



Regulatory Update

U.S. Supreme Court Clarifies Right to Religious Accommodations



In *Groff v. DeJoy*, the U.S. Supreme Court has ruled that when establishing an undue hardship in the context of providing reasonable accommodations for employees' religious beliefs and practices, employers must demonstrate *substantial increased costs* in relation to the operations of its particular business.

Prior to the ruling, an employer was typically only required to demonstrate, when showing undue hardship, that the religious accommodation would require more than *de minimis* (*minimal*) cost to be exempt from the requirement under federal law.

The Details:

In the case before the U.S. Supreme Court, a United States Postal Service (USPS) worker refused to work on Sundays for religious reasons. However, the employee continued to be scheduled on Sundays and was subject to discipline when he failed to work such shifts. The employee eventually resigned.

Under federal law, Title VII of the Civil Rights Act requires employers with 15 or more employees to provide reasonable accommodations for employees' sincerely held religious beliefs or practices, unless it would cause an undue hardship.

Prior to the U.S. Supreme Court's ruling, undue hardship for the purposes of religious accommodations was typically defined by courts as more than *de minimis* cost (*costs so very small or trifling that they aren't even worth noticing*).

However, the U.S. Supreme Court ruled that the use of the *de minimis* standard was incorrect. Instead, the court ruled that undue hardship must be defined as *substantial increased costs* in relation to the operations of the particular business.

"What matters more than a favored synonym for 'undue hardship' (which is the actual text) is that courts must apply the test in a manner that takes into account all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, 'size and operating cost of [an] employer,'" the court wrote.

The court also ruled that the impacts of accommodations on co-workers are relevant only to the extent that they go on to affect the conduct of the business. For example, a hardship that is 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.”

Further, the court ruled that Title VII requires that an employer “reasonably accommodate” an employee’s practice of religion, not merely assess the reasonableness of a particular possible accommodation(s). Faced with an accommodation request like the USPS worker’s, an employer must do more than conclude that forcing other employees to work overtime would constitute an undue hardship. Consideration of other options, such as voluntary shift swapping, would also be necessary.

Next Steps:

Employers should review their policies and practices to ensure they conform with the U.S. Supreme Court’s decision. As always, employers should work with legal counsel when determining whether an undue hardship exists.

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