

NEWS & INSIGHTS

Employers must consider higher standards when evaluating religious accommodation requests

BY: [RICHARD L. HACKMAN](#), [HARLAN W. GLASSER](#) | [INSIGHTS](#) | [ARTICLE](#)

NOVEMBER 6, 2023



A recent U.S. Supreme Court decision has raised red flags for employers to their review and evaluation assessment of employees' requests for religious exemption accommodations and raises the standard for potential denials.

Until now, the Supreme Court's 1977 decision in *Trans World Airlines, Inc. v. Hardison* generally established the touchstone regarding evaluation of religious accommodation requests: the request could be denied if it would cause

an undue hardship to the businesses that is more than “*de minimis*.”

However, in its most recent decision addressing the issue, *Groff v. Dejoy, Postmaster General* (2023), the U.S. Supreme Court ruled that for an employer to be excused from its duty to reasonably accommodate an employee’s religious belief or practice, the employer would have to prove “substantial increased costs in relation to the conduct of its particular business.”

What is “substantial”?

Prior to *Groff*, an employer could potentially deny a religious accommodation request on the basis of something as marginal as scheduling issues or frequent overtime increases to cover the absent employee’s shift. But now, these types of “hardships” will not suffice to meet the standard for denial of an accommodation.

However, the primary and open question remains — how is “substantial” defined for purposes of this evaluation? Neither the courts nor the U.S. Equal Opportunity Commission have outlined the parameters of, or provided guidelines for, what “substantial” actually means in practice.

Next steps

Until definitive (or even nominal) guidance from the courts or the EEOC, employers should be circumspect when reviewing religious accommodation requests and mindful of the potential repercussions of a denial. Employers will need to objectively and thoroughly document how the accommodation financially affects the company, whether through significant additional costs for overtime, hiring part-time employees, loss of effective customer service, price increases, loss of revenue and other related factors.

If you have questions about the new legal standards for a religious accommodation, want to discuss how it can affect your business, or need assistance in evaluating the hardship posed by a religious accommodation request, please [contact Rick Hackman](#) or anyone in the [Saxton & Stump Labor & Employment Group](#).

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