



Reasonable Accommodation *Religious and Disability Q & A*

Table of Contents

- Q1: [Is my agency required to accommodate the religious practices of both employees and applicants?](#)
- Q2: [What qualifies as a religion under Title VII?](#)
- Q3: [Must my agency provide any religious accommodation that is requested so long as the employee's belief is sincerely held?](#)
- Q4: [May I make an exception to an agency policy or rule in order to accommodate an employee's religious beliefs?](#)
- Q5: [What is reasonable accommodation under the Americans with Disabilities Act \(ADA\)?](#)
- Q6: [Who must be afforded a reasonable accommodation under the ADA?](#)
- Q7: [What are the limitations on the obligation to reasonably accommodate a disability?](#)
- Q8: [Is the definition of undue hardship in relation to the ADA different from the undue hardship standard for religious accommodation?](#)
- Q9: [Must my agency hold an employee's position available while the employee is on leave as an accommodation?](#)
- Q10: [Can my agency deny leave as an accommodation if the employee has exhausted his or her accrued paid leave?](#)
- Q11: [Can indefinite leave be a reasonable accommodation?](#)
- Q12: [When should my agency offer leave as an accommodation when an employee is on leave under the Family and Medical Leave Act \(FMLA\) for reasons connected to a disability?](#)
- Q13: [Can my agency maintain existing production/performance standards for an employee with a disability?](#)
- Q14: [Must I be familiar with the many diverse types of disabilities to know whether or how to make a reasonable accommodation?](#)
- Q15: [Can my agency require supporting documentation before providing reasonable accommodation?](#)



Reasonable Accommodation *Religious and Disability Q & A*

Q1: Is my agency required to accommodate the religious practices of both employees and applicants?

- A. Yes. Title VII of the Civil Rights Act of 1964 prohibits discrimination based on the religion of an employee or applicant. Such discrimination includes refusing to provide a religious accommodation to an employee or applicant, unless doing so would be an undue hardship. (See more information about undue hardship in the answer to Q3 below.)

[Back to the top](#)

Q2: What qualifies as a religion under Title VII?

- A. Title VII protects all aspects of religious observance and practice as well as belief and defines religion very broadly for purposes of determining what the law covers. For purposes of Title VII, religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism but also 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. 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. Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs. However, personal preference and social, political, or economic philosophies are not religious beliefs under Title VII.

Religious observances or practices include, for example, attending worship services, praying, wearing religious garb or symbols, displaying religious objects, adhering to certain dietary rules, proselytizing or other forms of religious expression, or refraining from certain activities. Whether a practice is religious depends on the employee's motivation. The same practice (e.g., dietary restrictions, tattoos) might be engaged in by one person for religious reasons and by another person for purely secular reasons.

[Back to the top](#)

Q3: Must my agency provide any religious accommodation that is requested so long as the employee's belief is sincerely held?

- A. Not if providing the accommodation would impose an undue hardship on your agency. Undue hardship is shown when a burden is substantial in the overall context of an employer's business, taking into account all relevant factors in the case at



Reasonable Accommodation

Religious and Disability Q & A

hand, including the particular accommodation at issue and its practical impact in light of the nature, size and operating cost of the employer. An accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to unwillingly do more than their share of potentially hazardous or burdensome work. An employer may reject an employee's request for religious accommodation based on workplace safety, security, or health concerns, but only if the circumstances actually pose an undue hardship on the operation of the business, and not because the employer simply assumes that the accommodation would pose an undue hardship. Note that neither co-worker disgruntlement nor customer preference constitutes undue hardship.

In certain situations, the requested accommodation may pose an undue hardship, but a different accommodation may meet the employee's needs and not pose an undue hardship. An example would be if the requested accommodation required a schedule change for the employee, but such a change would cause a lack of necessary staffing. Allowing co-workers to voluntarily substitute or swap shifts would resolve the staff coverage concern and offer an alternative for accommodating the request.

There usually is no reason to question whether the employee's religious belief is sincerely held. However, according to the EEOC, an employer may make a limited inquiry to determine whether the belief or practice is religious and sincerely held and would give rise to the need for an accommodation. Although an agency may have uncertainty about a belief, employers seldom win Title VII discrimination claims on this ground. Courts consider the sincerity of an employee's belief and do not analyze the merits of that belief. A discussion with legal counsel is, therefore, recommended before denying an accommodation because you do not consider the religious belief to be sincerely held.

[Back to the top](#)

Q4: May I make an exception to an agency policy or rule in order to accommodate an employee's religious beliefs?

A: Yes. If doing so would not cause an undue hardship and the employee's belief is sincerely held, you may grant an exception to an agency policy or rule as an accommodation. Some examples of common religious accommodations include:

- An exception to the agency dress and grooming code for a religious practice (e.g., a Muslim woman who wears a religious headscarf or a Jewish man who wears a skullcap [yarmulke]);



Reasonable Accommodation

Religious and Disability Q & A

- A request by a Catholic employee for a schedule change to attend church services on Good Friday; or
- A Muslim employee needing additional breaks or a change in the standard break schedule to permit him or her to perform daily prayers.

EEOC resources on this topic can be found at the following links:

[Section 12: Religious Discrimination | U.S. Equal Employment Opportunity Commission](#)

[Questions and Answers: Religious Discrimination in the Workplace | U.S. Equal Employment Opportunity Commission](#)

[Religious Garb and Grooming in the Workplace: Rights and Responsibilities | U.S. Equal Employment Opportunity Commission](#)

[Fact Sheet on Religious Garb and Grooming in the Workplace: Rights and Responsibilities | U.S. Equal Employment Opportunity Commission](#)

[Back to the top](#)

Q5: What is reasonable accommodation under the Americans with Disabilities Act (ADA)?

- A. Reasonable accommodation is any modification or adjustment to a job, a job application process, or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to ensure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

Examples of accommodations that may be considered reasonable include modifications to existing facilities to ensure accessibility for a disabled individual, job restructuring, part-time or modified work schedules, acquiring equipment or modifying existing equipment, modifying employment tests or training materials, making exceptions to policies, and reassignment to a vacant position.

An accommodation is not considered reasonable if it presents an undue hardship or poses a direct threat to the safety of the employee or others in the workplace.

[Back to the top](#)



Reasonable Accommodation *Religious and Disability Q & A*

Q6: Who must be afforded a reasonable accommodation under the ADA?

- A. The ADA protects qualified individuals with disabilities and requires reasonable accommodation to assist them with overcoming workplace barriers experienced because of disability, unless accommodation would be an undue hardship.

The term “qualified” means that an applicant or employee satisfies the knowledge, skill, experience, education, and other job-related requirements of the position sought or held, and can perform the essential job tasks of the position, with or without reasonable accommodation.

The term “disability” means a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. Note that a reasonable accommodation is not required under the “regarded as” prong.

It should be noted that the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 broadened the definition of disability. For more information on this broadened definition, click [here](#).

[Back to the top](#)

Q7: What are the limitations on the obligation to reasonably accommodate a disability?

- A. The disabled individual requiring the accommodation must be otherwise qualified, and the disability must be known to the employer. In addition, an employer is not required to make an accommodation if it would impose an undue hardship on the operation of the employer's business.

[Back to the top](#)

Q8: Is the definition of undue hardship in relation to the ADA different from the undue hardship standard for religious accommodations?

- A. Yes. The ADA defines “undue hardship” as an action requiring “significant difficulty or expense” in light of factors including:
- (i) the nature and cost of the accommodation needed,
 - (ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation,
 - (iii) the overall financial resources of the employer,



Reasonable Accommodation *Religious and Disability Q & A*

- (iv) the type of operation or operations of the employer, and
- (v) the impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

For additional information on analysis of undue hardship, see the following resources:

[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA | U.S. Equal Employment Opportunity Commission](#)

[42 U.S. Code § 12111 - Definitions | U.S. Code | US Law | LII / Legal Information Institute](#)

[Back to the top](#)

Q9: Must my agency hold an employee's position available while the employee is on leave as an accommodation?

- A. Yes, your agency must hold an employee's position available. Note that contingent leave (leave contingent upon the position being available upon the employee's return) is not considered a reasonable accommodation. An employee who is on leave as a reasonable accommodation is entitled to return to the same position, unless your agency can demonstrate that holding the position open would be an undue hardship. If doing so would impose an undue hardship (as explained in the answer to Question 8), your agency then must consider whether there is a vacant, equivalent position for which the employee is qualified. If such a position is available and would allow continued leave, the employee should be reassigned to the equivalent position. If an equivalent position is not available, the employee may be assigned to a vacant position at a lower level. Continued leave is not required as a reasonable accommodation if a vacant position at a lower level is also unavailable.

[Back to the top](#)

Q10: Can my agency deny leave as an accommodation if the employee has exhausted his or her accrued paid leave?

- A. No, not based solely on the exhaustion of paid leave. Unpaid leave, except for contingent leave, is considered a valid option for reasonable accommodation under the ADA. If the unpaid leave would represent an undue hardship, it would not be required.

[Back to the top](#)



Reasonable Accommodation *Religious and Disability Q & A*

Q11: Can indefinite leave be a reasonable accommodation?

- A. In many instances an employee (or the employee's doctor) can provide a definitive date on which the employee can return to work. Sometimes, a projected return date or even a range of return dates may need to be modified in light of changed circumstances, such as where an employee's recovery from surgery takes longer than expected. None of these situations will necessarily constitute undue hardship, but instead must be evaluated on a case-by-case basis. However, indefinite leave—meaning that an employee cannot say whether or when she will be able to return to work at all—will constitute an undue hardship and does not have to be provided as a reasonable accommodation.

[Back to the top](#)

Q12: When should my agency offer leave as an accommodation when an employee is on leave under the Family and Medical Leave Act (FMLA) for reasons connected to a disability?

- A. You should always consider the requirements of both statutes separately, and then consider whether the two will overlap. Under the FMLA, an eligible employee is entitled to a maximum of 12 workweeks of leave per 12-month period for a serious health condition. When an employee requests additional leave for a medical condition, the employer must treat the request as one for a reasonable accommodation under the ADA. The employer should engage in an interactive process with the employee to obtain relevant information to determine the feasibility of providing the leave as a reasonable accommodation without causing an undue hardship.

[Back to the top](#)

Q13. Can my agency maintain existing production/performance standards for an employee with a disability?

- A. An employer is not required to lower production standards—whether qualitative or quantitative—that are applied uniformly to employees with and without disabilities. However, an employer may have to provide reasonable accommodation to enable an employee with a disability to meet the production standard, as long as the accommodation does not pose an undue hardship.

[Back to the top](#)



Reasonable Accommodation *Religious and Disability Q & A*

Q14. Must I be familiar with the many diverse types of disabilities to know whether or how to make a reasonable accommodation?

- A. No. An employer is required to accommodate only a known disability of a qualified applicant or employee. The requirement generally will be triggered by a request from an individual with a disability, who frequently can suggest an appropriate accommodation. Accommodations must be made on an individual basis, because the nature and extent of a disabling condition and the requirements of the job will vary in each case. If a disabled person requests but cannot suggest an appropriate accommodation, the employer and the individual should work together to identify one. Public and private resources, including those listed in the links below, can provide assistance without cost.

[State of Georgia ADA Coordinator's Office](#)

[JAN - Job Accommodation Network](#)

[Back to the top](#)

Q15. Can my agency require supporting documentation before providing reasonable accommodation?

- A. An employer may require supporting documentation when a disability or the need for accommodation is not obvious. Any documentation that includes an applicant's or employee's medical information is considered confidential and must be maintained securely and separate from an official personnel file.

[Back to the top](#)