

# Handbook Hot Topics: Shifting Worker Accommodation Rules

By **Marcia Washkuhn and Kate Jones** (June 24, 2025)

*This article is part of a bimonthly column that discusses trending employee handbook issues. In this installment, we focus on how to navigate the recent changes to workplace accommodation requirements resulting from the new presidential administration.*

Accommodating employees' varying needs in the workplace is already extremely challenging, requiring consideration of a maze of overlapping and sometimes conflicting laws, regulations, and guidance at the federal and state level. This already difficult landscape only increased in complexity when President Donald Trump took office in January.

The change in administration has resulted in several developments that may significantly alter employer responsibilities related to accommodations, particularly those concerning pregnancy-related medical conditions and religious beliefs, including an executive order, multiple judicial decisions and changes to the U.S. Equal Employment Opportunity Commission's guidance.

Accommodation policies in employee handbooks should explain how employees can request an accommodation, as well as the differences in procedure for a disability request, a pregnancy-related need or a religious practice.

Pregnancy accommodation policies should account for certain accommodations that should be granted in nearly every instance without requiring medical documentation.

Employers should also update religious accommodation policies to reflect a substantial increased cost standard for determining undue hardship, rather than the prior de minimis cost standard.

## **An Overview of Federal Accommodation Laws**

The Americans with Disabilities Act has long required covered employers to provide reasonable accommodations to qualified individuals with physical or mental disabilities so they can perform the essential functions of their jobs, unless doing so would impose an undue hardship on the business.

Similarly, Title VII of the Civil Rights Act requires covered employers to accommodate employees' sincerely held religious beliefs and practices, unless an accommodation would cause an undue hardship.

In *Groff v. DeJoy*, a landmark 2023 decision, the U.S. Supreme Court clarified that undue hardship under Title VII means a substantial increased cost to the employer's business — rejecting the old de minimis, or trivial cost, standard that had made it easier to deny religious accommodations.[1]

This higher bar means employers must be more flexible than before when evaluating



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employee requests for religious accommodations.

Most recently, the Pregnant Workers Fairness Act, which went into effect in 2023, extended protections to employees with pregnancy-related limitations, requiring covered employers to accommodate "the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee" absent undue hardship.[2]

The EEOC's final rule and interpretive guidance implementing the PWFA went into effect last year.[3] Through this rule and guidance, the EEOC interpreted the PWFA broadly — even including accommodations for issues like fertility treatments and abortion, sparking controversy and much legal pushback.

### **The Trump Effect**

Since Trump took office, many changes have occurred that directly affect how employers must address accommodation requests in the workplace.

First, on Feb. 6, Trump signed Executive Order No. 14202, demonstrating a renewed federal focus on protecting religious freedom, specifically pertaining to anti-Christian bias.[4] This emphasis on religious freedom affects workplace accommodation policies that relate to, or have an impact on, religious beliefs.

Then, on April 15, in *Catholic Benefits Association v. Lucas*, the U.S. District Court for the District of North Dakota permanently blocked the EEOC from enforcing parts of its final rule interpreting the PWFA against certain Catholic employers.[5] Under this ruling, such Catholic employers are not required to accommodate employees who have elective abortions.

Most recently, on May 21, in *Louisiana v. EEOC*, the U.S. District Court for the Western District of Louisiana struck down the EEOC's interpretation of the PWFA that treated abortion as a related medical condition, finding that it unconstitutionally exceeded the original intent of the PWFA.[6]

As a result of this decision, given that the Trump administration is unlikely to appeal this ruling, employers will no longer be required to consider accommodation requests from workers seeking elective abortions.

Employers, however, will still need to provide accommodations for abortions that stem from the underlying treatment of a medical condition that is related to pregnancy.

Despite the change in presidential administrations, and the recent successful attacks on the EEOC's final rule interpreting the PWFA, the EEOC is not letting up on its enforcement of the PWFA.

Indeed, since Trump took office, the EEOC has continued its enforcement efforts against employers that have been accused of violating the PWFA. This enforcement has resulted in numerous charges being filed and subsequent settlements through the EEOC.[7]

Moreover, on Dec. 18, the EEOC issued guidance for healthcare providers on how they can help their patients obtain pregnancy- and childbirth-related accommodations in the workplace.[8] The guidance was issued before Trump assumed office this year, but to date, it remains in effect and on the EEOC's website.

These developments highlight how accommodation requirements continue to evolve, and as a result, how accommodation policies and practices continue to face ongoing challenges.

For employers, the takeaways are clear: It is time to ensure that accommodation policies, procedures, and practices are up to date and aligned with the latest legal developments, and secondly, it remains necessary to continue monitoring and adapting as new developments occur.

### **Employee Handbook Recommendations Based on Recent Developments**

In light of the legal updates described above, an effective employee handbook should include clear, detailed policies on workplace accommodations. Below are some best practices to consider.

#### ***Procedures for Requesting Accommodations***

Explain exactly how employees can request an accommodation, and explain the differences in the procedures for a disability request, a pregnancy-related need or a religious practice.

Specify the point of contact, such as the human resources manager or a designated accommodations coordinator, and outline the steps of the process. For example, the policy might instruct employees to complete and submit a written form describing their limitations and requesting accommodation.

However, the policy should not require the request to be in writing or for employees to complete a specific form, as the law does not allow employers to require strict written procedures.

As a best practice, the accommodation policy should also state that the employer will engage in an interactive dialogue to explore possible accommodations.

#### ***Treating Accommodation Requests Differently***

Employers must understand the differences between disability, religious and pregnancy-related accommodation obligations, and must administer such requests according to those differences.

Indeed, the PWFA and the ADA differ substantially, and an employer's accommodation forms, policies and procedures should reflect these differences.

For example, the PWFA:

- Requires certain accommodations to be granted by default in most situations;
- Limits when, and what kind of, medical documentation can be requested;
- Requires accommodation in some situations, even when essential functions cannot be performed;
- Prohibits requiring an employee to take a leave of absence if the employee is seeking an at-work accommodation that is reasonable and available;

- Requires an interactive process, in many instances, that is short and simple between the employee and their supervisor; and
- Has additional elements to consider when evaluating undue hardship in certain situations.

It is critical to ensure that these differences are understood and adhered to when policies are updated, but also when accommodation requests are received and evaluated.

### ***Defining "Reasonable Accommodation"***

Provide a clear description of "reasonable accommodation." The policy might describe it as any change in the work environment or in the way duties are performed that enables an employee to perform the essential functions of the job, so long as it does not cause an undue hardship to the employer.

By including a definition, the handbook can educate employees on the range of possible accommodations, and can set expectations that not every request will be granted if it fundamentally impedes the business.

It is wise to mention the undue hardship caveat — emphasizing that while the employer will make every reasonable effort, accommodations that would impose an undue hardship may be denied in accordance with the law.

### ***Dress Code Flexibility***

Ensure that dress code policies explicitly address religious and disability accommodations.

For example, a dress code or uniform policy should note that exceptions will be made for religious or disability accommodations, such as religious headwear or compression garments, unless doing so poses an undue hardship.

### ***Consistency Across Policies***

Review the handbook to eliminate internal conflicts. By weaving potential accommodations into various policies, employers may avoid a common trap where a generally rigid rule, e.g., "no head coverings" or "employees must work every Saturday," conflicts with the employer's obligation to provide accommodations.

For example, a scheduling policy might acknowledge that flexible scheduling or shift swaps may be provided for religious observance, unless doing so poses an undue hardship.

If an attendance policy states that an absence or late arrival automatically results in a disciplinary point, add a caveat that exceptions will be made for approved accommodations or protected leave.

If a policy requires employees who are returning from medical leave to be "100% healed" with no restrictions, drop that language immediately — it runs afoul of ADA requirements to provide reasonable accommodation for work restrictions.

Instead, the policy should state that employees who are returning from medical leave with restrictions will be evaluated for reasonable accommodations to support their return.

## **Nonretaliation Statement**

No accommodation policy is complete without a strong nonretaliation provision. Make it unmistakably clear that the employer will not retaliate against any employee for requesting or using a reasonable accommodation.

Under numerous laws, such as the ADA, the PWFA, Title VII and others, employees who seek accommodations are protected from reprisal. The employee handbook should reinforce that protection.

For example, include language such as the following: "Employees who request an accommodation or report a need for accommodation will not be subjected to adverse employment action or harassment as a result of their request. Supervisors and co-workers are strictly prohibited from retaliating against an employee for exercising their rights under this policy."

In addition to the above, also consider specifically or generally referencing any state or local accommodation laws that apply.

Many states have their own accommodation requirements, including lactation break laws, broader protections for medical conditions, and laws requiring accommodations for victims of domestic violence, such as schedule adjustments or leave to attend court.

If applicable, include references to those laws in the handbook or, at a minimum, note that the employer will comply with all applicable state and local laws.

The goal is to leave no ambiguity that anyone who is entitled to an accommodation will know how to request it, and that the employer will appropriately handle the accommodation request.

## **Final Thoughts**

Employee handbooks are powerful tools for navigating the ever-shifting terrain of workplace accommodations. Therefore, an employee handbook should be treated as a living document, given that what was legally compliant two years ago might be outdated today.

For instance, pregnancy accommodation policies that have not been updated since the PWFA final rule went into effect last year are likely outdated.

Likewise, a religious accommodation policy that was written before 2023 may still imply that "more than minimal" cost is an undue hardship — a standard that is no longer valid.

Employee handbooks should be reviewed at least annually, or after significant legal developments, to remain compliant and effective.

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[1] See *Groff v. DeJoy*, 600 U.S. 447 (2023).

[2] 42 U.S.C. §2000gg-1(1).

[3] Available at <https://public-inspection.federalregister.gov/2024-07527.pdf>.

[4] Available at <https://www.whitehouse.gov/presidential-actions/2025/02/eradicating-anti-christian-bias/>.

[5] See *Catholic Benefits Ass'n on behalf of Diocese v. Lucas*, No. 1:24-CV-00142, 2025 WL 1144768 (D.N.D. Apr. 15, 2025).

[6] See *Louisiana v. EEOC*, No. 2:24-cv-00629-DCJ-TPL, 2025 WL 1462583 (W.D. La. May 21, 2025).

[7] See, e.g., EEOC Press Release, *Corner Bar to Pay \$42,000 in EEOC Pregnancy Discrimination Lawsuit* (May 20, 2025), <https://www.eeoc.gov/newsroom/corner-bar-pay-42000-eeoc-pregnancy-discrimination-lawsuit>; EEOC Press Release, *White Pine Senior Living to Pay \$73,000 in EEOC Pregnancy Discrimination Lawsuit* (April 14, 2025), <https://www.eeoc.gov/newsroom/white-pine-senior-living-pay-73000-eeoc-pregnancy-discrimination-lawsuit>; EEOC Press Release, *EEOC Files Agency's First Subpoena Enforcement Action Under the Pregnant Workers Fairness Act* (April 8, 2025), <https://www.eeoc.gov/newsroom/eeoc-files-agencys-first-subpoena-enforcement-action-under-pregnant-workers-fairness-act>; EEOC Press Release, *Amelia Springs to Pay \$20,000 in EEOC Pregnancy Discrimination Lawsuit* (April 3, 2025), <https://www.eeoc.gov/newsroom/amelia-springs-pay-20000-eeoc-pregnancy-discrimination-lawsuit>.

[8] See *Helping Patients Deal with Pregnancy- and Childbirth-related Limitations and Restrictions at Work Under the Pregnant Workers Fairness Act*, available at <https://www.eeoc.gov/laws/guidance/helping-patients-deal-pregnancy-and-childbirth-related-limitations-and-restrictions>.