

It's the Most Wonderful Time of the Year to Contemplate Religious Accommodations under Title VII

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With the holidays fast approaching, many employers are due for a refresh on how and when to provide religious accommodations to their employees. Title VII of the Civil Rights Act of 1964 (Title VII) prohibits discrimination on the basis of religion. Therefore, employers are legally obligated to accommodate their employees' sincerely-held religious beliefs unless such an accommodation would impose an undue burden upon the employer. Importantly, employers are obligated to provide a religious accommodation only if the employee makes the employer aware of the need for such an accommodation and informs the employer that the accommodation is being requested due to a conflict between religion and work. A common accommodation that is sought is time off or a schedule change to attend religious services or to not work on Saturdays or Sundays.

In considering whether to provide an employee with a religious accommodation, the first step is to determine whether the employee is protected under Title VII as a result of his or her sincerely-held religious beliefs. This can often be a challenge, as the definition of "religion" imposed under the law is broader than one might think. While Title VII protects individuals who belong to traditional, organized religions, such as Judaism, Christianity, Islam, Hinduism, or Buddhism, it also protects those with sincerely held religious beliefs that are "new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others." And, "an employee's belief or practice can be 'religious' under Title VII even if the employee is affiliated with a religious group that does not espouse or recognize that individual's belief or practice, or if few – or no – other people adhere to it." Therefore, it is important for employers not to summarily dismiss religious beliefs that seem non-traditional, as this can lead to potential liability under Title VII. In addition, employers should tread cautiously even if an employer has reason to believe that an employee's religious beliefs are not "sincerely-held" (because, for example, the employee has never before expressed such religious beliefs in the past or the employee's religious practices stray from the commonly followed tenets of his or her religion), as

the law still protects those whose religious beliefs are newly adopted or inconsistently held.

The next step in the religious accommodation inquiry is to determine whether a request imposes an undue burden on the employer, as an employer is not required to provide religious accommodations if doing so would cause undue hardship. Although employers may be familiar with the “undue burden” standard under the Americans with Disabilities Act (ADA), the “undue burden” standard for religious accommodations under Title VII is less demanding. Employers are not required to provide religious accommodations which would cause more than a minimal burden on the operations of an employer’s business. This differs from the undue burden standard under the ADA, which requires employers to show significant difficulty or expense in showing that it cannot reasonably accommodate an employee’s disability. According to the U.S. Equal Employment Opportunity Commission, a religious accommodation may cause more than a minimal burden on an employer if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to perform more than their share of potentially hazardous or burdensome work. In addition, an employer is not required to agree to the employee’s preferred accommodation request, but is required to attempt to work with the employee to determine if the employee can be reasonably accommodated without undue burden. Most importantly, in order to minimize liability, the employer should collaborate with the employee to determine if an accommodation is possible, maintain adequate documentation, and be able to demonstrate that it has made a reasonable and well-informed decision with respect to any such accommodation.

Employers should take employee requests for religious accommodations seriously and should consider such requests on a case-by-case basis. In addition, employers should consider using the holiday season as an opportunity to review their current religious accommodation policies or develop new policies for handling religious accommodation requests moving forward. Knowing how to appropriately handle employee requests for religious accommodations can help employers check one more item off their list as they strive for a successful (and peaceful) holiday season.