

# What is reasonable religious accommodation?

Religion and employment sometimes clash. Balancing the rights of employees to practice their religion – or the absence of one – against an employer’s needs can be tricky. Workers may want a reasonable religious accommodation such as time off to worship and observe special holidays. Or a religion may require that adherents dress a certain way, including while at work. Other religions may demand that members pray during the workday. And finally, a company’s owners or managers may try to impose their religious beliefs and practices on workers.

Workers cannot be denied a job or a benefit or be forced to endure harassment on account of their religion. Nor can workers be forced to participate in activities that violate their religious beliefs. For example, Jehovah’s witnesses do not celebrate birthdays or holidays and should not be forced to participate in workplace celebrations.

## Reasonable religious accommodation

Employees who want to engage in religious practices and work are entitled to request reasonable religious accommodations. The religious accommodation process is similar to the disability accommodation process under the Americans With Disabilities Act (ADA). Both require employers and employees to engage in good faith in an interactive process.

The first step is to determine whether the employee is eligible for an accommodation. They must have a sincerely held religious, ethical or moral belief that requires something like time off to worship.

An employee desiring a reasonable religious accommodation does *not* have to belong to an organized or common religion. Do not assume the employee isn’t entitled to accommodations just because you aren’t familiar with his religion. There is no list of acceptable religions. Title VII defines religion broadly. It includes traditional organized religions like Christianity, Judaism, Islam, Hinduism, and Buddhism. But newly created religions and informal religions with no set structure or doctrine and just a few adherents qualify as religions. Atheism – or the lack of belief in a deity – also qualifies. So do Wicca, Druidism, Pagan practices and other out-of-the-mainstream belief systems.

Accommodations may be necessary during the hiring process and once the employee is working.

## Reasonable religious accommodations during hiring

Employee requests for religious accommodations often occur during the hiring process. Employees who need exemptions from dress or appearance codes or a customized work schedule often express this during hiring interviews. Interviewers should know how to handle accommodation requests. First, the interviewer should ask questions to clarify exactly what the applicant needs to comply with his or her beliefs.

Generally, rejecting a religious accommodation out of hand is not a good move. The interviewer should take all

the information necessary without demanding proof of belief. If the company has granted similar requests in the past, approve the request. If the company hasn't encountered reasonable religious accommodations before, engage in the interactive process. You cannot refuse to hire the applicant because he needs accommodation.

## **Reasonable religious accommodations during employment**

Not every new employee requests accommodations before hire. Some may be reluctant for fear of discrimination in hiring.

When considering the accommodation request, first identify the job's essential functions. These should be listed on the job description. Next, determine whether granting the accommodation interferes with the applicant's ability to perform those functions. The most common requests for religious accommodations are time off for religious worship. For example, some religions prohibit working on Fridays or Saturdays. Other common requests include time off during the day to pray or time off to celebrate a religious holiday. Others may ask for permission to wear religious clothing such as headscarves when grooming rules prohibit headgear.

The employer need not grant the specific accommodation requested. Instead, it may develop one that allows the employee to obey their religious tenets while successfully performing the job. For example, employers may prefer a reasonable religious accommodation of regular time off. Their employer may prefer to schedule employees and allow them to swap shifts to accommodate religious and other needs.

Employers may not treat religious accommodation requests from one group differently than another. If a Christian gets time off for Good Friday services, a Muslim should get breaks to pray during Ramadan.

## **Dress and grooming codes and religious discrimination**

Other than time off for religious services and holidays, a common request is permission to skip dress code rules. Religious dress is a major factor in many religions. Some Christian and Judaic sects require that women not wear pants and only wear modest clothing. Many Muslims believe that women must dress modestly and cover their hair. Some religions require that males wear full beards. Other religions may require hair to be worn naturally in dreadlocks. Employers should make religious reasonable accommodations for religious dress and grooming unless doing so is an undue burden. That's a hard case to make.

Your dress and grooming rules should include an exception for situations like these. Include a simple line that says "The company invites those with religious beliefs that conflict with the dress code to seek a reasonable religious accommodation. We honor religious dress and grooming accommodations unless doing so creates undue hardship."

The U.S. Supreme Court ruled 8-1 in 2015 that not hiring an applicant based on an applicant's headscarf. The retailer assumed the headscarf she wore to her interview meant she would not follow the "collegiate" no-headgear dress code.

In another recent case, a restaurant chain paid \$150,000 for insisting a server cover tattoos as the dress code required. The server belonged to a tiny Egyptian sect that required small scripture tattoos on the wrist. He claimed it was a sin to cover them and refused. The restaurant chain wouldn't make a reasonable religious accommodation of allowing visible tattoos.

## **Freedom not to participate in religious practices**

Title VII also protects workers from being forced to participate in religious practices. Most employers cannot force workers to pray or adhere to the owner's religious beliefs. There's an exception for religious organizations hiring employees to serve in ministerial positions. For example, a religious organization hiring teachers to teach

church doctrine can exclude those not belonging to the faith.

Forcing employees to participate in religious activities can be costly. Take the case of the Onionhead religion. The employer, Cost Containment Group, adopted a belief system created by the CEO's aunt. It then required workers to follow its beliefs. For example, workers had to dim the lights while working, wear Onionhead buttons, engage in group prayers and burn candles. Ten workers objected and the EEOC sued on their behalf. After the judge ruled that Onionhead is a religion with a core set of beliefs, he sent the case to a jury. In 2018, it awarded the workers \$5.1 million in damages.

## **Time off for religious services and holidays**

Generally, employers should make reasonable religious accommodations for services and holidays. When a worker asks for an accommodation, make sure to check whether the request is legitimate.