

RELIGIOUS OBJECTIONS TO MANDATED COVID-19 VACCINES: CONSIDERATIONS FOR EMPLOYERS

Insights
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Editor's Note: Due to the significant developments that have occurred with respect to vaccine mandates and religious accommodation requests in recent weeks and months, we have crafted an updated version of this Insight – including a three-step guide for employers responding to religious objections – [that can be found here](#).

Given the significant impact that the pandemic has had on workplaces, and with the rollout of COVID-19 vaccines, many employers are considering whether to impose mandatory vaccination policies. Recently, the U.S. Equal Employment Opportunity Commission (EEOC) [clarified in its updated guidance that employers may be able to mandate the COVID-19 vaccine among their employees in certain circumstances without running afoul of key federal anti-discrimination laws](#). This does not necessarily mean that you can force all your workers to get COVID-19 shots, as there are numerous issues you will face if you choose to mandate vaccinations. One such issue is an employee's refusal to get the vaccine based on their sincerely held religious beliefs.

The EEOC says you must provide a reasonable accommodation if an employee's sincerely held religious belief, practice, or observance prevents them from receiving the vaccination – unless the accommodation would pose an undue hardship under Title VII of the Civil Rights Act of 1964. Consequently, like other mandatory vaccination programs (e.g. flu shots), any employer-mandated COVID-19 program will have to allow for religious accommodations. With that

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basic understanding in mind, let's take a closer look at Title VII's religious accommodation standards, as employee objections to COVID-19 shots may become an increasingly common scenario for employers in the days to come. We'll also provide seven suggestions to ensure you comply with the law while adopting best practices.

Service Focus

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Workplace Religious Exemptions Under Title VII

In a nutshell, Title VII requires employers to provide exemptions and accommodations for employees who raise objections to receiving employer-mandated vaccines based on their sincerely held religious beliefs.

Sincerely Held Religious Belief

The EEOC, which enforces Title VII, uses a very broad definition of "religion." It goes beyond membership in a church or belief in God, and includes firmly and sincerely held moral or ethical beliefs. For instance, an employee's objection to an employer's policy or practice could be based on a moral belief against receiving certain chemicals in the body.

Questioning An Employee's Sincerely Held Religious Belief

You should normally assume that an employee's request for religious accommodation is based on a sincerely held religious belief. However, if you have an objective basis for questioning either the religious nature or the sincerity of a particular belief, practice, or observance, you can request additional supporting information from the employee. This is a sensitive area of the law and employers should not haphazardly question an employee or unilateral contact an employee's place of worship. We suggest coordinating with legal counsel before taking any steps in this regard. If you have an objective basis for questioning an employee's beliefs, the employee may substantiate their belief in a variety of forms, including written materials and the employee's own personal explanation.

Denying A Religious Accommodation Request Because Of Undue Hardship

Employers must provide a reasonable accommodation if an employee's sincerely held religious belief, practice, or observance prevents them from receiving the vaccination – unless it would pose an undue hardship under Title VII. To

prove undue hardship, you must show that the proposed accommodation would cause more than a minimal cost or burden on the operations of your business.

For instance, an accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their share of potentially hazardous or burdensome work. Note that this is a lower standard for an employer to meet than undue hardship under the Americans with Disabilities Act (ADA) which is defined in that statute as "significant difficulty or expense."

Religious Accommodation Considerations With A Mandatory COVID-19 Vaccination Program

If you decide to mandate the COVID-19 vaccine, you will likely start to see an increase in accommodation requests based on religious beliefs, so you should begin to consider what reasonable accommodations you can offer to employees. Depending on your work environment (office setting vs. manufacturing floor), these accommodations might include continued mask wearing, social distancing, and remote working.

Other accommodations might be isolation of an employee to a particular work area or a modification to an employee's work schedule to reduce interaction with other employees and/or customers. Regardless of the accommodation measure chosen, you should ensure they are legitimate and non-retaliatory.

Steps You Can Take Before And After An Employee Makes A Religious Accommodation Request

1. Review your religious accommodation policies with management and supervisory personnel.
2. Train your managers and supervisors on how to (a) spot a religious accommodation request; (b) respond to a request; and (c) forward the request to the necessary human resources personnel.
3. Begin to consider what types of accommodations might be possible for your work environment.
4. Appoint a religious accommodation liaison to ensure consistent treatment of accommodation requests.

5. Engage in an interactive process with each employee to determine if, and what, reasonable accommodation can be made.
6. Require employees to complete and sign a [Religious Accommodation Request form](#), which explains the overall nature and scope of the employee's opposition to the vaccine.
7. Document the entire interactive process, including the reason for any denial if an accommodation cannot be made.

Conclusion

With these issues in mind, you should evaluate your own industry, workplace environment, and culture in determining whether a mandatory COVID-19 vaccination program makes sense for your workforce. By ensuring you are familiar with the area of law involving reasonable accommodations for those who may refuse because of religious beliefs, you can ensure you minimize the chances of workplace disputes and litigation.

We will continue to monitor developments related to the COVID-19 vaccines and related workplace questions that arise. Make sure you are subscribed to [Fisher Phillips' alert system](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact the authors, your Fisher Phillips attorney, or any attorney on our [FP Vaccine Subcommittee](#).

This Legal Alert provides an overview of developing workplace issues. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.