



GUIDANCE FOR HR PROFESSIONALS

ACCOMMODATIONS IN CONNECTION TO TESTING FOR COVID-19

This guidance addresses employees who may have religious or medical accommodation requests in connection to the COVID-19 TESTING requirements established in Executive Directive 18. Human Resources (HR) or Diversity/Equity/Inclusion (DEI) staff responsible for reviewing requests for accommodations from TESTING for COVID-19 are encouraged to engage in the Interactive Process as defined by the Americans with Disabilities Act (ADA).

Agency Human Resources/DEI Officers are encouraged to consider the following:

RELIGIOUS ACCOMMODATIONS

HR/DEI is responsible for making a good faith effort to communicate with the employee about the requested accommodation and should normally presume the employee's request for religious accommodation is sincerely held. However, documentation may be requested. Religion, according to federal law, includes not only faiths considered to be traditional in the local community, but also faiths that are new, relatively uncommon, informal, or have a small number of practitioners. Religious beliefs also do not have to include belief in a god(s) or deities, but may be strongly held moral or ethical beliefs. Beliefs based on social, political, or economic philosophies, as well as mere personal preferences, are not considered religious beliefs under federal law.

Best practice guidance:

- Presume a religious belief is sincerely held and practiced by a requesting employee.
- Document the receipt of the accommodation request and determine if additional documentation is required from the employee. However, avoid fishing expeditions for documentation or information based upon preconceived ideas or opinions.
- Accept that religious beliefs are not static and are susceptible to change over the course of a person's life and that an absence of public declarations or sharing of their faith, beliefs or practices is not indicative of a lack of sincerity.
- As noted by the Equal Employment Commission, agencies are not compelled to accept or implement the requested accommodation if another accommodation can meet the needs of the employee and is preferred by the Agency.
- Maintain confidentiality of requests and interactive discussions. Communicate the determination with others on a need to know basis and caution that they also maintain confidentiality.
- Management must be advised to be on the alert and report any violations of the Civility Policy to HR regarding employees' religious beliefs and related accommodations. Employees with approved accommodation are not expected to discuss their beliefs with colleagues/peers.
- Send a written explanation to the employee. Document the date sent and the method used to communicate the determination (e.g., email receipt, USPS, Courier Service, etc.) and attach to the request form.
- Store and retain all documentation specific to the accommodation request in a file separate from the official personnel record. Follow the retention schedule for medical documents.

MEDICAL CONDITION/DISABILITY ACCOMMODATIONS

Medical condition/disability accommodations specific to COVID-19 testing are generally limited but must involve the Interactive Process as required by the ADA. Document all discussions and the dates that medical/disability documentation is received.

- In accordance with the ADA, agency HR/DEI may instruct the employee to request documentation from the employee's treating medical practitioner for the referenced disability/medical condition. Such documentation must identify the specific medical condition or disability experienced, and the expected duration of the medical condition.
- Individuals who are not fully vaccinated and were positive for COVID-19 in the past 90 days may request an accommodation to the testing requirements for COVID-19. Employees requesting this temporary accommodation must submit documentation referencing their positive COVID-19 test results. Testing is required upon the conclusion of the 90-day period. Otherwise, employees who were previously positive for COVID-19 and are not fully vaccinated are required to submit to the COVID-19 testing requirement.
- Accommodations for medical conditions/disability may include but are not limited to alternative testing options for COVID-19. Testing options may include throat, cheek or saliva testing contingent upon the availability of such tests.

Best Practice Guidance:

- Document the receipt of the accommodation request and determine if additional medical documentation is required from the employee. However, avoid fishing expeditions for documentation or information based upon preconceived ideas or opinions.
- Accept that medical conditions/disabilities are not static and are susceptible to change over the course of a person's life.
- As noted by the Equal Employment Commission, agencies are not compelled to accept or implement the requested accommodation if another accommodation can meet the needs of the employee and is preferred by the Agency.
- Maintain confidentiality of requests and interactive discussions. Communicate the determination with others on a need to know basis and caution that they also maintain confidentiality.
- Management must be advised to be on the alert and report any violations of the Civility Policy to HR regarding employees' medical conditions/disability and related accommodations. Employees with approved accommodation are not expected to discuss their medical conditions/disabilities with colleagues/peers.
- Send a written explanation to the employee. Document the date sent and the method used to communicate the determination (e.g., email receipt, USPS, Courier Service, etc.)
- Store and retain all documentation specific to the accommodation request in a file separate from the official personnel record. Follow the retention schedule for medical records.