work schedules, dress and grooming, or religious expression or practice while at work.

Accommodation Process

1. Notify the Supervisor/Manager

- a. An applicant or employee who seeks religious accommodation **must make the employer (supervisor/manager) aware** both of the need for accommodation and that it is being requested due to a conflict between religion and work.
 - i. No “magic words” are required to place an employer on notice of an applicant’s or employee’s conflict between religious needs and a work

requirement. To request an accommodation, an individual may use plain language and need not mention any particular terms such as “Title VII” or “religious accommodation.”

- b. Employees should provide enough information to enable the employer **(supervisor/manager)** to understand what accommodation is needed, and why it is necessitated by a religious practice or belief, and cannot assume that the employer will already know or understand it.
 - c. Similarly, the employer should not assume that a request is invalid simply because it is based on religious beliefs or practices with which the employer is unfamiliar, **but should ask the employee to explain the way in which it conflicts with a work requirement.**
- 2. Obtain Information**
- a. **Obtain the information needed to make a decision. Inquire precisely what change is sought and for what purpose.** Once the employer becomes aware of the employee’s religious conflict, the employer should obtain promptly **whatever additional information** is needed to determine whether an accommodation is available that would **eliminate the religious conflict without posing an undue hardship** on the operation of the employer’s business.
 - b. Employer-employee cooperation and flexibility are key to the search for a reasonable accommodation.
- 3. Discuss the Request**
- a. **The employer should discuss the request with the employee to determine what accommodations might be effective.** If the employer requests additional information reasonably needed to evaluate the request, the employee should provide it.

Undue Hardship

An employer can refuse to provide a reasonable accommodation if it would pose an undue hardship. Undue hardship may be shown if the accommodation would impose “more than *de minimis* cost” on the operation of the employer’s business.

Costs to be considered include not only direct monetary costs but also the burden on the conduct of the employer’s business.

The *de minimis* undue hardship standard refers to the legal requirement. As with all aspects of employee relations, employers can go beyond the requirements of the law and should be flexible in evaluating whether or not an accommodation is feasible.

Co-Worker Complaints

Although infringing on co-workers' ability to perform their duties or subjecting co-workers to a hostile work environment will generally **constitute undue hardship**, the **general disgruntlement, resentment, or jealousy of co-workers will not**.

Undue hardship **requires more than proof that some co-workers complained**; a showing of undue hardship based on co-worker interests generally requires evidence that the accommodation would **actually infringe on the rights of co-workers** or cause disruption of work.

Common Methods of Accommodation in the Workplace

An employer may be able to reasonably accommodate an employee by:

- **Scheduling Changes**
 - Allowing flexible arrival and departure times, floating or optional holidays, flexible work breaks, use of lunch time in exchange for early departure, staggered work hours, and other means to enable an employee to make up time lost due to the observance of religious practices.
 - Employers should work with employees who need an adjustment to their work schedule to accommodate their religious practices.
 - Employers should consider adopting flexible leave and scheduling policies and procedures that will often allow employees to meet their religious and other personal needs. Such policies can reduce individual requests for exceptions. For example, some employers have policies allowing alternative work schedules and/or a certain number of “floating” holidays for each employee. While such policies may not cover every eventuality and some individual accommodations may still be needed, the number of such individual accommodations may be substantially reduced.
- **Voluntary Substitutes and Shift Swaps**
 - The employer's obligation is to make a good faith effort to allow voluntary substitutions and shift swaps, under circumstances which do not discourage employees from substituting for one another or trading shifts to accommodate a religious conflict. However, if the employer is on notice that the employee's religious beliefs preclude him not only from working on his Sabbath but also from inducing others to do so, reasonable accommodation requires more than merely permitting the employee to swap.
 - An employer should facilitate and encourage voluntary substitutions and swaps with employees of substantially similar qualifications by publicizing its policy permitting such arrangements, promoting an atmosphere in which substitutes are favorably regarded, and providing a central file, bulletin board, group e-mail, or other means to help an employee with a religious conflict find a volunteer to substitute or swap.

- **Change of Job Tasks and Lateral Transfer**
 - The employee should be accommodated in his or her current position if doing so does not pose an undue hardship. If no such accommodation is possible, the employer needs to consider whether lateral transfer is a possible accommodation. However, an employer should only resort to transfer, whether lateral or otherwise, after fully exploring accommodations that would permit the employee to remain in his position.
- **Modifying Workplace Practices, Policies and Procedures**
 - Employers should be flexible and creative regarding work schedules, work duties, and selection procedures to the extent practicable.
 - Dress and Grooming Standards
 - Use of Employer Facilities
 - Tests and Other Selection Procedures

Adapted from U.S. Equal Employment Opportunity Commission (EEOC) guidance. <https://www.eeoc.gov/>