



Work Schedule Accommodation

The information, below, is extracted from the EEOC Compliance Manual. Sections and examples retain the same numbers as within the manual.

Excerpt from EEOC Compliance Manual

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Section 12: Religious Discrimination

C. Common Methods of Accommodation in the Workplace

Under Title VII, an employer or other covered entity may use a variety of methods to provide reasonable accommodations to its employees. The most common methods are: (1) flexible scheduling; (2) voluntary substitutes or swaps of shifts and assignments; (3) lateral transfer and/or change of job assignment; and, (4) modifying workplace practices, policies, and/or procedures.

1. Scheduling Changes

An employer may be able to reasonably accommodate an employee by allowing flexible arrival and departure times, floating or optional holidays, flexible work breaks, use of lunch time in exchange for early departure, staggered work hours, and other means to enable an employee to make up time lost due to the observance of religious practices. However, EEOC's position is that it will be insufficient merely to eliminate part of the conflict, unless eliminating the conflict in its entirety will pose an undue hardship by disrupting business operations or impinging on other employees' benefits or settled expectations.

EXAMPLE 40 Break Schedules/Prayer at Work

Rashid, a janitor, tells his employer on his first day of work that he practices Islam and will need to pray at several prescribed times during the workday in order to adhere to his religious practice of praying at five specified times each day, for several minutes, with hand washing beforehand. The employer objects because its written policy allows one fifteen-minute break in the middle of each morning and afternoon. Rashid's requested change in break schedule will not exceed the 30 minutes of total break time otherwise allotted, nor will it affect his ability to perform his duties or otherwise cause an undue hardship for his employer. Thus, Rashid is entitled to accommodation.

EXAMPLE 41 Blanket Policies Prohibiting Time Off for Religious Observance

A large employer operating a fleet of buses had a policy of refusing to accept driver applications unless the applicant agreed that he or she was available to be scheduled to work any shift, seven days a week. This policy violates Title VII to the extent that it discriminates against applicants who refrain from work on certain days for religious reasons, by failing to allow for the provision of religious accommodation absent undue hardship.



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2. Voluntary Substitutes and Shift Swaps

Although it would pose an undue hardship to require employees *involuntarily* to substitute for one another or swap shifts, the reasonable accommodation requirement can often be satisfied without undue hardship where a volunteer with substantially similar qualifications is available, either for a single absence or an extended period of time. The employer's obligation is to make a good faith effort to allow voluntary substitutions and shift swaps, under circumstances which do not discourage employees from substituting for one another or trading shifts to accommodate a religious conflict. However, if the employer is on notice that the employee's religious beliefs preclude him not only from working on his Sabbath but also from inducing others to do so, reasonable accommodation requires more than merely permitting the employee to swap. Nevertheless, an employer does not have to permit a substitute or swap if it would pose more than *de minimis* cost or burden to business operations. As noted above, if a swap or substitution would result in the employer having to pay premium wages (such as overtime pay), the frequency of the arrangement will be relevant to determining if it poses an undue hardship; "the Commission will presume that the infrequent payment of premium wages for a substitute or the payment of premium wages while a more permanent accommodation is being sought are costs which an employer can be required to bear as a means of providing reasonable accommodation."

An employer may have to make an exception to its scheduling policies, procedures, or practices in order to grant religious accommodation. For example, if it does not pose an undue hardship, an employer must make an exception to its policy of requiring all employees, regardless of seniority, to work an "equal number of weekend, holiday, and night shifts," and instead permit voluntary shift swaps between qualified co-workers in order to accommodate a particular employee's sincerely held religious belief that he should not work on the Sabbath. Of course, if allowing a swap or other accommodation would not provide the coverage the employer needs for its business operations or otherwise pose an undue hardship, the accommodation does not have to be granted.