

What Employee Accommodations are Required in a Politically Correct World?

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I. Your Employee's Right to Demand Accommodations in the Workplace

The federal American with Disabilities Act (“ADA”) and many similar state laws require employers to “reasonably” accommodate an otherwise qualified disabled applicant or employee to perform the essential job functions of the position or enjoy equal benefits of employment as similarly situated employees. Similarly, other federal and state civil rights statutes prohibiting discrimination based on gender, religion and race require an employer to accommodate an employee’s reasonable request for schedule changes, dress, and grooming practices due to religious beliefs or gender identity. The law also requires employers to reasonably accommodate pregnant employees. The issue of whether the employer must accommodate gender non-conforming or non-binary employee has not yet been fully resolved by the trend is to required such accommodations.

II. What are Your Responsibilities as an Employer?

The law does not require that you meet the specific demands of the employee, only that you make a “reasonable” accommodation when called to do so. We will explore numerous examples from various courts and the EEOC of what constitutes a “reasonable” accommodation under various circumstances. However, the trend is clear that courts will require employers to at least attempt to accommodate objectively reasonable requests that do not endanger coworkers or severely impact business operations. We will also explore some of the unfortunate extremes to which some cases have ventured when requiring an accommodation.

III. What Are Your Rights as an Employer?

The courts and the EEOC have recognized various legitimate limitations on an employee’s right to demand workplace accommodations. We will explore the a few well-recognized legal exceptions to the accommodation requirement including safety concerns and undue hardship to

the employer. We will also provide some of the “go to” defenses when an employee makes objectively unreasonable accommodation requests.

IV. Striking a Balance between Your Rights and Responsibilities in a Politically Correct World

Social and news media often shape the public’s view of the world---and of employers. Often, employers feel the pressure to make accommodations to demanding employee when not legally required to do so. What are the ramifications of making such accommodations? If you give the employee an inch will he take a mile? We will explore the practical and legal effects of both enforcing your rights and the failure to take a consistent stand on certain demands for accommodation.