

This information is referenced below, and its intention is to help guide people to understand their rights as lined out in multiple laws regarding religious accommodation in the work place. I am not a lawyer, and this information is not made to be legal advice. This information is public information – however many aren't aware of the information within it. Use it at your discretion and I implore everyone to read up on all laws on their own referenced and beyond. *This document is not any legal advice. Any use of the information is done so at the individuals discretion. I highly recommend that any person take it upon themselves to further research the information provided and beyond. The information is not pressuring any person to make certain decisions that may or may not involve their workplace/job/employer/income etc. and any action taken is done so at the individual's discretion and does not come from the information within this document or the person that made it. All information here (aside from interpretation which is not law) is public information from within existing state and federal laws. As always, it may be recommended to contact your lawyer with questions and advice regarding religious accommodations and how it may directly apply to you and your workplace.*

RE: Religious Beliefs

This information is specifically regarding religious rights and some specifically related to the covid-19 vaccine.

It is backed within The United States Constitution First Amendment, Arizona Constitution, Title VII of the Civil Rights Act of 1964 and Arizona State law.

Constitution of the United States First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;”

<https://constitution.congress.gov/constitution/amendment-1/#:~:text=Constitution%20of%20the%20United%20States,-First%20Amendment&text=Congress%20shall%20make%20no%20law,for%20a%20redress%20of%20grievances.>

The Arizona State Constitution Article 20, Section 1 “Toleration of religious sentiment – First. Perfect toleration of religious sentiment shall be secured to every inhabitant of this state and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same.” ([https://ballotpedia.org/Article 20, Arizona Constitution](https://ballotpedia.org/Article_20,_Arizona_Constitution))

(Although there may be a difference in an opinion or behavior regarding someone's religious beliefs, The state of Arizona recognizes that every person has the right of their religion and no person shall be harassed, pestered or abused for his mode of his/her religious worship and beliefs in person or property.)

Arizona Revised Statute 41-1463 “It is an unlawful employment practice for an employer: 1. To fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions or privileges of employment because of the individual's race, color, religion, sex, age or national origin or on the basis of disability. 2. To limit,

segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age or national origin or on the basis of disability.”

(<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/41/01463.htm>)

(Arizona state law recognizes that it is unlawful for an employer to refuse to hire, to discharge/fire, or discriminate against any individual with respect to their compensation, the terms or conditions or privileges of employment because of that persons religion (among others, but specific to this documents purpose we are recognizing religion)

Arizona Revised Statute 23-206 (effective September 29th, 2021; passed in the 2021 legislative session): “If an employer receives notice from an employee that the employee’s sincerely held religious beliefs, practices, or observances prevent the employee from taking the covid-19 vaccination, the employer shall provide a reasonable accommodation unless the accommodation would pose an undue hardship and more than a de minimus cost to the operation of the employers business.

(<https://www.azleg.gov/legtext/55leg/1R/laws/0409.pdf>)

*(When an employee notifies their employer that due to their sincerely held religious beliefs, practices, or observances, the employee is unable to receive a covid-19 vaccination, the employer shall provide a reasonable accommodation. If that accommodation would NOT pose an under hardship **and** more than a demimus cost to the operation of the business. Example of **undue hardship**: “An undue hardship may include, costly accommodation (see de minimus) compromises workplace safety, i.e. (an employer may not be required to accommodate a female employee that states due to their religion they cannot wear jeans. The workplace is hard labor and heavy machinery – wearing a skirt and working with heavy machinery can cause a safety issue.), decreases the efficiency of the work place, or requires other employees to do more work.*

De Minimis: “the minimum”. In this context, it would mean allowing for continued employment with minimal cost to the employer. Making employees wear a mask as an accommodation (as they have done pre-covid when workers opt out of the flu vaccine) would be de minimis.)

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Title VII of the Civil Rights Act of 1964: Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. (https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_9546543277761610748655186) (All information below regarding The Civil Rights Act is referenced from the above link.)

-“**Title VII of the Civil Rights Act of 1964**; SEC 2000e-2 [Section 703] (a) Employer Practices- It shall be an unlawful employment practice for any employer – 1 to fail or refuse to hire or to discharge any individual, or other wise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex or national origin or 2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of

employment opportunities or otherwise adversely affect his status as an employee, because of individuals' race, color, religion, sex, or national origin.

(Title VII of the Civil Rights Act of 1964 passed by Congress, (just as the state of Arizona, as mentioned above in ARS 41-1463), recognizes that it is unlawful for an employer to refuse to hire, to discharge/fire, or discriminate against any individual with respect to their compensation, the terms or conditions or privileges of employment because of that persons religion (among others factors such as race, color, sex or national origin, but specific to this documents purpose we are recognizing religion). Title VII also recognizes that it is unlawful to limit, to segregate, or classify employees or applicants for employment in any way that would or may prevent that individual from an equal employment opportunity OR affect his/her status as an employee. (Adversely: negatively, with prejudice.)

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-Civil Rights Act of 1964 States "religion to include "all aspects of religious observance and practice as well as belief," and that religion includes not only traditional, organized religions but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people or that seems illogical or unreasonable to others. Further, a person's religious beliefs "need not be confined in either source or content to traditional or parochial concepts of religion"

(Civil Rights Act defines religion to include all aspects even if a persons beliefs are unpopular, are not recognized by their religion they are a part of, if it is not a common practice/belief, or if only a small number of people have the belief, or if the belief may seem illogical or unreasonable.)

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Title VII of Civil Rights Act of 1964 states "a belief is "religious" if it is "Religious" in the person's "own scheme of things," i.e. it is a "sincere and meaningful" belief.

The Supreme Court has made it clear that it is not a court's role to determine the reasonableness of an individuals beliefs and that "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection." (See *Thomas*, 450 U.S. at 714, & *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014)

(Regardless if an individuals belief is unpopular, may not make sense to others, the Supreme Court has stated it is not their role to determine if the belief is reasonable.)

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Under **Title VII of the Civil Rights Act**" An employee's belief, observance, or practice can be "religious" even if the employee is affiliated with a religious group that does not espouse or recognize that individuals belief, observance or practice, or if few – or no other people adhere to it. (See: *Commission Guidelines*, 29 C.F.R. § 1605.1, *Welsh*, 398 U.S. at 343,)

(Even if the belief is not affiliated with a religious group, or if that group does not recognize that belief, or if few to no other people hold that same belief, and employee’s belief, observance or practice can still be considered “religious”)

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Under **Title VII of the Civil Rights Act:** Religious beliefs include theistic beliefs as well as non-theistic “moral or ethical beliefs as to what is right and wrong

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Under Title VII of the Civil Rights Act: states, the commission and courts “are not and should not be in the business of deciding whether a person holds religious beliefs for the “proper reasons”. We thus restrict we thus restrict our inquiry to whether or not the religious belief system is sincerely held; we do not review the motives or reasons for holding the belief in the first place” (See: *Adeyeye v. Heartland Sweeteners, LLC*, 721 F.3d 444, 452 (7th Cir. 2013))

(courts should not be deciding if an individual holds a religious belief for the right or proper reasons. Reviewing, investigating the motive or the reason for the belief is not exercised.)

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Title VII of the Civil Rights Act recognizes: A sincere religious believer doesn’t forfeit his religious rights merely because he is not scrupulous in his observance

(An individuals rights are still protected and upheld even if the individuals observance, or practices of their belief is not scrupulous.)

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Under Title VII of the Civil Rights Act: it is recognized that if an employee conducted themselves in the past in a way that would conflict with the current reasoning of their religious claim, it is not dispositive because it can change over time, be newly adopted and be sincerely held. (See: *e.g., EEOC v. Ilona of Hungary, Inc.*, 108 F.3d 1569, 1575 (7th Cir. 1997) (en banc), *Cooper v. Oak Rubber Co.*, 15 F.3d 1375 (6th Cir. 1994),

(Civil Rights Act recognizes that even if in the past and individual conducted themselves in a way that might conflict with their current belief and reasonings, it is not reason to deny their belief be sincerely held because beliefs can change over time.)

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De Minimis Cost: providing an accommodation that is with minimal cost to the employer.

Example provided by EEOC.gov would be “ David wears long hair pursuant to his Native American religious beliefs. David applies for a job as a server at a restaurant which requires its male employees to wear their hair “short and neat,” in order to provide a certain image to its customers. When the restaurant manager informs David that if offered the position he will have to cut his hair, David explains that he keeps his hair long based on his religious beliefs and offers to wear it held up with a clip or under a hair net. The manager refuses this accommodation and denies David the position based on his long hair. Since the evidence indicated that David could have been accommodated, without undue hardship, by wearing his hair in a ponytail or held up with a clip, the employer will be liable for denial of reasonable accommodation and discriminatory failure to hire.” (https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_67399831738041610749896553)

Example provided by EEOC.gov: “PHARMACIST EXCUSED FROM PROVIDING CONTRACEPTIVES: “Neil, a pharmacist, was hired by a large corporation that operates numerous large pharmacies at which more than one pharmacist is on duty during all hours of operation. Neil informed his employer that he refuses on religious grounds to participate in distributing contraceptives or answering any customer inquiries about contraceptives. The employer reasonably accommodated Neil by offering to allow Neil to signal discreetly to a coworker who would take over servicing any customer who telephoned, faxed, or came to the pharmacy regarding contraceptives”

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Effect on Workplace Rights of Coworkers

Religious expression can create undue hardship if it disrupts the work of other employees or constitutes—or threatens to constitute—unlawful harassment. Conduct that is disruptive can still constitute an undue hardship, even if it does not rise to the level of unlawful harassment. Since an employer has a duty under Title VII to protect employees from harassment, it would be an undue hardship to accommodate expression that is harassing. As explained in § 12-III-A-2-b of this document, religious expression directed toward coworkers, made in coworkers’ presence, or that a coworker learns of, might constitute unlawful harassment in some situations, for example where it is facially abusive (i.e., demeans people of other religions) or where, even if not abusive, it persists even though it is clearly unwelcome. However, as with bias from customers, if coworkers’ objections are not because the conduct is facially abusive or persistent but rather because of bias of coworkers against religious expression generally or that particular religious expression, it is unlikely that *accommodating the religious expression would be an undue hardship*. It is necessary to make a case-by-case determination regarding whether the effect on coworkers actually is an undue hardship. Mere subjective offense or disagreement with unpopular religious views or practices by coworkers is not sufficient to rise to the level of unlawful harassment. However, this does not require waiting until the unwelcome behavior becomes severe or pervasive. As with harassment on any basis, it is permitted and advisable for employers to take action to stop alleged harassment *before* it becomes severe or pervasive,

because while isolated incidents of harassment generally do not violate federal law, a pattern of such incidents may be unlawful. (https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_67399831738041610749896553) (*employers have a duty to ensure that employees are not harassed, discriminated against or bullied in the work place. A disagreement is fine, but continuously done may constitute unlawful harassment in situations. If a situation arises that you believe may constitute under unlawful harassment, it is always permitted and advisable to report it*).