

October 2021 HR Compliance Newsletter

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Eva the Compliance Diva Answers Your Questions!

Eva is back by popular demand to answer your HR Compliance questions! Questions are based on inquiries by Employers, Managers, and Professionals!

Inquiry: Inquiry: *Hi Eva, Great to hear that you are back! My question is about employees who use the exemption for sincerely held religious beliefs to avoid getting vaccinated. Is there a way to get a handle on all these requests? Is there a process to prove this type of exemption?*

Alyssa, HR Director trying to manage the vaccination Reasonable Accommodation, New York

Eva's Response: *Hi Alyssa, thanks for your kind words. Let's talk about the Exemption Process. First, the Equal Employment Opportunity Commission (EEOC) and the American with Disabilities Act (ADA) have indicated that Covid-19 has been identified as a pandemic. As a result, both regulatory agencies have focused their efforts to provide employers and professionals with guidance on how to proceed with workplace exemptions*

EEOC and Civil Rights Act of 1964 What Are 'Religious' Beliefs and Practices?

According to the EEOC, religious practices include the "moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional At this time, there is no standard or proof to demonstrated "sincere religious held beliefs".

If an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief or practice, the employer can seek additional information.

However, this can be a landmine if there is no consistency in how to gather the information across the board.



The EEOC, however, has suggested that employees can substantiate their beliefs in any form and may not require third-party verification by a clergyman or other source.

That said, the EEOC has said in the past that an employer should start with the assumption that a request for a religious accommodation is legitimate, and should be accommodated - absent an undue hardship.religious views.”

Err on the Side of the Employees Feedback on their Religious Beliefs

The EEOC does grant employees the benefit of the doubt. You shouldn't dismiss the beliefs simply because

- (1) the employee's practices deviate from the exact tenets of a religion or
- (2) few or no people adhere to them.

The definition of "religion" is broad, according to the EEOC, and you aren't likely to be familiar with every tenet.

As a result, you should assume the request for a religious accommodation is based on a sincerely held religious belief.

Questioning a Religious Accommodation Request

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Remember: not all employees are affiliated with a religious facility which does not mean that they do not have sincere religious beliefs.

Please do not track your employees religious status via social media. This could be a landmine and can

Tread Carefully before making these decisions.

As a compliance Officer, I lean on taking the feedback of the employee regarding their sincerely held religious beliefs since there is not current standard or proof to demonstrate "sincerely held religious beliefs".

Best Practices

- Create an exemption form to identify the types of exemptions available
- Ensure you are consistent with how you evaluate each exemption request
- Include a clause indicating that all the information provided by the employee are true and have the employee sign off on the document
- The Employee representative should sign off on this document as well

Reasonable Accommodation for Sincerely Held Religious Beliefs

- Remote working
- Providing Personal Protective Equipment (PPE)
- Testing as per the regulations
- Social distancing
- Continuing to disinfect the workplace
- Have available sanitation station
- Continue to have hand sanitizers available
- Have signage to encourage hand washing
- Provide updates for employees on what the company is doing to to ensure confidence for employees to feel confident that the Employer is doing everything possible to make them safe



For more resources on this issue, please email mfaulk@hrcompliance.net

Any questions for Eva the Compliance Diva, sign up for the HR Compliance Newsletter at www.hrcompliance.net

If you are a member of HR Compliance Solutions, LLC please send your questions to mfaulk@hrcompliance.net