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BLOGS

COVID-19; Workplace Policies

EEOC Issues Updated Guidance on Religious Objections to COVID-19 Vaccine Mandates

On October 25, 2021, the Equal Employment Opportunity Commission ("EEOC") updated its [COVID-19 guidance](#) yet again. This time, the updates focused on religious accommodations to vaccine mandates under Title VII.

As background, similar to disability accommodations, employers are required to reasonably accommodate applicants and employees who have sincerely held religious beliefs to enable them to perform the essential functions of their jobs and where their beliefs may conflict with company policy. However, employers have a lower burden than with disability accommodations to demonstrate that granting the accommodation would pose an undue hardship. Employers may deny the requested religious accommodation if it poses more than a "de minimis" cost on employers. This is a much lower standard than the disability-related undue hardship standard.

The updated EEOC guidance includes the following key takeaways:

1. Employees have an affirmative obligation to inform their employer that there is a conflict between their sincerely held religious beliefs and their employer's vaccine mandate.
2. If an employer has an objective basis to doubt the sincerity of the employee's religious beliefs, it has the right to engage in a "limited factual inquiry" and seek additional information regarding the employee's beliefs. Employers cannot, however, ask for supporting documentation from a religious official.
3. Some examples that can provide a basis for challenging an employee's religious beliefs as insincere including the following:
 1. The employee has acted in a manner inconsistent with the belief;
 2. The accommodation sought is a particularly desirable benefit that is likely to be sought for nonreligious reasons; and
 3. The timing of the request renders it suspect, such as where an employee previously requested the same accommodation for a non-religious reason.
4. An employer should not assume that an employee lacks a sincerely held religious belief simply because the employee may not follow all tenets of the employee's religion.
5. Impairing workplace safety can be an example of a "more than de minimis" cost to employers.
6. An employer may take into account the cumulative cost or burden of allowing a religious accommodation to an employee and the precedent it may set for other similar requests.

7. Title VII does not protect social, political, or economic views—only religious ones. So if an objection is based on something other religious views, it is not protected under Title VII.

Given the emphasis on workplace safety and the lower “de minimis” standard, employers may be able to adopt a stricter approach to granting religious accommodations related to the COVID-19 vaccine. However, every situation is unique, and employers are encouraged to establish uniform accommodation policies and protocols that are reviewed and vetted by experienced employment counsel.