

7 EMPLOYER TAKEAWAYS FROM EEOC'S LATEST VACCINE GUIDANCE ON RELIGIOUS ACCOMMODATIONS

Insights

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The U.S. Equal Employment Opportunity Commission (EEOC) just updated [its online COVID-19 technical guidance](#) to further explain its position regarding religious objections to employer COVID-19 vaccination requirements, specifically relating to Title VII of the Civil Rights Act of 1964. The Commission's guidance, which is consistent with [Insights](#) and [analyses](#) that we published earlier this year, focuses on questions that arise when applicants or employees seek exemptions or accommodations from vaccine requirements. The seven key points from the EEOC's October 25 update are:

1. Title VII does not require you to exempt employees from vaccine requirements for their political, social, or economic reasons, which are not "religious beliefs."
2. For an employer to be required to consider religious possible exemptions or accommodations, the applicant or employee must inform you by making a request. No "magic words" are required to ask for an accommodation, however.
3. Once you receive a request based on a religious belief or practice, you should assume that it is sincerely held, unless you have an "objective basis" for questioning either the religious nature or sincerity of the belief. You may also ask how your company's vaccine requirement conflicts with the individual's religious beliefs or practices and employees requesting accommodation must respond. The EEOC has also published [the form it is using](#)

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[internally to evaluate religious-based accommodation requests from its employees.](#)

4. [As we have noted before](#), even though prior inconsistent conduct may raise a question regarding the sincerity of a person's belief or practice, the EEOC recognizes that beliefs may change over time. Thus, a request may be "sincere" even if an individual acted inconsistently with a certain belief in the past.
5. Most assessments of religious accommodation requests will likely hinge on whether or not they would cause your business an "undue hardship." At this stage, the EEOC says that you may consider not only costs, but also "the risk of the spread of COVID-19 to other employees or to the public."
6. You should consider each request on the basis of "its specific factual context." Thus, granting (or denying) one request does not necessarily mean that another request would result in the same result.
7. Significantly, although an assumption that many more employees may seek a religious accommodation in the future is *not* evidence of an undue hardship, the EEOC recognizes that you may need to "take into account the cumulative cost or burden of granting accommodations" to many other employees.

Again, this guidance does not appear to require changes to any workplace policies or practices that are consistent with [our previous discussions of these issues](#). The guidance does, however, underscore the importance of *having effective policies in place – including practices that inform applicants and employees how to request a religious accommodation* – and ensuring effective training of company representatives who implement those policies.

We will continue to monitor any developments regarding this area and provide updates as warranted. Make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information. If you have questions, visit our [Vaccine Resource Center for Employers](#) or contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our [FP Vaccine Subcommittee](#).