

DEEP DIVE ON WORKPLACE ACCOMMODATIONS

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What is an “accommodation”?

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Dictionary definition*:

“ . . .the act of accommodating someone or something : the state of being accommodated: such as:

. . .the providing of what is needed or desired for convenience.”

* Retrieved May 2, 2022, from <https://www.merriam-webster.com/dictionary/accommodation>

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What is an “accommodation”?

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- Legal definitions much more narrow:
- For example, under Title I of the Americans with Disabilities Act, a reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things are usually done during the hiring process.
- *"In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities."* 29 C.F.R. pt. 1630 app. § 1630.2(o) (1997).

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What is an “accommodation”?

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- Religious accommodation under Title VII:
- Arose from Title VII's prohibition of discrimination on the basis of religion.
- The statute defines “religion” as including *“all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that [it] is unable to reasonably accommodate . . . without undue hardship on the conduct of the employer's business.”* 42 U.S.C. § 2000e(j).

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Who is entitled to workplace accommodations?

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- **Private sector** employees, depending on size of employer (15+ for ADA and Title VII, although some state laws may have lower thresholds)

- **Public sector** employees (Rehabilitation Act)

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Other Sources of Legally-Mandated Accommodations *Modifications*

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“Accommodations” in the sense of the ADA/Rehab Act and religion are not the only type of workplace modifications that may need to be considered.

Other sources for departure from business as usual:

- Leave laws (e.g., FMLA, military leave)
- Light duty/workers compensation
- Adjustment to avoid discrimination claims (example: different grooming standards for women and men)
- Unique situations:
 - “No entity in Texas can compel receipt of a COVID-19 vaccine by any individual, including an employee or a consumer, who objects to such vaccination for any reason of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19.”
 - Tex. Exec. Order No.GA-40 (October 11, 2021).

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