

Blog Post

Religious Accommodations in the Post-Groff Era: Navigating the Supreme Court’s “Substantial Increased Cost” Standard

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By [Lanie N. Read](#)

According to the EEOC, religious discrimination charges have increased steadily over the past decade. Post-*Groff*, the stakes for getting accommodation decisions wrong have never been higher. Whether you’re fielding a request for schedule flexibility, dress code exceptions, or vaccination exemptions, the legal framework has fundamentally shifted.

When an employee requests a religious accommodation, employers often have practical, time-sensitive questions: What information should we gather? What can we ask (and what should we avoid)? How do we assess whether a belief is “sincerely held”? How might the requested change affect operations? And what does “undue hardship” mean, especially after *Groff*?

What *Groff* Changed and Why It Matters

For almost five decades, many courts applied a relatively employer-friendly shorthand: “undue hardship” could be shown by “more than *de minimis*” cost or effort. In *Groff v. DeJoy* (2023), the Supreme Court rejected that formulation and raised the bar for employers seeking to deny a religious accommodation.

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What does this mean practically? Under the heightened standard, most religious accommodation requests will not present costs substantial enough to justify denial. For many employers, the path of least legal risk will be to grant the requested accommodation, or a reasonable alternative, rather than deny the request and later defend that decision in litigation.

As our team discussed [here](#), the Supreme Court held that to deny a religious accommodation based on undue hardship, an employer must show that “the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of” the employer’s “particular business.” The Court did not define “substantial” in the abstract. Instead, it directed lower courts to consider “all relevant factors” in the case at hand, including the accommodation requested and its practical impact in light of the employer’s “nature, size, and operating cost.” In other words, context matters, and outcomes may vary significantly based on the facts, the workplace, and the forum.

Key Takeaways From How Courts Are Applying *Groff*'s Heightened Standard

In the nearly three years since the Supreme Court issued *Groff* in June 2023, lower courts have begun filling in the gaps on what may constitute an undue hardship. From these decisions, a few key takeaways stand out:

- There is no one-size-fits-all accommodation. Employers should evaluate each request on an individualized basis and avoid automatic denials based solely on a blanket policy.
- To deny a requested accommodation, employers should be prepared to show that granting it would impose “substantial increased costs” in relation to their particular operations. Because “substantial” is context-dependent, the analysis will often turn

on the employer's size, resources, and how the accommodation would work in practice.

- Speculation is not enough. Courts have been skeptical of generalized assertions about cost, disruption, or risk; employers should assess (and be ready to support with evidence) the actual economic and non-economic impact a particular accommodation would have on business operations.
- Even when an employer believes the requested accommodation would pose an undue hardship, it should consider potential alternatives — even if the employee does not propose them. Depending on the job and workplace, alternatives may include voluntary shift swaps, schedule modifications, reassignment of marginal tasks, or workspace adjustments.

What Recent Cases Suggest About How Fact-Specific These Requests Can Be

Post-*Groff* decisions underscore how wide-ranging religious accommodation requests can be, and how quickly the analysis turns on context. Importantly, these cases are highly fact-dependent; a different job, policy, workplace setting, or jurisdiction can change the outcome. With that backdrop, here are a few examples from recent litigation:

Public school / student name and pronoun

policy: An educator sought an accommodation, based on religious beliefs, to address students by last name only after the school implemented a process that allowed certain students to update the first name and pronouns reflected in school records. The school initially approved the request but later rescinded it after receiving complaints and advised the educator that continued noncompliance could result in termination. The educator later brought Title VII claims alleging failure to accommodate and retaliation.

In that case, the employer argued that the accommodation created undue hardship by undermining its educational mission and by increasing potential legal exposure. Applying *Groff*, however, the reviewing court found disputed issues of fact and reversed summary judgment for the employer. The court emphasized that the undue-hardship inquiry must be grounded in objective, tangible impacts tied to the accommodation itself, not subjective concerns or generalized assumptions.

Corrections / grooming policy: In another case, a correctional officer requested an exemption from a grooming policy (hair and beard length), citing a long-standing religious vow. While the request was pending, the employee was directed to comply with the policy or leave training without pay; the employee chose to leave. The employer later denied the exemption, and the employee was terminated after continuing to wear his hair and beard in accordance with his beliefs.

On appeal, the reviewing court questioned whether the employer's asserted safety and security concerns were supported by evidence sufficient to meet *Groff's* "substantial increased costs" standard. Among other points, the court faulted reliance on the pre-*Groff de minimis* framework, the absence of quantified or concrete costs, and limited record evidence showing that alternative accommodations were meaningfully considered.

The court also evaluated the employer's additional arguments (including concerns about contraband, protective equipment, and potential assaults) against evidence in the record, such as existing practices, training or product guidance, expert testimony, and exceptions made for others. The takeaway for employers is not that safety and security concerns are irrelevant. Rather, courts increasingly expect those concerns to be tied to concrete, workplace-specific evidence and to a documented consideration of reasonable alternatives.

Vaccination policy / exemption requests: Religious accommodation requests related to workplace vaccination policies have also generated significant litigation. Whether a requested exemption creates an undue hardship is typically a fact-intensive question that can depend on the setting (for example, healthcare versus non-healthcare), the employee's job duties, current operational needs, and the specific accommodation requested. Courts have examined factors such as the degree of patient or public contact, whether remote work or reassignment is feasible, and whether the employer applied its exemption criteria consistently. As with other accommodation categories, employers who denied exemptions without documenting a concrete operational burden, or without meaningfully considering alternatives like masking, testing, or modified duties, have faced unfavorable rulings.

Taken together, these decisions reinforce two practical points. First, religious accommodation requests require an individualized assessment. Second, when defending a denial, employers are better positioned when they can point to tangible operational impacts (not generalized concerns) and to a documented process showing good-faith consideration of alternative accommodations.

Thorough Documentation: From Demonstrating Good Faith to Defending Decisions

While the law is still evolving, one thing is clear: courts post-*Groff* are placing a premium on careful, individualized analyses into employee accommodation requests. This makes thorough documentation at every stage of the accommodations process even more essential.

Employers should keep detailed records of accommodation requests, the interactive process with employees on these requests, the specific alternative accommodations considered, and the concrete business-operation reasons supporting any

denial of an accommodation. Employers should also document the actual costs, impacts on business operations, and legitimate risks that would result from granting the employee's requested accommodation and any alternatives the employer considered. This documentation not only shows good faith in the interactive process, but it also provides critical evidence should the employer's decision ever need to be defended.

Looking Ahead

Looking ahead, employers should continue to review their existing accommodation policies and train supervisors, managers, and human resources employees on the *Groff* standard. By engaging meaningfully with employees who request accommodations, exploring all reasonable alternatives, and documenting each step of the process, employers will be best positioned to continue navigating this evolving area of law.

For additional guidance regarding post-*Groff* requests for religious accommodations, please contact a member of Akerman's Labor & Employment Practice Group.

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