

EEOC updates religious exemptions guidelines for COVID vaccine

The EEOC recently updated its [guidance](#) on mandatory COVID vaccinations and their interplay with the ADA and the Genetic Information Nondiscrimination Act. Now it has updated its [guidance](#) on religious accommodations for employees who don't want to get those shots.

Since religious exemptions are so [amorphous](#) — you don't even need to belong to an organized religion to request an accommodation. That means the clearer the guidance, the better.

Categorize employee objections

You should establish clear procedures for two groups of employees. The first, are those who want a complete religious accommodation from your vaccine mandate. The second group is for those who are willing to be vaccinated, but want to wait for an alternative shot more in line with their religious beliefs.

The EEOC took the extraordinary step of [posting](#) the form its employees use to request religious accommodations. Based on this form, every employee should be required to provide the following information to you in writing:

- The requirement, policy or practice in conflict with their sincerely held religious observance, practice, or belief.
- A description of the nature of their sincerely held religious beliefs, practices, or observances in conflict with your shot mandate.
- Their requested accommodation or modification.
- Any alternative accommodations.

You can say no — sometimes

You should generally assume employees' request for religious accommodation is sincere. But employees applying for religious accommodations *en masse* will surely invite some skepticism about employees' sincerity.

Remember, your procedure applies to you, too, which means you're going to be stuck with a lot of paperwork. But it also means you don't have to just rubber stamp employees' request forms.

If, after examining an employee's paperwork, you have an objective basis for questioning either the religious nature or the sincerity of their particular belief, you can make a limited factual inquiry for the purpose of seeking supporting information from the employee. [In September we went over the factors](#), either alone or together, that might indicate employees aren't being sincere in their requests for accommodation.

Does it pose an undue hardship?

Employees' requests for accommodation must be weighed against the burden they cause the business.

The EEOC reiterates its general guidance on undue hardship, but it also elaborates by noting that, in addition to the direct monetary costs, you should consider indirect costs such as the risk of the coronavirus spreading to other employees or to the public.

There's a caveat: Undue hardship must be assessed on an accommodation-by-accommodation basis. That also means that just because you grant accommodations to some employees, doesn't mean you have to grant them to everyone who asks.

In addition to the factors we've cited before, these factors may be relevant during this inquiry:

- Whether exempting an employee from getting a vaccination would impair workplace safety.
- The number of employees who are fully vaccinated.
- How many employees and nonemployees physically enter your workplace..

Religious accommodations aren't indefinite

You have the right to reassess a previously granted accommodation if it's no longer used for religious purposes or you later determine it poses an undue hardship.

The EEOC recommends, however, discussing your concerns about continuing the accommodation with the employee before revoking it and considering whether another accommodation is appropriate.

Bottom line

You may ask employees to explain how their religious belief conflicts with your vaccine mandate. Employees who fail to cooperate with you during the accommodation process risk losing any later claim that you improperly failed to accommodate them.