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What Employers Should Know about Religious Exemptions to Covid-19 Vaccine Mandates

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Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorneys [Frank N. Gaeta](#) and [J. Allen Holland](#).

On October 29, 2021, the U.S. Equal Employment Opportunity Commission (“EEOC”) issued updates to its online technical assistance for employers with respect to Covid-19. The updated guidance now includes a new section “L” entitled [Vaccinations – Title VII and Religious Objections to COVID-19 Vaccine Mandates](#).

As the EEOC explains in its guidance, Title VII of the Civil Rights Act of 1964 provides a right for job applicants and employees to request an exception from an employer requirement that conflicts with their “sincerely held religious beliefs.” If an employer shows that it cannot reasonably accommodate an employee’s religious beliefs without “undue hardship” on its operations, the employer is not required to grant the accommodation. (This same analysis applies under the Massachusetts anti-discrimination statute, G.L. c. 151B).

Accordingly, whether employers must grant an employee’s request for a religious exemption to a vaccine mandate depends on two factors: (1) whether taking the vaccine would violate the employee’s sincerely held beliefs, and (2) whether the employer can accommodate the request without experiencing an undue hardship.

How to determine whether an employee’s request is based on sincerely held beliefs?

The EEOC states that, as “a best practice, an employer should provide employees and applicants with information about whom to contact, and the procedures (if any) to use, to request a religious accommodation.” The EEOC has made available the [“Religious Accommodation Request Form”](#) it uses for its own workplace, as a sample that might be adapted by employers for their use.

The EEOC notes that, generally, an employer should assume a request for a religious accommodation is based on sincerely held religious beliefs. But, the EEOC says, if an employer has an objective basis for questioning either the religious nature or the sincerity



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of a particular belief, the employer would be justified in making “a limited factual inquiry and seeking additional supporting information.” As the EEOC points out, objections to a Covid-19 vaccination that are based on social, political, or personal preferences, or on nonreligious concerns about the possible effects of the vaccine, do not qualify as “religious beliefs” under Title VII.

According to the EEOC, factors that – either alone or in combination – might undermine an employee’s credibility in seeking a religious exemption include:

- Whether the employee has acted in a manner inconsistent with the professed belief;
- Whether the accommodation sought is a particularly desirable benefit that is likely to be sought for nonreligious reasons;
- Whether the timing of the request renders it suspect; and
- Whether the employer otherwise has reason to believe the accommodation is not sought for religious reasons.

No one factor or consideration is determinative, and employers should evaluate religious objections on an individual basis.

How to determine whether the accommodation will impose an undue hardship on the employer?

The EEOC says in its guidance that, in many circumstances, it may be possible to accommodate those seeking reasonable accommodations for their religious beliefs without imposing an undue hardship. The agency notes that an employer should thoroughly consider all possible reasonable accommodations, including telework and reassignment. So what would qualify as an “undue hardship” justifying the refusal to provide an accommodation? As noted in the guidance, courts have held that requiring an employer to bear more than minimal costs to accommodate an employee’s religious belief may qualify as an undue hardship. Costs to be considered include not only direct monetary costs but also the burden on the conduct of the employer’s business – including, in this instance, the risk of the spread of Covid-19 to other employees or to the public. Also, courts have found undue hardship where, for example, the religious accommodation would impair workplace safety, diminish efficiency in other jobs, or cause coworkers to carry the accommodated employee’s share of potentially hazardous or burdensome work.