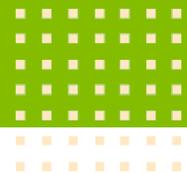




News

Accommodating Employee Religious Beliefs – Clarifying the New Standard



Just this past June, the United States Supreme Court issued a decision in the case of *Groff v. DeJoy* that substantially altered how employers must analyze and respond to employee requests for religious accommodation in the work setting.

Federal law has required and continues to require employers to provide religious accommodations in the work setting unless a requested accommodation would pose an “undue hardship” on the employer. Previously, that burden was met if the employer could show that the requested accommodation would impose more than just a “de minimus” increased cost – a relatively low bar. With its recent decision, however, the Supreme Court held that employers are actually held to a heightened burden of proof when considering requests for religious accommodations. Specifically, an accommodation must be provided unless “the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.”

By way of comparison, an “undue hardship” in the context of disability accommodation is defined as one that would post “significant difficulty or expense” – a relatively high standard. Whether the new standard articulated by the Supreme Court in religious accommodation cases will be viewed as mirroring the one applicable to disability accommodation cases is, at this point, unclear. What is clear, though, is that employers must ensure that they carefully consider all requests for accommodation of sincerely held religious beliefs and before denying a particular request, they must be able to clearly articulate how the requested accommodation would result in substantially increased costs to the organization.

In practice, requests for religious accommodations in the work setting are much less common than requests for disability accommodations. However, they do come up. Religious accommodation requests were actually quite common during the recent COVID-19 pandemic when some employees sought exemptions from masking, testing, and vaccination requirements based on their sincerely held religious beliefs. In the

current climate, employers are also well advised to consider the potential that local policy decisions made at the governing board level could potentially give rise to requests for religious accommodations.

As such, employers and human resource officers are advised to review their internal policies, practices, and existing forms to ensure that any decision to deny a requested religious accommodation is well-grounded in the new, heightened standard, and contact legal counsel for advice should circumstances warrant.

Of course, should you have any questions concerning this decision or how it may affect your agency, please do not hesitate to contact any one of our seven offices.

[¹] *Groff v. DeJoy*, 600 U.S. ____ (June 29, 2023) (slip op.)

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