

NEW JERSEY DEPARTMENT OF HUMAN SERVICES

GUIDELINES FOR RELIGIOUS ACCOMMODATIONS IN THE WORKPLACE

These guidelines were drafted to assist employees through the process of addressing requests for religious accommodations in the workplace. It is the intent of the Department of Human Services to provide for such accommodations where they do not cause an undue hardship to the employer's daily operations. These guidelines were drafted in consultation with the Department of Law and Public Safety, Division of Law.

PROCEDURES

I. The Request

A. Employees. All employees requesting religious accommodations must state: 1) the need for accommodation and 2) that the accommodation is being requested due to a conflict between religious obligations and work. Requests should be made in writing on the attached REQUEST FOR RELIGIOUS ACCOMMODATION and submitted to the Human Resources Office.

B. Applicants for Employment. In order to fully participate in the application process, an applicant for employment needing a religious accommodation must make the prospective employer aware of: 1) the need for a religious accommodation and 2) that the accommodation is being requested due to a conflict between religious obligations and the application process. Requests should be made in writing on the attached REQUEST FOR RELIGIOUS ACCOMMODATION and submitted to the Human Resources Office.

C. Requests Shall be Referred to the Human Resources Office. All requests for religious accommodations shall be sent to the Human Resources Office ("HR"). If a request is initially made to a supervisor or other staff member, it must be forwarded to HR, even when a supervisor feels the accommodation can be granted. It is important that HR be kept informed of employees' accommodation status and maintain documentation of the request, the response and related communications.

II. The Interactive Process

When a request is made, the employer and employee should engage in an interactive process to clarify what is being requested and what options may be available to allow for an accommodation. Each request will be examined on an individual, case-by-case, basis.

Employer-employee cooperation and flexibility are key to the search for a reasonable accommodation. This means both will have to be patient, willing to provide information and not make assumptions about what the other person "knows".

If the accommodation solution is not immediately apparent, the employer should discuss the request with the job applicant or employee to determine what accommodations might be effective. If the employer requests additional information to determine whether the accommodation can be granted, the employee should provide it.

If the employer does not grant the employee's preferred accommodation, but instead provides an alternative accommodation, the employee must cooperate by attempting to meet his religious needs through the employer's proposed accommodation, if that is feasible.

A reasonable effort should be made to grant accommodation requests. However, the employer is not required to accommodate the employee if, after engaging in a bona fide effort, the employer determines that "undue hardship" would result from such accommodation.

III. Alternative Accommodations

The employer is not required to grant the employee's preferred accommodation. Employers may offer alternative accommodations.

One method of accommodation the employer may consider is a shift swap. In those situations where a shift swap is feasible, the employer may post a notice for 7 days requesting another staff member in a similar title to voluntarily cover the requested day(s) off. The employer will facilitate this action to allow for employees with similar jobs to swap. In addition, in order to grant this accommodation, the employee may be required to change units. Other possible accommodations, include but are not limited to, schedule changes, use of leave time, reassignments, making exceptions to dress and grooming policies, and making unused space available for religious observance during break times.

IV. Undue Hardship

"Undue hardship" means an accommodations requiring unreasonable expense or difficulty, unreasonable interference with the safe or efficient operation of the workplace, a violation of a bona fide seniority system, or a violation of any provision of a bona fide collective bargaining agreement.

In determining whether the accommodation constitutes an undue hardship, the facts considered shall include: (i) the identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the

employer, (ii) the number of individuals who will need the particular accommodation for a sincerely held religious observance or practice; and (iii) for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

An accommodation shall be considered to constitute an undue hardship if it will result in the inability of an employee to perform the essential functions of the position in which he or she is employed.

V. The Determination

Employees should be notified of the accommodation determination, whether granted or denied, in writing. Employees who have been denied a request for an accommodation, or feel that the accommodation provided is not adequate, may contact the Office of Legal and Regulatory Affairs to request a review of the determination of their request for religious accommodation.

Contact Information: **Department of Human Services**
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 Trenton, NJ 08625-0700
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