



# DEPARTMENT OF THE NAVY CIVILIAN PROCESSING GUIDE FOR RELIGIOUS ACCOMMODATION

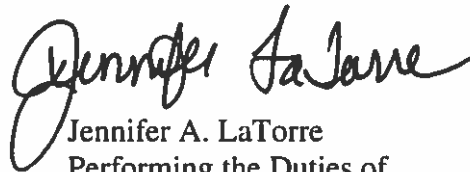
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## Foreword

The DON Civilian Processing Guide for Religious Accommodation provides step-by-step procedures for processing requests for religious accommodation of civilians, with sample processing documents contained in the attachments. The Processing Guide is only a guide, as every religious accommodation request must be individually reviewed and analyzed. The decisions to approve or deny an accommodation request must be made in accordance with the the interactive process in the guide, and based on the unique circumstances of the individual requesting accommodation.

Required and related publications, and prescribed and referenced forms are listed in the appendix.



Jennifer A. LaTorre  
Performing the Duties of  
Assistant Secretary of the Navy  
(Manpower and Reserve Affairs)

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## Background and Overview

The Department of the Navy's (DON) policy is to accommodate the religious beliefs, practices, and observances, as defined in Attachment 2 (*Key Terms & Definitions*), of its civilian employees and applicants, when requested, unless doing so would pose an undue hardship. Amplifying guidance regarding religious discrimination and religious accommodation can be found on the Equal Employment Opportunity Commission's online Compliance Manual on Religious Discrimination (EEOC Compliance Manual).

DON civilian employees and applicants (hereinafter Requester(s)) may request a modification or adjustment to the workplace environment because of a sincerely held religious belief, practice or observance. See Attachment 3 (*Notification of Request for Religious Accommodation*). Federal regulations state that an employer does not have to provide a religious accommodation that would pose an undue hardship; therefore, if granting a request would pose an undue hardship, then the request may be denied.

## Applicability

This guide applies to all DON appropriated and non-appropriated fund activities, their civilian employees (and certain contract employees), former employees, and applicants for employment. It is designed for use by commanders, managers, supervisors, equal employment opportunity (EEO) professionals, civilian human resources (HR) professionals, labor relations advisors, legal counsel, civilian employees (and certain contract employees), former employees, and applicants for employment.

## Roles and Responsibilities

1. The Secretary of the Navy (SECNAV) is responsible for establishing a system for the timely processing of religious accommodation requests in the DON.
2. The Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) is the DON EEO Director designated by SECNAV. The ASN (M&RA) is responsible for establishing and maintaining an effective DON-wide EEO Program that includes procedures for processing religious accommodation requests and is consistent with legal and regulatory requirements. In the capacity as the DON EEO Director, the ASN (M&RA) provides overall policy and program direction to the Director, Office of EEO (OEE), and evaluates the sufficiency of the DON's Religious Accommodation Program.
3. The Deputy Assistant Secretary of the Navy for Civilian Personnel (DASN (CP)) must ensure that the principles of EEO, to include the provision of religious accommodation, are integrated into all HR policies, and that the HR community is trained in their responsibilities regarding the religious accommodation process in accordance with this DON Civilian Processing Guide for Religious Accommodation (hereafter this Processing Guide).

4. The Director, Office of EEO (OEEO) shall:

- a. Serve as the primary advisor and the authoritative source on all EEO matters related to program execution, to include the provision of religious accommodation to the Chief of Naval Operations (CNO), the Commandant of the Marine Corps (CMC), the ASN (M&RA), and Heads of DON Organizations.
- b. Interpret changing statutory, regulatory, and EEOC guidance as it is received and develop DON-wide implementing policy and guidance for religious accommodation.
- c. Report on all aspects of the DON's Religious Accommodation Program to the DON EEO Director to support ongoing evaluation and policy development.
- d. Develop and implement the DON policies and procedures for religious accommodation.
- e. Collect and report data on religious accommodation requests to the Equal Employment Opportunity Commission (EEOC) and other relevant stakeholders upon request.
- f. Update this Processing Guide and relevant guidance, as necessary, to maintain compliance with federal laws, regulations, and executive orders.
- g. Oversee and enforce implementation and compliance with this Processing Guide.
- h. Track and monitor the numbers, types, and processing times of religious accommodation requests utilizing an electronic tracking system.
- i. Identify and address with relevant stakeholders any barriers to processing requests for religious accommodations and for implementing effective religious accommodations.
- j. Provide support and assistance to DON EEO Directors of the Major Command (DEEO) and other applicable personnel involved in the processing of religious accommodation requests.
- k. Establish, oversee, and monitor DON religious accommodation training requirements to ensure the workforce understands their roles and responsibilities in the religious accommodation process.

5. Unit Commanders or Heads of major commands, per reference (h), are designated as Command EEO Officers for their command. Unit commanders or heads of Navy or Marine Corps unit employing civilian personnel are likewise designated as Unit EEO Officers. As such, they shall:

- a. Ensure that this Processing Guide is clearly communicated and implemented within their respective AOR.

- b. Ensure that officials responsible for the processing of religious accommodation requests are trained on program requirements.
  - c. Evaluate the timeliness of religious accommodation processing on a continual basis.
  - d. Ensure that their respective unit(s) have current contact information for processing religious accommodation requests readily available in the workplace and in accessible formats including, but not limited to, bulletin board postings, websites, and handouts.
6. The Directors, EEO (DEEO) of the Major Commands shall:
- a. Serve as the primary advisor to the senior officials of the Major Command on the process for religious accommodation.
  - b. Provide Command-specific program direction to subordinate units.
  - c. Serve as a link between subordinate units and DON OEEO to monitor and enforce compliance with this Processing Guide.
  - d. Ensure that all approvals and denials of religious accommodation requests are in compliance with this Processing Guide and are reviewed by the Office of General Counsel (OGC) for legal sufficiency and policy consistency prior to issuance.
  - e. Track, monitor, and review requests for religious accommodations, job search efforts, and final decisions for consistency and reporting purposes.
  - f. Evaluate the quality and timeliness of religious accommodation processing on a continual basis.
  - g. Identify and address with relevant stakeholders, to include the DON Disability Program Manager (DPM), any barriers to processing requests for religious accommodation and for implementing effective religious accommodation solutions within the Major Command.
  - h. Provide assistance and training on the processing of religious accommodation requests as determined by the DON OEEO and the Major Command.
  - i. Ensure that servicing EEO offices within the Major Command have current contact information for processing religious accommodation requests readily available in the workplace and in accessible formats through bulletin board postings, Websites, handouts, etc.
  - j. Comply with DON OEEO training requirements established for all DEEOs.
7. The Directors, Civilian Human Resources (DCHRs) shall:

- a. Ensure HR operational policies support timely engagement in compliance with this Processing Guide.
- b. Ensure that all HR Specialists are trained on their responsibilities pertaining to the religious accommodation process in accordance with this Processing Guide.

8. The Directors, Office of Civilian Human Resources (OCHR) Operations Centers shall designate appropriate personnel and resources to ensure that, if applicable, a local job search is conducted and documented in accordance with this Processing Guide, and that hiring actions are processed related to the Requester's placement as a part of reassignment as a religious accommodation.

9. The servicing Deputy Directors, EEO (DDEEO) shall:

- a. Publicize and implement DON's policy for processing religious accommodation requests at the unit level organization(s) for which they provide services.
- b. Ensure that all individuals responsible for processing religious accommodation requests are trained on program requirements, to include, in coordination with OGC, relevant legal principles and precedents.
- c. Ensure that religious accommodation requests are processed in a timely and consistent manner in accordance with this Processing Guide.
- d. Monitor request information entered and stored into the proper electronic records system to ensure proper processing, and that request information is up to date.
- e. Provide EEO training, in coordination with OGC, to hiring managers and supervisors on the provision of religious accommodation and their role in the process.
- f. Monitor and ensure confidentiality of the religious accommodation process, and record and retain all religious accommodation case files for serviced units.
- g. Establish a barrier in the EEO Office to ensure that any EEO complaints filed subsequent to a DON failure to accommodate is not processed by any EEO personnel (e.g., the Religious Accommodation Coordinator) involved in processing the religious accommodation request.
- h. Coordinate with responsible parties to make current contact information for processing religious accommodation requests readily available in the workplace and in accessible formats including, but not limited to, bulletin board postings, websites, and handouts.

10. The Human Resources Directors (HRD) shall:

- a. Ensure HR operational policies support timely engagement in compliance with this Processing Guide.



- b. Ensure that all HR Specialists within the Human Resources Office (HRO) are trained on their responsibilities pertaining to the process in accordance with this Processing Guide.

11. The EEO Specialist within servicing EEO offices shall:

- a. Ensure that all religious accommodation requests received are processed in accordance with the provisions of this Processing Guide.
- b. Provide advice and guidance, in coordination with OGC, to hiring managers, supervisors, and other applicable stakeholders (e.g., HR, Chief Information Officer (CIO), Facilities, Safety, Security, etc.) regarding the DON religious accommodation process, federal requirements on the provision of religious accommodation, and applicable guidance that assists in the determination of the request and the feasibility of the accommodation.
- c. Ensure, in coordination with OGC, that the hiring manager or supervisor has sufficient information to make an informed decision on a request for religious accommodation.
- d. Encourage the hiring manager or supervisor to engage in ongoing, informal interactive discussions with the Requester seeking an accommodation, and facilitate those discussions, when necessary.
- e. Draft letters and correspondence (e.g., Approval of Religious Accommodation Request, Denial of Religious Accommodation Request) to facilitate the religious accommodation process using relevant information pertaining to the request.
- f. Update and maintain the proper electronic records system for religious accommodation requests on a continual basis.
- g. Maintain all religious accommodation case files in a secure manner in accordance with the record retention policy.
- h. Safeguard the confidentiality of religious accommodation information.

12. HR Specialists within the servicing HRO shall:

- a. Refer all religious accommodation requests to the appropriate hiring manager or supervisor and EEO Specialist, when received directly from Requesters seeking religious accommodation.
- b. Counsel Requesters who agree to reassignment, when offered as a religious accommodation, on the reassignment process.
- c. Conduct preliminary qualifications analysis to determine what types of positions the employee can perform, if reassignment is considered.

- d. Execute and document the search for vacant positions in accordance with the procedures outlined in this Processing Guide, if reassignment is considered.
- e. Facilitate hiring actions related to the Requester's placement, if the Requester agrees to reassignment when offered as a religious accommodation.

13. Attorneys in the OGC shall:

- a. Provide legal advice and guidance to the EEO and HR communities, as well as to hiring managers and supervisors, on religious accommodation requests.
- b. Review religious accommodation approvals for legal sufficiency. Hiring managers and supervisors are encouraged to seek such review.
- c. Review any denial of a religious accommodation request for legal sufficiency including, for example, the justification for a finding of undue hardship, inability to accommodate, and/or that a religious belief is not sincerely held.
- d. Ensure that a barrier is established in which OGC attorneys, who have offered guidance and advice during the processing of a religious accommodation request, do not serve as the agency representative with respect to any subsequent EEO complaint filed on the DON's failure to accommodate the request at issue.
- e. Assist EEO and HR in providing religious accommodation training involving legal procedures and precedent.

14. Hiring Managers and Supervisors shall:

- a. Respond to religious accommodation requests in accordance with the procedures and timeframes outlined in this Processing Guide, to include promptly responding to communications regarding the request, issuing interim accommodations (where required), and issuing religious accommodation decisions to the Requester during the religious accommodation process.
- b. Maintain an open line of communication with the Requester seeking an accommodation and engage in ongoing, informal discussions with the Requester during the religious accommodation process.
- c. Maintain confidentiality of medical information obtained in connection with the religious accommodation process.

15. Requesters seeking Religious Accommodation shall:

- a. Immediately notify the hiring manager or supervisor, the EEO Specialist, or servicing HR Specialist when they believe that some form of religious accommodation is required if

their sincerely held religious belief, practice, or observance conflicts with a work requirement(s).

- b. Actively participate in good faith and be responsive throughout the entire religious accommodation process.
- c. Provide documentation and other pertinent information, as requested or required, to reasonably evaluate the request as part of the religious accommodation process.

# Religious Accommodation Requests

A request to make any adjustment to the job application process, the work environment, or circumstances under which work is customarily performed to allow the Requester to comply with his or her religious beliefs, practices, and observances shall be processed as a religious accommodation under Title VII. The definition of religion in this context is broad. Attachment 2 (*Key Terms & Definitions*) contains examples that may be helpful for identifying a religious belief, practice, or observance.

The hiring manager or supervisor and the EEO office shall consult with the Activity's servicing OGC attorney if a request for exemption or accommodation specifically references the Religious Freedom Restoration Act of 1993 (RFRA). Otherwise, religious accommodation requests will be processed under Title VII, using the procedures identified below.

## **STEP 1 – The Religious Accommodation Request**

A request for a religious accommodation initiates the process.

A Requester who seeks a religious accommodation must notify the DON of the need for an accommodation based upon a conflict between the Requester's religious belief, practice, or observance, as defined in Attachment 2 (*Key Terms & Definitions*), and the work duties or the DON application process. In requesting a religious accommodation, a Requester is not required to use "magic words," such as "religious accommodation" or "Title VII."

Although not required, the Requester is encouraged to utilize the Attachment 3 (*Notification of Request for Religious Accommodation*) or otherwise put the request in writing to clearly communicate his or her need to the hiring manager or supervisor.

Requesters should provide information that addresses the sincerity or religious nature of the professed religious belief, practice or observance when submitting their request. That information need not, however, take any specific form. For example, written materials or the Requester's own first-hand explanation may be sufficient. Further, written documentation does not have to come from a clergy member or fellow congregant, but rather could be provided by others who are aware of the Requester's religious belief, practice or observance.

When a hiring manager or supervisor becomes aware of the need for a religious accommodation, they shall contact the servicing EEO Office as soon as possible under the circumstances, but no later than 2 business days following their receipt of the request, to seek assistance processing the request in accordance with this Processing Guide.

The hiring manager or supervisor will contact the servicing EEO Office to consider an interim accommodation if an accommodation does not pose an undue hardship and the request is an immediate need of accommodation (i.e. less than 2 business days from the date of requested accommodation). Any notification of a request for religious accommodation that is directly submitted to a party other than the hiring manager or supervisor (e.g., HR or EEO personnel) must be forwarded to the appropriate hiring manager or supervisor to begin processing the

request. Processing deadlines will be based upon the first notification to the DON, whether verbal or written, regardless of whether the request is made to the hiring manager, supervisor, the HRO, or the EEO office.

## **STEP 2 – The Interactive Process**

### **2A. Interactive Process**

The request for a religious accommodation triggers the interactive process between the hiring manager or supervisor and the Requester seeking the accommodation. During the interactive process, discussion should revolve around obtaining a more clear understanding of the nature of the conflict between the asserted religious belief, practice, or observance and the work duties, requirements, or application process. Also, the parties may need to discuss the length of time the accommodation may be needed and/or if there are any alternative accommodations that might meet the Requester's needs.

In addition to placing the DON on notice of the need for accommodation, the Requester shall cooperate with the hiring manager's or supervisor's efforts to determine whether a religious accommodation can be granted. Once the DON becomes aware of the Requester's need for a religious accommodation, the hiring manager or supervisor should promptly request any additional information necessary to determine whether an accommodation is available, without posing an undue hardship. This typically involves the hiring manager or supervisor and Requester mutually sharing information necessary to process the accommodation request. See Attachment 4 (*Management Documentation of Interactive Discussion for Religious Accommodation*) for guidance on how to document this discussion.

### **2B. Questions about Sincerely Held Religious Belief**

Hiring managers or supervisors are entitled to make limited inquiries into the facts and circumstances of a Requester's claim if they have a bona fide doubt and/or lack sufficient information to support the basis for the accommodation request. These inquiries are to determine if the religious belief, practice or observance at issue is religious and sincerely held, and requires accommodation. See "Is the Belief, Practice, or Observance Religious in Nature?" and "Is the Religious Belief Sincerely Held?" in Attachment 2 (*Key Terms & Definitions*). Whether the hiring manager or supervisor has a reasonable basis for seeking to verify the Requester's stated belief, practice or observance is fact-specific and must be discussed with the EEO office and/or the servicing OGC attorney, prior to discussing with the Requester. See Step 3B.

### **2C. Interim Accommodation**

The hiring manager or supervisor must consider any reasonable means of accommodating the Requester on an interim basis while the request is being processed. The interim accommodation should allow the Requester to perform some or all of the job functions, if it is possible to do so without imposing an undue hardship. Even if a proposed interim accommodation is not feasible in the long term, a hiring manager or supervisor can approve an interim (short-term)

accommodation while the request is pending. If an interim accommodation is provided, this decision must be issued to the Requester through Attachment 5 (*Notification of Interim Accommodation Letter*).

### **STEP 3 – Review of Request**

#### **3A. Sufficiency of Request**

The hiring manager or supervisor will work with the servicing EEO office (and any other identified advisors, who may be necessary on a specific case) to review the request as it exists, after the initial interactive process phase. Refer to Attachment 6 (*Religious Accommodation Request Review*). The goal of this step is to ensure enough information is available to be able to make an informed accommodation decision.

Major considerations that may need to be examined for religious accommodation requests are whether:

- (1) the belief, practice or observance underlying the request qualifies as “religious”;
- (2) the religious belief is sincerely held; and
- (3) granting the request would pose an undue hardship on the DON.

See “Is the Belief, Practice, or Observance Religious In Nature?” and “Is the Religious Belief Sincerely Held?” in Attachment 2 (*Key Terms & Definitions*). Undue hardship has a different definition in the context of a religious accommodation request than in the context of a request for accommodation due to disability. See Attachment 7 (*Religious Accommodation Determination Worksheet*) for additional information.

For current civilian employees, input from the Requester’s supervisor, who has knowledge of the duties of the position and the worksite, will help to determine the feasibility of what may be a “reasonable” accommodation, including alternative accommodations to the one requested. Some accommodation options to consider include flexible work schedules and change of physical work location at the agency worksite. There are some exceptions to norms that are considered accommodations as well (e.g., grooming standards or dress codes). Refer to Attachment 8 (*Religious Garb and Grooming in the Workplace: Rights and Responsibilities*) for more information and examples.

If the hiring manager or supervisor determines there is enough information available to make a definitive determination about the religious accommodation (not the interim accommodation), proceed to Step 3C of this Processing Guide. Alternatively, if there is insufficient information to make a determination, proceed to Step 3B.

#### **3B. Request for Information**

If the hiring manager or supervisor determines additional information is required to make an informed decision, they will consult with the servicing EEO Office, HRO, OGC, and/or any

other appropriate subject matter experts to identify what additional specific information is required from the Requester.

The EEO Specialist should schedule a meeting between the hiring manager or supervisor, and the Requester, to have a focused conversation regarding only the additional information required to make a determination. For instance, after conferring with the appropriate parties, the hiring manager or supervisor continues to have concerns regarding the religious nature of the request, the sincerity of the belief, practice or observance, and does not have enough information to make a decision. Appropriate sensitivity should be exercised to be respectful of the Requester and his or her belief, practice or observance during this discussion. In limited cases, it may be necessary for the hiring manager or supervisor to request additional written information from the Requester. Upon determining that additional written information is necessary, the hiring manager or supervisor shall submit a Request for Information to the Requester, see Attachment 7 (*Religious Accommodation Determination Worksheet*), to process the accommodation request.

### **3C. Hiring Manager's or Supervisor's Determination**

If the requested accommodation poses an undue hardship, alternative accommodations must be considered to determine if any accommodation could remedy or mitigate the conflict between the sincerely held religious belief, practice or observance, and the work or application process requirement. This may include restructuring of duties, relieving the Requester of a task, or transferring the Requester to a position that does not create a similar conflict as the last resort.

### **3D. Notification of Requester**

Once a decision has been reached, the hiring manager or supervisor must notify the Requester in writing that his or her requested accommodation has been approved or denied. Sample approval and denial letters are provided in Attachment 9 (*Sample Approval Letter*) and Attachment 10 (*Sample Denial Letter*), respectively. All denials must be reviewed by the servicing OGC and DEEO or designee before issuance. A Requester's failure to participate in the religious accommodation interactive process or a Requester providing insufficient information to make a final determination may also lead to a denial.

### **3E. Processing Deadline**

Requests should be processed as quickly as possible. All religious accommodation determinations shall be issued to the Requester within 45 calendar days. If the religious accommodation final decision cannot be made within 45 calendar days, the Requester must be notified in writing of the reasons for the delay, an estimated time of completion, and whether any approved interim accommodation will continue.

## **STEP 4 – Records Maintenance Requirements**

The servicing EEO Office is responsible for maintaining and retaining all documentation in the authorized electronic records system developed for capturing religious accommodation requests. The DON utilizes the Navy Electronics Accommodations Tracker (NEAT) to maintain and track

these requests. In accordance with the related laws and DON policy, the servicing EEO Office must maintain electronic copies of accommodation requests, supporting information consistent with the confidentiality requirements in the Privacy Act, and the DON record retention policy. The EEO Specialist is required to enter and upload various types of information as it relates to the specific religious accommodation request to include, but not limited to the following:

- Requester details
- The specific religious accommodation requested
- The job vacancy at issue (occupational series, grade level, and the agency component) for Requesters who are applicants
- The job (occupational series, grade level, and the agency component) for Requesters who are current civilian employees
- Whether the accommodation was needed to apply for a job, perform the job functions, or enjoy the benefits and privileges of employment
- Dates corresponding to various events occurring throughout the religious accommodation process (e.g. date of initial request, date of letter(s) sent, date(s) of accommodation provided, etc.)
- Whether the request was granted or denied (which may include an explanation why the requested accommodation was not provided or an alternative one)
- The identity of the hiring manager or supervisor and the contact information for other involved personnel (e.g. HR, OGC, etc.) who were involved in the religious accommodation process
- Any cost for approved requests, including but not limited to, expenses associated with procuring items and overtime for other employees
- The number of days taken to process the request from date of initial request to date accommodation implemented
- All documents generated in connection with the religious accommodation request processing

Access to NEAT is granted only to EEO practitioners who process religious accommodation requests and provide program oversight. Requesters may ask the EEO Specialist for updates as a way to track the processing of their request for religious accommodation.

The DON Records Officer is in the Department of the Navy Assistant for Administration Directives and Records Management Division (DON/AA DRMD). DON/AA DRMD is responsible for the management of the Secretariat and Navy Records Management Program in accordance with Title 44 U.S.C., 36 C.F.R., OMB Directive M-12-18, OMB Circular A-130, DODD 5015.2, SECNAV Instructions 5210.8D and 5211.5E, OPNAVINST 5210.20, and SECNAV Manuals 5210.1 and 5210.2. Records created as a result of this guide, regardless of media and format, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page.



## **STEP 5 – Post Accommodation Decision Requirements**

### **5A. Post Accommodation Follow-Up**

The DON's obligation to provide effective religious accommodation is an ongoing process, which may require the continuation of the interactive dialogue after the religious accommodation request is approved. This includes the hiring manager or supervisor notifying the civilian employee or applicant of any delays in implementing the approved accommodation. The hiring manager or supervisor must follow-up with the Requester no later than 90 calendar days after the accommodation was implemented to ensure whether it is effective.

The post accommodation follow up dialogue involves the Requester and the Supervisor/Hiring Manager, and can include the EEO Specialist. In the event that the EEO Specialist is not included in this interactive dialogue, the Supervisor/Hiring Manager must document the conversation in writing outlining the discussion and provide this documentation to the EEO Specialist to include in the request file.

### **5B. Reevaluation**

If the Requester does not believe that the approved accommodation eliminates the conflict between his or her religious belief, practice or observance and the work requirement(s), they must notify his or her Supervisor and/or the EEO Specialist. This can occur where the nature of the job has changed or the Requester's need for accommodation has changed. The interactive dialogue would continue to determine why the previously implemented accommodation is no longer effective and whether other accommodations might meet the Requester's needs. In such circumstances, either a revision to the previous accommodation must be documented, or a new religious accommodation request should be submitted.

## Attachment 1: Examples Scenarios

The following examples illustrate these concepts:

### **EXAMPLE 1**

#### **Religious Practice vs. Secular Practice**

One employee might observe certain dietary restrictions for religious reasons (A Seventh-day Adventist employee follows a vegetarian diet because she believes it is religiously prescribed by scripture.) while another employee adheres to the very same dietary restrictions but for secular (e.g., health or environmental) reasons. In that instance, the same practice in one case might be subject to religious accommodation under Title VII because an employee engages in the practice for religious reasons, and in another case might not be subject to religious accommodation because the practice is engaged in for secular reasons.

### **EXAMPLE 2**

#### **Types of Religious Practice or Observance**

The following are examples but are not all inclusive of a religious practice or observance: (1) a Catholic employee requests a schedule change so that he can attend a church service on Good Friday; (2) a Muslim employee requests an exception to the company's dress and grooming code allowing her to wear her headscarf; (3) a Hindu employee requests an exception allowing her to wear her Bindi (religious forehead marking); (4) an employee asks to be excused from the religious invocation offered at the beginning of a ceremony because he objects on religious grounds or does not ascribe to the religious sentiments expressed; (5) an adherent to Native American spiritual beliefs seeks unpaid leave to attend a ritual ceremony; and (6) an employee who identifies as Christian, but is not affiliated with a particular sect or denomination, requests accommodation of his religious belief that working on his Sabbath is prohibited. Each of these requests relates to a "religious" belief, observance, or practice within the meaning of Title VII.

### **EXAMPLE 3**

#### **Supervisor Considers Belief Illogical**

Morgan asks for time off on October 31<sup>st</sup> to attend the "Samhain Sabbat," the New Year observance of Wicca, her religion. Morgan's supervisor refuses, saying that Wicca is not a "real" religion but an "illogical conglomeration" of "various aspects of the occult, such as faith healing, self-hypnosis, tarot card reading, and spell casting, which are not religious practices." The supervisor's refusal to accommodate Morgan on the ground that he believes her religion is illogical or not a "real religion" violates Title VII, unless the employer can show her request would impose an undue hardship. The law applies to religious beliefs even though others may find them "incorrect" or "incomprehensible."

### **EXAMPLE 4**

#### **Unique Belief Can Be Religious**

Edward practices the Kemetic religion, based on ancient Egyptian faith, and affiliates himself with a tribe numbering fewer than ten members. He states that he believes in various deities, and

follows the faith's concept of Ma'at, a guiding principle regarding truth and order that represents physical and moral balance in the universe. During a religious ceremony he received small tattoos encircling his wrist, written in the Coptic language, which express his servitude to Ra, the Egyptian god of the sun. When his employer asks him to cover the tattoos, he explains that it is a sin to cover them intentionally because doing so would signify a rejection of his religion. Edward's practices are religious beliefs and practices, even if no one else or few other people subscribe to them.

#### **EXAMPLE 5**

##### **Personal Preference That Is Not a Religious Belief**

Sylvia's job has instituted a policy that employees cannot have visible tattoos while working. Sylvia refuses to cover a tattoo on her arm that is the logo of her favorite band. When her manager asks her to cover the tattoo, she states that she cannot because she feels so passionately about the importance of the band to her life that it is essentially her religion. However, the evidence demonstrates that her tattoos and her feelings do not relate to any "ultimate concerns" such as life, purpose, death, humanity's place in the universe, or right and wrong, and they are not part of a moral or ethical belief system. Simply feeling passionately about something is not enough to give it the status of a religion in someone's life. Therefore, her belief is a personal preference that is not religious in nature.

#### **EXAMPLE 6**

##### **As Soon As Possible**

An employee has a religious holiday that they practice on a Wednesday. Unexpectedly, on Monday, his or her manager schedules a meeting for Wednesday, which conflicts with the employee's religious observance on Wednesday. The employee notifies the manager of the conflict (and thereby the need for a religious accommodation). The manager should immediately contact the EEO office and discuss actions that can be taken to issue a decision on the employee's request for accommodation. In cases where a decision cannot be timely issued for the employee's request, an interim accommodation should be considered.

## Attachment 2: Key Terms and Definitions

**Hiring Manager/Supervisor:** The lowest person within the Requester's chain of command, or other authorized official identified by the Command, with the power to approve or deny the religious accommodation request. In most cases, this would be the first level supervisor or hiring manager. This individual will, with the guidance of EEO, HR, and OGC, determine if the request qualifies for accommodation, the accommodation can be approved as requested, if an alternative accommodation can be approved, or if all accommodations are an undue hardship to the DON.

**DON Organization/Major Command:** EEO Major Commands to include, in accordance with reference (h): Office of the Chief of Naval Operations; Secretariat Offices; Office of Naval Research; Naval Intelligence Activity; Bureau of Medicine and Surgery; Naval Air Systems Command; Bureau of Naval Personnel; Manpower, Personnel, Training and Education; Naval Supply System Command; Naval Sea Systems Command; Naval Facilities Engineering Command; United States Marine Corps; Strategic Systems Programs; Military Sealift Command; Naval Information Warfare Systems Command; Navy Engineering Logistics Office; Commander, Navy Installations Command; US Fleet Forces Command; Fleet Cyber Command; Commander, U.S. Pacific Fleet; Commander, Navy Reserve Force; Naval Special Warfare Command, and; Naval Education and Training Command.

**Interactive Process:** A dialogue between the individual requesting a religious accommodation, the hiring manager or supervisor and the servicing EEO Office, that determines the individual's eligibility for religious accommodation, identifies an effective accommodation, and informs the individual of the status of his or her religious accommodation request. The interactive process begins upon receipt of an individual's request for religious accommodation, occurs throughout the processing of the request, and continues after the religious accommodation has been provided to ensure that the individual's need for accommodation has been met.

Employer-Requester cooperation and flexibility are key in identifying an appropriate religious accommodation. If the accommodation solution is not immediately apparent, the employer should discuss the request with the Requester to determine what accommodations might be effective. In the event the DON determines it needs more information to make a determination concerning the religious accommodation and submits a request for clarification to the Requester, the Requester should provide the requested information.

**Reasonable:** For a religious accommodation to qualify as "reasonable," the adjustment must not discriminate against the Requester or unnecessarily disadvantage the Requester's terms, conditions, or privileges of employment.

An adjustment offered by the DON is not "reasonable" if it merely lessens rather than eliminates the conflict between religion and work, provided that eliminating the conflict would not pose an undue hardship. If all accommodations eliminating such a conflict would impose an undue hardship on the DON, the DON must reasonably accommodate the individual's religious practice to the extent that it can without suffering an undue hardship, even though such an accommodation would be "partial" in nature.

Where there is more than one reasonable religious accommodation that would not pose an undue hardship, the DON is not obliged to provide the accommodation preferred by the Requester. However, the DON's proposed religious accommodation will not be "reasonable" if a more favorable accommodation is provided to other employees for non-religious purposes. For example, if the offered religious accommodation requires the employee to accept a reduction in pay rate or some other loss of a benefit or privilege of employment and there is an alternative religious accommodation that does not do so.

Reasonableness of an employer's attempt at religious accommodation must be determined on a case-by-case basis, as what may be reasonable for one situation may not be reasonable for another.

**Religion:** Title VII of the Civil Rights Act of 1973 defines "religion" to include "all aspects of religious observance and practice as well as belief," not just practices that are mandated or prohibited by a tenet of the individual's faith. Religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, Sikhism, 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. Further, a person's religious beliefs "need not be confined in either source or content to traditional or parochial concepts of religion."

A belief is religious for Title VII purposes if it is religious in the person's own scheme of things, i.e., it is a "sincere and meaningful" belief that "occupies a place in the life of its possessor parallel to that filled by...God." An employee's belief, observance, 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, observance, or practice, or if few – or no – other people adhere to it.

Religious beliefs include theistic beliefs as well as non-theistic "moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views." Religion typically concerns "ultimate ideas" about life, purpose, and death.

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, and refraining from certain activities. Determining whether a practice is religious turns not on the nature of the activity, but on the employee's motivation. The same practice might be engaged in by one person for religious reasons and by another person for purely secular reasons.

Social, political, or economic philosophies, as well as mere personal preferences, are not religious beliefs protected by Title VII. However, overlap between a religious and political view does not place it outside the scope of Title VII's religion protections, as long as that view is part of a comprehensive religious belief system and is not simply an isolated teaching.

**Religious Accommodation:** An adjustment to the work environment that will allow a civilian employee or applicant to comply with their religious beliefs. The DON's duty to accommodate

will usually entail making a special exception from, or adjustment to, the particular requirement that creates a conflict so that the civilian employee or applicant will be able to observe or practice their religion.

**Religious Compensatory Time Off:** Compensatory time off, as authorized by 5 U.S.C. 5550a, under which an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to perform work in order to make up for time the employee takes off to meet those personal religious requirements. An employee approved to perform overtime will be granted an equal amount of compensatory time off from his or her scheduled tour of duty (in lieu of overtime pay or other pay otherwise payable) to meet his or her personal religious obligations.

**Request for Religious Accommodation:** When a Requester (employee or applicant) puts the DON on notice, orally or in writing, that the need for a religious accommodation is based on a conflict between the individual's religious belief, practice, or observance and his or her work duties or the DON's application process.

In requesting a Religious Accommodation, a requester is not required to use "magic words" (such as indicating that they are seeking "an accommodation"). The request for a religious accommodation triggers the interactive process between the individual seeking the accommodation and the DON.

Religious accommodation requests often relate to work schedules, dress and grooming, or religious expression in the workplace.

**Religious In Nature:** 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. A Requester's belief or practice can be religious under Title VII even if the Requester 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. Individuals that are atheist, agnostic, or deem themselves otherwise non-religious may also be protected by Title VII with regard to beliefs that are sincere, meaningful, and "occupy a place in the life of its possessor parallel to that filled by... God."

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 might be engaged in by one person for religious reasons and by another person for purely secular reasons (e.g., dietary restrictions, tattoos, etc.).

Concerns regarding the religiosity of the belief, practice, or observance should be addressed with the EEO office and OGC as necessary.

**Sincerely Held:** Title VII requires employers to accommodate only those religious beliefs that are “sincerely held.”

The definition of religion is broad and protects beliefs and practices with which the employer may be unfamiliar. Unless the accommodation request itself does not provide enough information to enable the Hiring Manager/Supervisor to make a determination, management should ordinarily assume that a Requester's basis for religious accommodation is sincerely held. The sincerity of a religious belief is rarely at issue.

The EEOC has listed certain facts that might create some doubt as to the sincerity of the employee's belief. Ultimately, this judgment must be based on all of the facts and circumstances, but the following might indicate that an employee's professed religious belief is not sincerely held:

- Whether the Requester has acted in a way that is inconsistent with the claimed belief
- Whether the Requester is seeking a benefit or an exception that is likely to be sought for nonreligious reasons
- Whether the timing of the request is questionable (for example, because it follows closely on the heels of the same individual's request for the same benefit for different reasons)
- Whether the DON has other reasons to believe that the Requester is seeking the benefit for secular reasons

However, none of the above factors is dispositive. For example, although prior inconsistent conduct is relevant to the question of sincerity, an individual's beliefs – or degree of adherence – may change over time, and therefore an individual's newly adopted or inconsistently observed religious practice may nevertheless be sincerely held. Similarly, an individual's belief may be to adhere to a religious custom only at certain times, even though others may always adhere. An employer also should not assume that an individual is insincere simply because some of his or her practices deviate from the commonly followed tenets of his or her religion, or because the individual adheres to some common practices but not others. As noted, courts have held that “Title VII protects more than . . . practices specifically mandated by an employee's religion.”<sup>1</sup>

Concerns regarding the sincerity of the belief, practice, or observance should be addressed with the EEO office. Prior to determining that the Requester's belief is not sincere, the matter must be referred to the servicing OGC for an opinion.

**Undue Hardship:** Employers are not required to grant a religious accommodation that would pose an undue hardship. To establish undue hardship, the DON must demonstrate that the “burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.”<sup>2</sup> Relevant factors may include:

- The type of workplace

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<sup>1</sup> See *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977).

<sup>2</sup> See *Groff v. DeJoy*, No. 22-174 (U.S. 2023).



- The nature of the Requester's duties
- The identifiable cost of the accommodation in relation to the size and operating costs of the employer
- The number of employees who will in fact need a particular accommodation.

Costs to be considered include not only direct monetary costs, but also the burden on the conduct of the employer's business, for example:

- Where the accommodation diminishes efficiency in other jobs
- Infringes on other employees' job rights or benefits
  - The impacts of religious accommodation on coworkers is relevant only if the impacts affect the conduct of the business, and analysis is required of whether this impact is shown.
  - Forcing other employees to work overtime or compensatory time is not undue unless there is consideration of other options such as voluntary shift swapping.
- Impairs workplace safety
- Causes coworkers to carry the accommodated Requester's share of potentially hazardous or burdensome work
- Whether the proposed accommodation conflicts with another law
- The accommodation at issue and its "practical impact in light of the nature, size, and operating cost of an employer"

Undue hardship "attributable to employee animosity to a particular religion, to religion in general, or to the very notion of accommodating religious practice, cannot be considered 'undue.'"

A religious accommodation that creates a genuine safety or security risk can constitute an undue hardship for an employer. If granting the accommodation creates such a safety or security risk, the employer must show specific facts to demonstrate the undue hardship.<sup>3</sup>

Undue hardship would also be shown where a variance from a bona fide seniority system is necessary in order to accommodate an employee's religious practices when doing so would deny another employee his or her job or shift preference guaranteed by that system.

The Hiring Manager/Supervisor cannot rely on hypothetical hardship when faced with a Requester's religious obligation that conflicts with scheduled work, but rather should rely on objective information. A mere assumption that many more people with the same religious practices as the individual being accommodated may also seek accommodation is not evidence of undue hardship.

The undue hardship standard for religious accommodations under Title VII, prior to the 2023 *Groff v. DeJoy* U.S. Supreme Court decision, was interpreted as imposing "more than a *de minimis* burden" on employers. The Supreme Court decision eliminated the "more than *de*

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<sup>3</sup> See 29 C.F.R. § 1605.2(e)(2).



*minimis*” standard, and replaced it with the standard listed in the first paragraph of this key term. As such, the DON shall not use the “more than a *de minimis* burden” standard when determining whether a religious accommodation would pose an undue hardship.

### Attachment 3: Notification of Request for Religious Accommodation

Name of Requester:	Position Title:	Pay Plan– Series– Grade:
Email:		Phone Number:
EDIPI:		Alt Phone Number:
Name of Supervisor/ Manager:	Supervisor’s Email:	Supervisor’s Phone:
Requested Accommodation:		
Length of Time Accommodation is Needed:		
Describe the Religious belief, practice or observance that necessitates this request:		
Describe any alternate accommodations that might address your needs:		

With my signature below, I confirm my religious beliefs and practices, which result in this request for religious accommodation, are sincerely held. I understand that the command will attempt to provide a religious accommodation if it does not create an undue hardship to the organization. I understand the organization may need to obtain supporting documentation regarding my religious practice and beliefs to further evaluate my request for religious accommodation.

Signature of Requester:

Date Submitted:

Signature of Supervisor:

Date Received:

## Attachment 4: Management Documentation of Interactive Discussion for Religious Accommodation

**BETWEEN** \_\_\_\_\_ **and** \_\_\_\_\_  
Name of Supervisor Name of Requester

The request for religious accommodation is due to a conflict between a religious practice or belief, and a work requirement.

*This may 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. Determining whether a practice is religious turns not on the nature of the activity, but on the employee's motivation. The same practice might be engaged in by one person for religious reasons and by another person for purely secular reasons. Whether or not the practice is "religious" is therefore a situational, case-by-case inquiry. For example, one employee might observe certain dietary restrictions for religious reasons while another employee adheres to the very same dietary restrictions but for secular (e.g., health or environmental) reasons. In that instance, the same practice might in one case be subject to reasonable accommodation under Title VII because an employee engages in the practice for religious reasons, and in another case might not be subject to reasonable accommodation because the practice is engaged in for secular reasons.*

*A belief is religious for Title VII purposes if it is 'religious' in the person's own scheme of things, i.e., it is a sincere and meaningful belief that occupies in the life of its possessor a place parallel to that filled by ... God. 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. Religious beliefs include theistic beliefs as well as non-theistic moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.*

This conversation took place on (date).

What is the religious practice or belief which conflicts with a work requirement?

What is the work requirement which conflicts with the religious practice or belief?

How does the above religious practice or belief impact the employee's ability to meet the work requirement?

When does the conflict arise?

Employee suggested accommodations. (List all)

Supervisor suggested accommodations.

The above is a true and accurate summary of the discussion between the Requester and me regarding a request for religious accommodation due to a conflict between a religious practice or belief, and a work requirement.

Printed Name of Supervisor

Position Title of Supervisor

Signature of Supervisor

Date of Documentation

## Attachment 5: Notification of Interim Accommodation Letter

*(Insert Date)*

From: *(Insert Supervisor's Title and Name)*

To: *(Insert Requester's Title and Name)*

Subj: Notification of Interim Accommodation

Ref: (a) Department of the Navy (DON) Processing Guide for Religious Accommodation

1. On *(insert request date)*, you submitted a request for religious accommodation. You have requested the following as an accommodation: *(Insert Religious Accommodation requested - be sure to add in any specific information to describe the request or any notable details from the request process)*. Per reference (a), the DON must consider any possible means of accommodating individuals on an interim basis while the request for religious accommodation is being processed.

2. This letter is to notify you that although your religious accommodation request is still being processed and a determination regarding the outcome has not yet been made, an interim accommodation has been identified that will allow you to perform some or all of the job functions of your position. The interim accommodation is as follows: *(insert details of the interim accommodation, e.g. full-time telework with an end date)*.

3. Please note that if it is determined that you are not entitled to a religious accommodation or that the accommodation would pose an undue hardship, the interim accommodation will be rescinded.

4. If you have any questions on the above, please contact me or *(insert EEO Specialist's contact information)*.

*(Hiring Manager or Supervisor's Name/Signature block)*

Copy to:

*(Insert parties with a need-to-know)*

## Attachment 6: Religious Accommodation Request Review

**Religious Accommodation Request Review for:** \_\_\_\_\_

**Management official:** \_\_\_\_\_ **EEO POC:** \_\_\_\_\_

1. What is the belief, observance, or practice, for which the employee is seeking accommodation?
Documentation is clear: _____ More information is needed: _____
2. What is the religious significance of his or her belief, observance, or practice?
Documentation is clear: _____ More information is needed: _____
3. What is the requested accommodation?
Documentation is clear: _____ More information is needed: _____
4. Is the above information clear enough to be able to consider if alternative accommodation might be possible?
Documentation is clear: _____ More information is needed: _____

Date of Review:

\_\_\_\_\_

## Attachment 7: Religious Accommodation Determination Worksheet

Name of Requester:

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Manager:

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EEO POC:

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Date of Discussion:

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1. Is the belief, observance, or practice religious in nature? Yes: \_\_\_\_ No: \_\_\_\_ Maybe: \_\_\_\_

Things to consider in making a determination about religion:

- \*Does not need to be an organized religion. Not believing in a religion is also covered.
- \*Does not need to be a standard belief of a known religion. Belief or practice may be unique to only one or a few.
- \*May deal with moral or ethical beliefs about right & wrong. May concern ideas of “life, purpose, and death”.
- \*Doubts about particular beliefs should be resolved in favor of finding they are religious.

1b. If you answered “no” or “maybe” to question 1, please describe your concern

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2. Is the belief, observance, or practice sincerely held? Yes: \_\_\_\_ No: \_\_\_\_ Maybe: \_\_\_\_

Things to consider in making a determination about sincerity:

- \*Generally presumed to be sincere or easily established
- \*Should not be dismissed if new or not perfectly practiced
- \*Is largely a matter of credibility
- \*Should not be questioned without objective reason.
- \*May ask for additional supporting information if sincerity is in question.

2b. If you answered “no” or “maybe” to question 2, please describe your concern.

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3. Is the employee entitled to religious accommodation? Yes: \_\_\_\_ No: \_\_\_\_ Maybe: \_\_\_\_

If yes, continue to make determination on accommodation. If no, work with EEO, Decision Maker, HR, and OGC on creating draft denial letter.

If maybe, further clarification with EEO, HR, OGC, or Requester may be required. Another Religious Accommodation counseling meeting will need to occur.

4. Would the requested accommodation result in substantial increased costs in relation to the conduct of the office's operations? Yes: \_\_\_\_ No: \_\_\_\_

Things to consider in making a determination about minimum burden:

- \*Seniority or other matters covered by CBA
- \*Adequate staffing, through occasional overtime cannot invalidate
- \*Jeopardizing safety or health
- \*Cost of implementation
- \*Preferences of management are not undue hardship
- \*Co-worker disgruntlement is not undue hardship

4b. If "yes" to question 8, please describe the concern.

4c. If "no", provide the requested accommodation.

5. Is there an alternative accommodation that would allow the employee to practice his or her religion and would not result in substantial increased costs in relation to the conduct of the office's operations? Yes: \_\_\_\_ No: \_\_\_\_

5b. If you answered "yes" to question 5, please describe accommodation. If "no" to question 10, please describe your concern.

6. It was determined that (Place check mark next to what qualifies):

☐ More information is needed

☐ Requester does not qualify for religious accommodation

☐ Requester has a sincerely held religious belief and can be accommodated as requested.

☐ Requester has a sincerely held religious belief and can be accommodated by alternative means.

☐ Requester has a sincerely held religious belief and can be accommodated with leave.

☐ Requester has a sincerely held religious belief and can be accommodated with potential reassignment

☐ Requester has a sincerely held religious belief and cannot be accommodated

EEO POC concurs: ☐ non-concurs: ☐

HR POC concurs: ☐ non-concurs: ☐

## Attachment 8: Religious Garb and Grooming in the Workplace: Rights and Responsibilities with Examples

This attachment answers questions about how federal employment discrimination law applies to religious dress and grooming practices, and what steps hiring officials and supervisors can take to meet their legal responsibilities in this area.

Examples of religious dress and grooming practices include wearing religious clothing or articles (*e.g.*, a Muslim hijab (headscarf), a Sikh turban, or a Christian cross); observing a religious prohibition against wearing certain garments (*e.g.*, a Muslim, Pentecostal Christian, or Orthodox Jewish woman's practice of not wearing pants or short skirts), or adhering to shaving or hair length observances (*e.g.*, Sikh uncut hair and beard, Rastafarian dreadlocks, or Jewish peyes (sidelocks)).

In most instances, hiring officials and supervisors are required by federal law to make exceptions to their usual rules or preferences to permit applicants and employees to observe religious dress and grooming practices.

Title VII's accommodation requirement only applies to religious beliefs that are "sincerely held." However, just because an individual's religious practices may deviate from commonly-followed tenets of the religion, the employer should not automatically assume that his or her religious observance is not sincere. Moreover, an individual's religious beliefs - or degree of adherence - may change over time, yet may nevertheless be sincerely held. Therefore, like the "religious" nature of a belief or practice, the "sincerity" of an employee's stated religious belief is usually not in dispute in religious discrimination cases. However, if an employer has a legitimate reason for questioning the sincerity or even the religious nature of a particular belief or practice for which accommodation has been requested, it may ask an applicant or employee for information reasonably needed to evaluate the request.

### **EXAMPLE**

#### **New Observance**

Eli has been working at the Burger Hut for two years. While in the past he has always worn his hair short, he has recently let it grow longer. When his manager advises him that the company has a policy requiring male employees to wear their hair short, Eli explains that he is a newly practicing Nazirite and now adheres to religious beliefs that include not cutting his hair. Eli's observance can be sincerely held even though it is recently adopted.

### **EXAMPLE**

#### **Observance That Only Occurs at Certain Times or Irregularly**

Afizah is a Muslim woman who has been employed as a bank teller at the ABC Savings & Loan for six months. The bank has a dress code prohibiting tellers from wearing any head coverings. Although Afizah has not previously worn a religious headscarf to work at the bank, her personal religious practice has been to do so during Ramadan, the month of fasting that falls during the

ninth month of the Islamic calendar. The fact that Afizah adheres to the practice only at certain times of the year does not mean that her belief is insincere.

***Can a supervisor exclude someone from a position because of discriminatory customer preference?***

No. If a supervisor takes an action based on the discriminatory religious preferences of others, including customers, clients, or co-workers, the employer is unlawfully discriminating in employment based on religion in violation of Title VII of the Civil Rights Act of 1964. Customer preference is not a defense to a claim of discrimination.

**EXAMPLE**

**Employment Decision Based on Customer Preference**

Adarsh, who wears a turban as part of his Sikh religion, is hired to work at the counter in a coffee shop. A few weeks after Adarsh begins working, the manager notices that the work crew from the construction site near the shop no longer comes in for coffee in the mornings. When the manager makes inquiries, the crew complains that Adarsh, whom they mistakenly believe is Muslim, makes them uncomfortable in light of the anniversary of the September 11th attacks. The manager tells Adarsh that he will be terminated because the coffee shop is losing the construction crew's business. The manager has subjected Adarsh to unlawful religious discrimination by taking an adverse action based on customer preference not to have a cashier of Adarsh's perceived religion. Adarsh's termination based on customer preference would violate Title VII regardless of whether he was correctly or incorrectly perceived as Muslim, Sikh, or any other religion.

Supervisors may be able to prevent this type of religious discrimination from occurring by taking steps such as training managers to rely on specific experience, qualifications, and other objective, non-discriminatory factors when making employment decisions. Supervisors should also communicate clearly to managers that customer preference about religious beliefs and practices is not a lawful basis for employment decisions.

***May a supervisor or hiring official assign an employee to a non-customer contact position because of customer preference?***

No. Assigning applicants or employees to a non-customer contact position because of actual or feared customer preference violates Title VII's prohibition on limiting, segregating, or classifying employees based on religion. Even if the employer is following its uniformly applied employee policy or practice, it is not permitted to segregate an employee due to fear that customers will have a biased response to religious garb or grooming. The law requires the employer to make an exception to its policy or practice as a religious accommodation, because customer preference is not undue hardship.

**EXAMPLE**

**Assigning Employee to "Back Room" Because of Religious Garb**

Nasreen, a Muslim applicant for an airport ticket counter position, wears a headscarf, or hijab, pursuant to her religious beliefs. Although Nasreen is qualified, the manager fears that customers may think an airport employee who is identifiably Muslim is sympathetic to terrorist hijackers. The manager, therefore, offers her a position in the airline's call center where she will only interact with customers by phone. This is religious segregation and violates Title VII.

As a best practice, managers and employees should be trained that the law may require making a religious exception to an employer's otherwise uniformly applied dress or grooming rules, practices, or preferences. They should also be trained not to engage in stereotyping about work qualifications or availability based on religious dress and grooming practices. Many EEOC settlements of religious accommodation cases provide for the employer to adopt formal religious accommodation procedures to guide management and employees in handling these requests, as well as annual training on this topic.

***May a supervisor or hiring manager accommodate an employee's religious dress or grooming practice by offering to have the employee cover the religious attire or item while at work?***

Yes, if the employee's religious beliefs permit covering the attire or item. However, requiring an employee's religious garb, marking, or article of faith to be covered is not a reasonable accommodation if that would violate the employee's religious beliefs.

#### **EXAMPLE**

##### **Covering Religious Symbol Contrary to Individual's Religious Beliefs**

Edward practices the Kemetic religion, an ancient Egyptian faith, and affiliates himself with a tribe numbering fewer than ten members. He states that he believes in various deities and follows the faith's concept of Ma'at, a guiding principle regarding truth and order that represents physical and moral balance in the universe. During a religious ceremony he received small tattoos encircling his wrist, written in the Coptic language, which express his servitude to Ra, the Egyptian god of the sun. When his employer asks him to cover the tattoos, he explains that it is a sin to cover them intentionally because doing so would signify a rejection of Ra. Therefore, covering the tattoos is not a reasonable accommodation, and the employer cannot require it absent undue hardship.

***May a supervisor or hiring official deny accommodation of an employee's religious dress or grooming practice based on the "image" that it seeks to convey to its customers?***

An employer's reliance on the broad rubric of "image" or marketing strategy to deny a requested religious accommodation may amount to relying on customer preference in violation of Title VII, or otherwise be insufficient to demonstrate that making an exception would cause an undue hardship on the operation of the business.

#### **EXAMPLE**

##### **"Image"**

Jon, a clerical worker who is an observant Jew, wears tzitzit (ritual knotted garment fringes at the four corners of his shirt) and a yarmulke (or skull cap) in conformance with his Jewish beliefs.

XYZ Temps places Jon in a long-term assignment with one of its client companies. The client asks XYZ to notify Jon that he must remove his yarmulke and his tzitzit while working at the front desk, or assign another person to Jon's position. According to the client, Jon's religious attire presents the "wrong image" and also violates its dress code prohibiting any headgear and requiring "appropriate business attire." XYZ Temps may not comply with this client request without violating Title VII.

The client also would violate Title VII if it changed Jon's duties to keep him out of public view, or if it required him not to wear his yarmulke or his tzitzit when interacting with customers. Assigning Jon to a position out of public view is segregation in violation of Title VII. Moreover, because notions about customer preference (real or perceived) do not establish undue hardship, the client must make an exception to its dress code to let Jon wear his religious garb during front desk duty as a religious accommodation. XYZ should strongly advise its client that the EEO laws require allowing Jon to wear this religious garb at work and that, if the client does not withdraw its request, XYZ will place Jon in another assignment at the same rate of pay and decline to assign another worker to the client.

## **EXAMPLE**

### **Religious Garb**

Tahera, an applicant for a retail sales position at a national clothing company that carries current fashions for teens, wears a headscarf in accordance with her Muslim religious beliefs. Based on its marketing strategy, the company requires sales personnel to wear only clothing sold in its stores, and no headgear, so that they will look like the clothing models in the company's sales catalogues. Although the company believes that Tahera wears a headscarf for religious reasons, the company does not hire her because it does not want to make an exception. While the company may maintain its dress and grooming rule for other sales personnel, it must make an exception for Tahera as a religious accommodation in the absence of employer evidence of undue hardship.

In many jobs for which employers require employees to wear uniforms (*e.g.*, certain food service jobs or service industry jobs), the employee's beliefs may permit accommodation by, for example, wearing the item in the company uniform color(s). Employers should ensure that front-line managers and supervisors understand that if an employee's proposed accommodation would pose an undue hardship, the employer should explore alternative accommodations.

### ***May a supervisor or hiring official bar an employee's religious dress or grooming practice based on workplace safety, security, or health concerns?***

Yes, but only if the practice actually poses an undue hardship on the operation of the organization. The supervisor or hiring official should not assume that the accommodation would pose an undue hardship. While safety, security, or health may justify denying accommodation in a given situation, the employer may do so only if the accommodation would actually pose an undue hardship. In many instances, there may be an available accommodation that will permit the employee to adhere to religious practices and will permit the employer to avoid undue hardship.

## **EXAMPLE**

### **Long Hair**

David wears long hair pursuant to his Native American religious beliefs. He applies for a job as a server at a restaurant that requires its male employees to wear their hair "short and neat." When the restaurant manager informs David that if offered the position he will have to cut his hair, David explains that he keeps his hair long based on his religious beliefs and offers to wear it in a ponytail or held up with a clip. The manager refuses this accommodation and denies David the position because he has long hair. Since David could have been accommodated without undue hardship by wearing his hair in a ponytail or held up neatly with a clip, the employer violated Title VII.

## **EXAMPLE**

### **Clothing Requirements Near Machinery**

Mirna alleges she was terminated from her job in a factory because of her religion (Pentecostal) after she told her supervisor that her faith prohibits her from wearing pants as required by the company's new dress code. Mirna requested as an accommodation to be permitted to continue wearing a long but close-fitting skirt. Her manager replies that the dress code is essential to safe and efficient operations on the factory floor, but there is no evidence regarding operation of the machinery at issue to show that close-fitting clothing like that worn by Mirna poses a safety risk. Because the evidence does not establish that wearing pants is truly necessary for safety, the accommodation requested by Mirna does not pose an undue hardship.

## **EXAMPLE**

### **Head Coverings That Pose Security Concerns**

A private company contracts to provide guards, administrative and medical personnel, and other staff for state and local correctional facilities. The company adopts a new, inflexible policy barring any headgear, including religious head coverings, in all areas of the facility, citing security concerns about the potential for smuggling contraband, interfering with identification, or use of the headgear as a weapon. To comply with Title VII, the employer should consider requests to wear religious headgear on a case-by-case basis to determine whether the identified risks actually exist in that situation and pose an undue hardship. Relevant facts may include the individual's job, the particular garb at issue, and the available accommodations. For example, if an individual's religious headgear is or can be worn in a manner that does not inhibit visual identification of the employee, and if temporary removal may be accomplished for security screens and to address smuggling concerns without undue hardship, the individual can be accommodated.

## Attachment 9: Sample Approval Letter

(Insert Date)

From: *(Insert Supervisor's Name and Title)*

To: *(Insert Requester's Name and Title)*

Subj: Approval of Religious Accommodation Request

1. On *(insert request date)*, you made a religious accommodation request for *(insert religious accommodation request here)*. Based on the information that you have provided, you indicated that *(insert details regarding the religious accommodation request, to include the explanation for why they are requesting the religious accommodation, and his or her religion or religious principles that creates the conflict with the work requirement)*.

2. This letter is to notify you that after assessing the information you provided, your religious accommodation request is approved. *(Be specific in describing how the approved religious accommodation will be implemented in accordance with the DON guidance. If an alternative accommodation is being provided, explain what the alternative accommodation is and why this particular accommodation would be effective in eliminating the conflict with the work requirement.)*

3. If you have any questions or concerns, please contact me or *(insert name of servicing EEO Office POC)*.

*(Insert Supervisor's Name/Signature block)*

Copy to: *(Insert parties with a need-to-know)*

Acknowledgement of receipt:

---

Requester's signature

Date



## Attachment 10: Sample Denial Letter

(Insert Date)

From: (Insert Supervisor's Name and Title)

To: (Insert Requester's Name and Title)

Subj: Denial of Religious Accommodation Request

1. On (insert request date), you made a religious accommodation request for (insert religious accommodation request here). After assessing the information, you provided, as well as using the resources available to me, your request to be accommodated based on your sincerely held religious beliefs, practices, or observances is denied.

2. This decision is based on the following: (Be specific and provide as much detail as necessary to justify the decision. More than likely, the reason for the denial will be because the religious accommodation would pose an undue hardship on the operations, failure to participate in the process) Describe any alternative accommodations considered to include reassignment.

3. You have the right to:

a. Initiate the Alternative Dispute Resolution (ADR) process. To request the ADR process, please contact (provide ADR Convener's contact information).

b. [Insert this language only for bargaining unit employees with collective bargaining agreements that authorize grievance concerning discrimination] File a grievance under the negotiated grievance procedure. If you are a bargaining unit employee, you have the right to file a grievance, in accordance with (reference appropriate provisions of the collective bargaining agreement). To file a grievance, please contact (insert contact information for appropriate union official).

OR

c. Initiate the EEO process pursuant to 29 Code of Federal Regulations (C.F.R.) Part 1614 if you believe the denial is based on religious discrimination. To do so, you must contact (provide contact information for EEO Counselor, who is different from the EEO Specialist) within 45 calendar days from your receipt of this notification of the initial denial.

4. Unless noted as an exception above, you must initiate the discrimination complaint process within the applicable timeframes for it to be considered a timely filing.

5. If you have any questions or concerns regarding religious accommodation, please contact me or (insert name of servicing EEO Office POC).

(Insert Supervisor's Name/Signature block)

Copy to: (*Insert parties with a need-to-know*)

Acknowledgement of receipt:

---

Requester's signature

Date

## Attachment 11: Lateral Transfer/Reassignment

### Reassignment Requirements

Reassignment is only applicable for current DON civilian employees excluding probationary employees. It is considered the religious accommodation of last resort, even if it is the form of accommodation specifically requested by the Requester. Before considering reassignment as a religious accommodation, the DON must first consider whether there are other accommodations that would enable an employee to remain in his or her position of record, and document that all other accommodation options have been considered and were not effective, or would result in undue hardship. This determination should be reviewed by the Command Director of Equal Employment Opportunity.

This Processing Guide provides comprehensive guidance on how to fulfill the DON's obligation of exploring reassignment as the accommodation of last resort, and outlines the following aspects of the reassignment as a religious accommodation process:

- Part 1: Preliminary Qualifications and Reassignment Counseling
  - 1A. Preliminary Qualifications
  - 1B. Employee Reassignment Counseling
- Part 2: Job Search Process
  - 2A. Requirements
  - 2B. Conducting the Job Search
- Part 3: Considering Vacancies
  - Requirements
  - Determining Minimum Qualifications
  - Offer of Placement
  - Non-Placement Determination
  - No Placement by End of Job Search
  - Declination of a Job Placement Offer

#### Part 1: Preliminary Qualifications and Reassignment Counseling for Current Employees

Immediately after receiving the Requester's election to be considered for reassignment and the completed *Reassignment Elections Document*, see Attachment 12 or a determination by the supervisor that reassignment will be offered as an accommodation, the EEO Specialist will provide a designated specialist within the servicing HRO with the signed document and the Requester's résumé (or current position description (PD) in the absence of a résumé).

##### 1A. Preliminary Qualifications.

In order to assess the Requester's preliminary qualifications, the EEO Specialist will provide the completed Reassignment Elections (Attachment 12, *Reassignment Elections Document*) and/or the Requester's résumé (if submitted)) to the servicing HRO Specialist. If the Requester does

not provide his or her résumé during the allotted timeframe, the HRO Specialist may use his or her current PD, Notification of Personnel Action Standard Form 50 (SF-50), and other relevant personnel forms (to include the Requester's education) to finalize the preliminary qualifications. The HRO Specialist will utilize this information, as well as other resources available (e.g., the Office of Personnel Management Operating Manual for Qualification Standards for General Schedule Positions, and the Federal Wage System Qualification Handbook) to identify the series and appropriate grade level(s) that the employee is minimally qualified to perform. The servicing HRO Specialist will document the Requester's preliminary qualifications using the *Preliminary Qualifications Worksheet* (Attachment 13). This document will serve as the basis for the search of vacant positions.

#### 1B. Employee Reassignment Counseling.

The Reassignment Counseling session serves to formalize the interactive discussion with the Requester pertaining to the reassignment process. Under this process, the interactive discussion will take place between the employee, an HRO Specialist, and the EEO Specialist. The Reassignment Counseling can be conducted in person or virtually. If the Requester refuses to engage in this interactive process, it may serve as the basis for denial of the religious accommodation request. If the DON has sufficient information to initiate the job search, a job search must be conducted. Prior to the supervisor denying a religious accommodation request for refusal to engage in the interactive process, the EEO Specialist must send the employee a written request for information/documents required for the search, along with a notice that failure to comply will result in the denial of his or her religious accommodation request.

The servicing HRO Specialist sets up a counseling session with the employee and notifies the employee that the EEO Specialist will attend. During this meeting, the HRO Specialist reviews the submitted package with the employee. Specifically, the HR Specialist:

- Reviews résumé or PD, SF-50s, other relevant personnel forms, and education;
- Provides information of what positions they determine they think the Requester could be qualified for based on the information provided;
- Provides input that could strengthen the résumé, such as adding volunteer work or other degrees, skills, or work experience not reflected in the information provided. The Requester is responsible for taking notes and providing the updated résumé within a reasonable timeframe, if they choose;
- Explains the job search process to the Requester, to include responsibilities, expectations, and possible outcomes;
- Explains that the Requester may be required to relocate at his or her own expense if they elect for the job search to be conducted outside of his or her current commuting area and the results yield a placement outside of his or her current commuting area;
- Explains the possibility of removal from federal service for inability to perform position of record, and the option for traditional retirement, if job search does not result in placement;
- Explains remote work positions as options to include in the job search parameters; and

- Advises the Requester that they are responsible for searching for publicly posted vacancies and may apply to vacancies both within DON and outside of DON on his or her own during this process.

Based on the information discussed during the meeting, the HRO Specialist will determine the employee's preliminary qualifications. At the conclusion of the Reassignment Counseling session, the Requester and HRO Specialist must both acknowledge that the meeting took place as scheduled, and that the Requester understands the reassignment process. The HRO Specialist should document this discussion using the *Documentation of Reassignment Counseling* (Attachment 14).

## Part 2: Internal Job Search

### 2A. Requirements

The goal of reassignment as a Religious Accommodation is to place the Requester into a vacant funded position, for which they qualify, that is equivalent in terms of pay, status, or other relevant factors (e.g., benefits, etc.). Reassignment does not include giving a Requester a non-competitive promotion. Thus, a Requester must compete for any vacant position that would constitute a promotion.

### 2B. Internal Job Search

To accomplish the internal job search, the HRO Specialist will search for current vacant positions within the Unit Identification Code(s) (UICs) under the same Commanding Officer of the same major command as the Requester requesting the religious accommodation, for a period of 30 calendar days. This search also includes positions that management anticipates will become vacant within 60 calendar days from the initiation of the job search. The HRO Specialist must maintain and document the vacancies through *Job Search Efforts Conducted by Human Resources Office (HRO) Specialist* (Attachment 15).

The Requester will only be considered for those vacancies for which they are minimally qualified and within the local assigned duty station identified on the *Reassignment Elections* (Attachment 12) and during the Reassignment Counseling session.

## Part 3: Considering Vacancies

### 3A. Requirements

During the search for vacant positions, all potential matches for which the Requester is minimally qualified to perform must be considered as they are identified. While the matched vacancy is being assessed, the recruitment process for the matched vacancy continues up to the tentative job offer. At all stages of the reassignment process, the gaining EEO Specialist and HRO Specialist must keep the servicing EEO Specialist and HRO Specialist informed of any potential matches, and subsequent acceptances or declinations of offers for reassignment. A

copy of all documentation regarding the reassignment process must be maintained by the servicing EEO Specialist in the religious accommodation file.

### 3B. Determining Minimum Qualifications

When a vacant position is identified, the HRO Specialist must first determine if the Requester is minimally qualified for the position. For the purposes of the HRO determination, the Requester must be able to meet the requisite skills, experience, education, and other job-related requirements of the vacancy.

- a. If the Requester is not minimally qualified, the HRO Specialist must document the determination using *Job Search Efforts Conducted by Human Resources Office (HRO) Specialist* (Attachment 15).
- b. If the Requester is minimally qualified, the HRO Specialist associated with the vacancy must immediately notify the hiring manager regarding the pending job placement with a copy to the gaining EEO Specialist. The supervisor, in consultation with the HR, will identify and document the job functions of that position. The supervisor must determine whether the Requester can perform the job functions of the position with or without an accommodation using the information provided by the servicing HR Specialist (e.g., the employee's résumé, employment history, the need to know information from the employee's religious accommodation request, etc.). The *Documentation of Job Functions* (Attachment 16) can be used to document this determination. The supervisor and the EEO Specialist must engage in an interactive discussion with the employee during this step of the process. The determination of whether an employee can be placed in the vacancy must be made within 7 calendar days.

### 3C. Offer of Placement

The EEO Specialist and the supervisor will engage in the interactive process with the Requester if an accommodation is required.

- a. In the event that multiple equivalent positions are identified, the EEO Specialist and the servicing HRO Specialist should consult with the Requester about his or her preference before determining which position will be offered to the Requester. It should be determined that the new position is more able to accommodate the religious preference than the former position.
- b. The DON is obligated to explore vacant lower-graded positions when there are no vacant equivalent positions for which the Requester is minimally qualified. If more than one vacancy is identified through this search, the DON must offer the Requester the position that comes closest to his or her position of record in terms of pay, status, etc. If it is unclear which position comes closest, the EEO Specialist and servicing HRO Specialist should consult with the Requester about his or her preference before determining which position will be offered to the Requester.

Once all relevant parties have determined the best potential placement, the Requester will be offered a non-competitive placement into the position and requested to provide a response to the

offer in accordance with DON business processes. If a Requester accepts the offer for placement and there are other potential matches being considered, the servicing HRO Specialist will notify the HRO Specialists of the other potential matches that an offer has been accepted.

### 3D. Non-Placement Determination

If the gaining supervisor determines that the Requester cannot perform the job functions of the position with or without an accommodation, the gaining organization will need to provide evidence to support this determination, to include what accommodations were considered. The *Documentation of Job Functions* (Attachment 16) and *The Management Documentation of Interactive Discussion for Religious Accommodation* (Attachment 4) may be used as part of the organization's evidence that the Requester cannot perform the job functions of the position.

If the gaining supervisor determines that reassigning the Requester to the identified position is an undue hardship, they must provide documentation showing that an individualized assessment was conducted and provide evidence that demonstrates that the reassignment is an undue hardship. *The Management Documentation of Interactive Discussion for Religious Accommodation* (Attachment 4), and *Undue Hardship Analysis Worksheet* (Attachment 17), may be used as part of the documentation provided. However, other evidence will likely be needed to meet the supervisor's burden to prove that the placement will, in fact, create an undue hardship.

The determination that the Requester cannot perform the job functions of the identified position with or without an accommodation must be reviewed by the EEO Specialist, Deputy Director of EEO (DDEEO), and OGC at a minimum. If necessary, the DDEEO of the gaining Major Command may also review the decision. If the reviewing parties support the decision, the Requester's servicing organization should be notified immediately and *Non-Placement Determination Letter* will be issued, attachment 18 along with the denial letter (Attachment 10, *Sample Denial Letter*). If the Requester's servicing organization disagrees with the gaining organization's conclusion, and the differences cannot be resolved by the two organizations, the issue should be raised to the DON DDEEO.

### 3E. No Placement by End of Job Search

If during the 30 calendar days no vacancies are identified for which the Requester is minimally qualified or can perform the job functions with or without an accommodation, the servicing HRO Specialist will provide the job search documentation to the servicing EEO Specialist within 5 calendar days after the conclusion of the search. The HRO Specialist and servicing EEO Specialist must consult the HRD and DDEEO regarding any discrepancies. The HRD certifies the sufficiency of the HRO Specialist's search and documents his or her review of all searches for vacant positions through his or her concurrence on *Human Resources Director (HRD) Certification of Job Search Efforts Memorandum* (Attachment 18).

The Requester's supervisor will issue a letter denying the request for religious accommodation based on the DON's inability to provide an accommodation in the employee's position of record or any other available position. The *Denial of Religious Accommodation Request Letter* (Attachment 10) may be used to document the required Requester notification. Religious

Accommodation denials will be reviewed by the organization's OGC for legal sufficiency prior to issuance of the notification to the Requester. The religious accommodation process ends once the denial letter is issued.

### 3F. Declination of a Job Placement Offer

At the conclusion of the 30 calendar day job search, the Requester is offered the most equivalent position identified through the search, if available. If the Requester declines the job placement offer, the supervisor will issue a letter denying the request for religious accommodation based on the decision to decline the job placement offer. The *Denial of Religious Accommodation Request Letter* (Attachment 10) may be used to document the required Requester notification. Religious accommodation denials will be reviewed by the organization's OGC for legal sufficiency prior to issuance of the notification to the Requester. The Religious Accommodation Process ends as a result of the Requester's declination.



## Attachment 12: Reassignment Elections Document

The purpose of the Reassignment Elections document is to establish the parameters that the Department of the Navy (DON) will use to conduct a search for vacant funded positions for which you may be considered for reassignment as a religious accommodation local only to the duty station currently assigned. The document also intends to inform you of your rights and responsibilities pertaining to the reassignment as a religious accommodation process.

Please review Parts I through III in their entirety prior to finalizing your responses. You must provide the completed document and your updated résumé to the EEO Specialist within 7 calendar days of your receipt of the *Offer to be Considered for Reassignment Due to Inability to Accommodate in Position of Record* letter. If you elect to participate in Reassignment Counseling, the HRO Specialist will discuss your responses on this document prior to the initiation of the job search.

### PART I: BREADTH OF SEARCH

1) I only want to be considered for a reassignment within (*insert name and Unit Identification Codes (UICs) for employing command and/or organization*).

YES \_\_\_\_\_ NO \_\_\_\_\_

2) I am willing to be considered for a reassignment outside of (*insert name(s) and Unit Identification Codes (UICs) for employing command and/or organization, local to duty station*) as a Religious Accommodation.

YES \_\_\_\_\_ NO \_\_\_\_\_

3) I only want to be considered for remote positions.

YES \_\_\_\_\_ NO \_\_\_\_\_

### PART II: OCCUPATIONAL PREFERENCES

1) At this time, I have specific vacant position(s) in mind for which I believe I am qualified.

YES \_\_\_\_\_ NO \_\_\_\_\_

a. If "YES," please list the position(s) here:

---

2) I have specific occupational series and grade level preferences for which I wish to be reassigned.

YES \_\_\_\_\_ NO \_\_\_\_\_

a. *[For appropriated fund employees, please include the following information]* If “YES,” please identify the lowest grade level for which you would be willing to be reassigned. Please note that if you are placed in a lower-graded position, you may be eligible for pay retention in accordance with 5 Code of Federal Regulations (C.F.R.) Part 536.

b. *[For non-appropriated fund employees, please include the following information]* If you are reassigned to a lower-graded position, your basic pay will change accordingly.

c. If “YES,” please identify ALL occupational series for which you would like to be considered. The series you have identified are subject to review and approval by appropriate HR practitioners responsible for determining your qualifications.

---

3) I would like to be considered for any position at any series and grade level for which I am qualified within my local duty station.

YES \_\_\_\_\_ NO \_\_\_\_\_

### **PART III: ACKNOWLEDGEMENT OF RIGHTS**

I further understand and acknowledge that:

a. If I elect for the job search to be conducted outside of my current commuting area and the match results for placement are outside of my current commuting area, I may be required to relocate at my own expense.

b. *[For appropriated fund employees only]* If I accept a position at a lower grade level than my position of record, I will be changed to the lower grade with pay retention in accordance with 5 C.F.R. Part 536. Although I am entitled to receive pay retention, the placement may not result in full pay retention at my current pay rate depending on the vacant position’s grade level.

*[For non-appropriated fund employees only]* If I am placed at a lower grade level than my position of record, I will be changed to the lower grade and my basic pay will be changed accordingly.

c. If a position is not identified for placement within the parameters I specified in Parts I through III, or if I decline a job placement offer, I understand that my religious accommodation request will be denied. I understand that management will advise me of my options after my religious accommodation request has been denied.

d. If I want to be considered for a reassignment, I must submit an updated résumé within seven calendar days of the date on this document. If I do not submit an updated résumé by this date, job placement efforts will be based on my current series, grade and position description. This will result in determinations regarding my qualifications that do not consider any work experience gained in previous positions.

e. If during the course of the job search, I identify a position for which I believe I am qualified and wish to be considered, I must provide the position details to my servicing HRO Specialist as soon as possible.

f. In conjunction with the DON's search for vacant positions as a result of the Religious Accommodation process, I am also free to apply for positions outside of the agency. The DON cannot direct reassignment as a Religious Accommodation to positions outside of the agency.

My signature below documents that I have identified the parameters of the job search and acknowledges that I was advised of and understand the information contained in this document.

---

Employee's Signature

Date

## Attachment 13: Preliminary Qualifications Worksheet

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

Education / Degree: \_\_\_\_\_

Semester Hours Completed: \_\_\_\_\_

This document is intended to be a comprehensive list that identifies all the occupational series and grade levels for which the employee is minimally qualified to perform, and is not limited to the number of boxes on this document. In order to document the preliminary qualifications, complete one box for each occupational series that the employee is qualified to perform, and include all grade levels with accompanying information. The justification for the preliminary qualifications must be based upon analysis of Office of Personnel Management (OPM) or agency-specific qualification and classification standards.

OCCUPATIONAL SERIES	
GRADE LEVELS	
POSITION TITLE (if applicable)	
# YEARS OF EXPERIENCE (if applicable)	
RECORD USED TO MAKE DETERMINATION (e.g. resume, PD, etc.)	
JUSTIFICATION:	

OCCUPATIONAL SERIES	
GRADE LEVELS	
POSITION TITLE (if applicable)	
# YEARS OF EXPERIENCE (if applicable)	
RECORD USED TO MAKE DETERMINATION (e.g. resume, PD, etc.)	
JUSTIFICATION:	

OCCUPATIONAL SERIES	
GRADE LEVELS	
POSITION TITLE (if applicable)	
# YEARS OF EXPERIENCE (if applicable)	
RECORD USED TO MAKE DETERMINATION (e.g. resume, PD, etc.)	
JUSTIFICATION:	

OCCUPATIONAL SERIES	
GRADE LEVELS	
POSITION TITLE (if applicable)	
# YEARS OF EXPERIENCE (if applicable)	
RECORD USED TO MAKE DETERMINATION (e.g. resume, PD, etc.)	
JUSTIFICATION:	

OCCUPATIONAL SERIES	
GRADE LEVELS	
POSITION TITLE (if applicable)	
# YEARS OF EXPERIENCE (if applicable)	
RECORD USED TO MAKE DETERMINATION (e.g. resume, PD, etc.)	
JUSTIFICATION:	

*(HRO Specialist to insert this paragraph if the employee completed Part III, Question 2(c) in the Reassignment Elections document. Repeat the below question for each occupational series listed by the employee for completion.)*

In *(insert employee name)*'s Reassignment Elections document dated *(insert date of acceptance)*, they indicated that they wish to be considered for the following occupational series only: *(insert occupational series that the employee listed)*:

---

Do you find *(insert employee name here)* to be minimally qualified to perform duties at the *(insert first occupational series)*? \_\_\_\_\_ (YES/NO)

a. If YES, at which grade levels? \_\_\_\_\_

b. If NO, please thoroughly explain why the employee is not minimally qualified.

---

HRO Specialist Name: \_\_\_\_\_

Date Completed: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## Attachment 14: Documentation of Reassignment Counseling

Employee Name:

**I, the undersigned, acknowledge that I met with my servicing HRO Specialist and discussed the following (initial all that apply):**

\_\_\_\_\_ *[Insert the following information for appropriated fund employees]* I have been informed that the remaining options available to me concerning my request for religious accommodation may be reassignment, retirement, or removal from federal service for medical inability to perform in my position of record. *[Insert the following information for non-appropriated fund employees]* I have been informed that the remaining options available to me concerning my request for religious accommodation may be reassignment, or removal from federal service for inability to perform in my position of record.

\_\_\_\_\_ I have been informed of the Department of the Navy's (DON) process for reassignment as a Religious Accommodation, which includes a 30 calendar day internal job search. The search is conducted within my geographic location, local to my duty station and within the occupational series and grade levels for which I am minimally qualified to perform.

\_\_\_\_\_ The internal job search is conducted for 30 calendar days for vacancies within a 50-mile radius of my duty station.

\_\_\_\_\_ *[Insert the following information for appropriated fund employees]* I have been informed that placement into a position identified during a job search could require either a lateral reassignment or a voluntary change to lower grade.

\_\_\_\_\_ I understand that if I decline an offer of reassignment to a vacant position for which I am qualified, my religious accommodation request will be denied. I further understand that denial of my religious accommodation request may result my having to perform the functions of my position without an accommodation. .

\_\_\_\_\_ I understand that if no vacant positions are identified for which I am qualified to perform, or if no vacant positions are identified for which I can perform the job functions with or without an accommodation, my Religious accommodation request will be denied.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of HRO Specialist

\_\_\_\_\_  
Date

## Attachment 15: Job Search Efforts Conducted by HRO Specialist

Date Search Initiated: \_\_\_\_\_

Name of Employee: \_\_\_\_\_

Position of Record: \_\_\_\_\_

In the space provided below, list the vacant positions examined, to include those that the HRO anticipates will become vacant in the next 60 calendar days, by title, series, grade level and as much other identifying information as possible. Annotate next to each vacancy whether or not the employee is qualified for placement into the position, and if not qualified, explain why. Provide a specific, clear and individualized reason why the employee was not qualified (e.g., state the requirement, why the employee failed to meet that requirement and what documents were used to make the assessment).

Job Title	Pay Plan/ Series/Grade	RPA or Announcement Number	Location	Qualified/Not Qualified (N/NQ)	Reason for NQ

If a vacancy is identified, complete the below information: (note that the job search would state that the employee is qualified, as shown above)

Employee placed into (job title, pay plan/series/grade): \_\_\_\_\_

Effective date of placement: \_\_\_\_\_

If a vacancy is NOT identified, complete the below information: (note that the job search would state not qualified, as shown above)

Outcome of job search: \_\_\_\_\_

Date job search terminated: \_\_\_\_\_

Name of HRO Specialist(s) conducting search: \_\_\_\_\_

HRD concurrence of search: \_\_\_\_\_

## Attachment 16: Documentation of Job Functions

The Decision Maker completing the Documentation of Job functions may collaborate with appropriate EEO Specialist, and the Human Resources (HR) Specialist if necessary, and shall maintain open lines of communication with the individual requesting Religious Accommodation. When listing the job functions, provide a justification that describes why each function is essential to the position. In your response, please incorporate the following factors that apply:

- Does the position exist to perform the function?
- Are there a limited number of employees available to perform the function?
- Is the function highly specialized or is the incumbent hired specifically for his or her ability to perform the function?
- What percentage of time is spent performing the function?
- What is the consequence of not performing the function?

If available, please provide the documentation that establishes the function as essential (e.g. position description, job announcement, etc.), as well as any other additional information that may factor into the accommodation decision.

Position Title:

Pay Plan/Occupational Series/Grade:

Position Description Number:

Decision Maker Name and Email Address:

Job Function #1:

Justification:

Job Function #2:

Justification:

---

Decision Maker Signature

Date



## Attachment 17: Undue Hardship Analysis Worksheet

*Note to Supervisors: This worksheet is a guide to determine whether an undue hardship exists, and is not sufficient to actually establish undue hardship. Please work with the EEO Specialist to determine if an undue hardship exists, and provide all supporting evidence of the below responses, if available. This determination will be reviewed by the Office of General Counsel (OGC) for legal sufficiency.*

Individual Requesting Accommodation:

Name of Supervisor Completing Worksheet:

Date:

Is this an accommodation or arrangement that others use in your organization or in organizations similar to yours? If yes, why is this request different or more burdensome?

Please complete all that apply to this accommodation request, and indicate factors or determinations not listed in the “Other” section at the end of this worksheet.

### Extremely high expense

- 1) How much will the requested accommodation cost?
- 2) Are there less expensive alternatives to achieve the desired result?
- 3) Are other funding sources available to pay for the requested accommodation?

### Impact on agency operations

- 1) Would the requested accommodation significantly impact agency operations (e.g. inability to meet the Department of the Navy’s mission)? Please explain.
- 2) Can this impact be avoided or limited? If the answer is “no,” why not?
- 3) Did your office experience a similar situation in the past? If the answer is “yes,” did it impact operations? How so?

### Disrupts work of other employees

- 1) Whose work would be disrupted by this accommodation?
- 2) Could that disruption be avoided by shifting non-essential duties or modifying the location where work is completed?

Please list any other reasons as to why the individual’s accommodation may present a significant difficulty or expense to the Department of the Navy:

## Attachment 18: Non-Placement Determination Letter (Hiring Manager or Supervisor)

*(Insert Date)*

### MEMORANDUM FOR THE RECORD

Subj: Non-Placement Determination for *(Insert Religious Accommodation Request #)*

Ref: (a) Functional Limitations for *(Insert Religious Accommodation Request #)*

Encl: (1) Documentation of Job Functions for *(Insert Job Title of Matched Vacancy)*  
(2) Documentation of Accommodation Options Considered

1. On *(insert date)*, *(insert name of organization)* received a referral for placement into *(insert job title of matched vacancy)* as a Religious Accommodation.
2. Based on the identified job functions of the position in Enclosure (1), and the limitations imposed by the individual's religious belief or practice of the individual that I have received as reference (a), I have determined that the individual is unable to perform the job functions of the position, with or without an accommodation. In addition, I have considered various accommodation options in order to consider placement into this position that are not reasonable or feasible, which are documented in Enclosure (2). As a result of my review, this individual cannot be placed into *(insert job title of matched vacancy)* as a Religious Accommodation
3. This determination is based on the following information: *(insert specific, detailed information that justifies the determination that the employee cannot be placed in the matched vacancy, e.g. undue hardship.)*
4. If you have any questions, please contact me at *(insert Supervisor's email address and phone number)*, or my servicing EEO Specialist at *(insert servicing EEO Specialist's email address and phone number)*.

*(Insert Supervisor's Signature Block)*

## Attachment 19: Human Resources Director (HRD) Certification of Job Search Efforts

(Insert Date)

### MEMORANDUM FOR THE RECORD

Subj: Review of *(Insert Organization Name)* Search of Vacant Positions

Ref: (a) Department of the Navy (DON) Processing Guide for Religious Accommodation  
(b) Reassignment Elections document dated *(insert date)*  
(c) Résumé for *(insert employee name)*  
(d) Preliminary Qualifications Worksheet dated *(insert date)*

Encl: (1) Job Search Efforts Conducted By HRO Specialist *(insert date)*  
(2) Non-Placement Determination Letters

1. In accordance with reference (a), reassignment to a vacant position is a form of Religious Accommodation, and is provided to an employee, who can no longer perform the job functions of his or her current position, with or without a Religious Accommodation. Reference (b) establishes the DON's procedures for identifying and placing employees into vacant positions for reassignment as a Religious Accommodations.

2. Reference (b) requires that the servicing Human Resources Director (HRD) review the sufficiency of the job search to ensure that the organization has considered placement into a vacant position for which the employee is minimally qualified. After reviewing references (c) through (e), and Enclosure (1), I have determined that the HRO sufficiently searched for vacant positions within the parameters identified in references (c) and (d); however, there were no positions identified into which the employee could be placed. *(If applicable, insert the following: In addition, per Enclosure (2), a local search for vacancies was conducted, and there were no positions identified for which the employee could be placed.)*

3. If you have any questions regarding this review, you may contact me at *(insert HRD email address and phone number)*.

*(Insert HRD Signature Block)*

Copy to:  
*(Insert parties with a need-to-know)*

## Appendix: References

It is the DON's policy to provide Religious Accommodations to qualified employees and applicants with religious beliefs, practices and observances if the beliefs are sincerely held in accordance with the following references:

- (a) Unlawful Employment Practices, 42 U.S.C. §2000 *et al.*
- (b) Civil Rights Act of 1964, Title VII
- (c) E.O. 13777
- (d) 29 CFR §1605.1
- (e) 29 CFR §1605.2
- (f) EEOC Management Directive 715 (MD-715)
- (g) EEOC Compliance Manual Section 12: Religious Discrimination
- (h) SECNAVINST 12713.14