

**THOUGHT LEADERSHIP****Service**

Labor &amp; Employment

**Professionals**

ERIK K. EISENMANN

MILWAUKEE:

414.978.5371

ERIK.EISENMANN@

HUSCHBLACKWELL.COM

BARBARA A. GRANDJEAN

DENVER:

303.892.4458

BARBARA.GRANDJEAN@

HUSCHBLACKWELL.COM

TOM O'DAY

MADISON:

608.234.6017

MILWAUKEE:

414.273.2100

TOM.ODAY@

HUSCHBLACKWELL.COM

TRACEY O'BRIEN

ST. LOUIS:

314.480.1562

TRACEY.OBRIEN@

HUSCHBLACKWELL.COM

LEGAL UPDATES

PUBLISHED: OCTOBER 8, 2021

# Employer Tool: Assessing Requests for Religious Exemptions from Vaccine Mandates

For the past 18 months, employers have faced a dizzying number of new laws, regulations and employment issues resulting from the COVID-19 pandemic. The latest announcement of COVID-19 vaccine mandates by the White House on September 9, 2021, resulted in an increase in the number of requests received by employers for religious exemptions from vaccine mandates. Employers continue to receive requests and must assess and decide whether to grant or deny the request for a religious exemption. The religious exemption analysis can prove to be challenging.

As we discussed in our recent client alert, employers have a competing obligation to protect their workplace from COVID-19 outbreaks and must assess the credibility of the request, reasonable accommodations and any undue hardship on the employer before granting the request for an exemption. Unlike a medical exemption, however, there is little objective evidence that employers can rely upon to support their decision. Additionally, there are subtle differences between the standards used to evaluate undue hardship when considering a religious as opposed to a medical exemption. Additional information can be found in our alert referenced above and at the Equal Employment Opportunity Commission's guidance on Religious Discrimination.

To assist employers in the decision-making process, the Husch Blackwell Labor & Employment practice group has developed a flowchart to simplify the religious exemption analysis and enable employers to make better decisions in less time.

## Best practices for use of the flowchart

At the time a request is received, the employer should evaluate the initial request to determine whether there is an objective basis for questioning the religious nature or sincerity of the belief by reviewing the nature and sufficiency of the information received from the employee. Does the information provide an explanation that allows the employer to sufficiently understand the underlying reason that supports the request? Employers should understand that the definition of “religion” is broad, as we explained in our alert, and includes observances that may be unfamiliar. **The flowchart** guides the employer through the interactive process and analysis of reasonable accommodations and undue hardship.

## DOWNLOAD FLOWCHART

### Action steps

In anticipation of the new regulations mandating vaccines, employers should proactively take the following steps:

Review religious exemption policies and provide training to human resources personnel and managers so that the policy is uniformly understood with regard to recognizing a request for a religious accommodation and appropriately responding to and reviewing a request for a religious exemption from a vaccine mandate;

Determine the types of accommodations that can be made for different job categories or positions and determine costs associated with accommodations to assess any undue hardship on business operations; and

Document the entire process, including the interactive process, and require employees to sign a religious exemption request form.

### Contact us

If you would like additional guidance and advice related to labor and employment issues concerning vaccine mandates, religious exemption policies, or religious exemption decisions, contact Erik Eisenmann, Barbara Grandjean, Tom O’Day, Beth Zewdie or your Husch Blackwell attorney.