

Evaluating Religious Accommodation Requests: Are Employers Using the Right Standard?

12/11/24

An employer can deny a request for an accommodation based on an employee's religious beliefs if the request imposes an "undue hardship" on the employer. Although this remains the law, the definition of "undue hardship" has changed. Prior to 2023, an "undue hardship" was defined as "more than a de minimis" (very small or trifling) cost on an employer. This was a low bar for employers to meet, and made it relatively easy for an employer to deny a religiously based accommodation request. A new standard was established in 2023 which makes it much more difficult to deny an employee's request to be accommodated on the basis of religion.

Current Definition of "Undue Hardship"

Currently, an employer may only deny an employee's request for an accommodation based on religious belief if granting it would cause an undue hardship defined as "substantial increased costs in relation to the conduct of its particular business." This new definition is much more difficult for employers to meet than was the prior "more than de minimis" definition of "undue hardship." The new definition was enunciated in a 2023 case, **Groff v. Dejoy**. Gerald Groff is an evangelical Christian who was a United States Postal Service ("USPS") worker. He asked to be exempt from working on Sundays for religious reasons. USPS attempted to accommodate him by finding other employees who would swap shifts with him. However, USPS was sometimes not able to find another worker to cover Groff's shift. The USPS disciplined Groff for not working on Sundays. Groff ultimately resigned when he was about to be terminated for his Sunday absences, and sued the USPS. The case was eventually heard by the Supreme Court of the United States ("SCOTUS").

In the **Groff** decision, the SCOTUS unanimously ruled that a new standard applied to evaluating requests for religious accommodation. The new standard requires an employer to show that a religious accommodation request, if granted, will cause "substantial increased costs" to the business. The Court explained that the USPS's reasons for denying Groff his accommodation were not sufficient. The USPS had argued that granting the request was a burden on other employees, disrupted the workplace and workflow, and diminished employee morale. The decision also included some other examples of what would not be considered "substantial increased costs." The Court stated that temporary costs, voluntary shift swapping, occasional shift swapping or administrative costs would not be "substantial increased costs."

TAKEAWAY: Employers should ensure they only deny religiously based requests for accommodation if they can show "substantial increased costs" to their business. It is important for employers to document any "substantial increased costs" that will occur if they grant an accommodation, and to preserve any communications they have with the employee who has requested an accommodation. If you have questions on the current standard to evaluate employee requests for accommodation based on religious beliefs or any federal or New Jersey employment law, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team

Attorney

- Stephanie D. Gironda

Practice

- Employment Law