



Management Directive

Commonwealth of Pennsylvania

Governor's Office

Management Directive 410.12 – Employment-Related Religious Accommodations

Date: November 14, 2023

A handwritten signature in black ink, appearing to be 'N. Weaver'.

By Direction of:

Neil R. Weaver, Secretary of Administration

Contact Agency: Office of Administration
Equal Employment Opportunity Office
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This directive establishes policy, responsibilities, and procedures for employment-related Religious Accommodations pursuant to *Title VII* of the *Civil Rights Act of 1964*, the *Pennsylvania Human Relations Act*, and relevant Commonwealth policies.

1. PURPOSE.

To establish policy, responsibilities, and procedures related to Religious Accommodations for applicants for Commonwealth employment and for Commonwealth employees pursuant to the provisions of *Title VII* of the *Civil Rights Act of 1964 (Title VII)*, 42 U.S.C. §§ 2000e-2000e-17, the *Pennsylvania Human Relations Act (PHRA)*, 43 P.S. §§ 951-963, and relevant Commonwealth policies.

2. SCOPE.

This directive applies to all departments, offices, boards, commissions, and councils under the Governor's jurisdiction (hereinafter referred to as "agencies").

3. OBJECTIVE.

To ensure that employment-related Religious Accommodations are provided to applicants for Commonwealth employment and to Commonwealth employees, in accordance with law and policy.

4. DEFINITIONS.

- a. **Discrimination.** Unequal treatment of an individual based on membership in a class protected by law or Commonwealth policy.
- b. **Essential Functions.** The necessary and fundamental duties of a position, not including the marginal functions of the position.
- c. **Religion.** All aspects of religious observance and practice, as well as sincerely held religious beliefs, observances, or practices as otherwise defined by law.
- d. **Religious Accommodation.** A reasonable adjustment to the work environment that will allow the applicant or employee to comply with their Religion, without imposing an Undue Hardship on the employer.
- e. **Retaliation.** A materially adverse employment action or negative treatment of an individual because the individual engaged in activity protected by law or policy, which includes, but is not limited to, requesting or receiving an accommodation; filing an internal or external complaint of Discrimination or Retaliation; testifying, assisting, or participating in any proceeding, investigation, or hearing; or otherwise opposing Discrimination or Retaliation connected to the workplace.
- f. **Undue Hardship.** A substantial burden on agency operations that cannot be avoided by other reasonable alternatives.

5. POLICY.

- a. Agencies must comply with *Title VII*, the *PHRA*, and all applicable policies, regulations, and laws in responding to and providing Religious Accommodations to applicants for Commonwealth employment and to Commonwealth employees. Pursuant to *Title VII* and the *PHRA*, agencies must provide a Religious Accommodation for an applicant or employee whose Religion poses a conflict with a work requirement, unless providing the accommodation would create an Undue Hardship to the agency.
- b. Requests for Religious Accommodations from applicants for Commonwealth employment and Commonwealth employees are reviewed by the Office of Administration (OA), Equal Employment Opportunity Office (EEOO), Bureau of Equal Employment Opportunity Policy and Appeals (BEEOPA). OA, Bureau of Talent Acquisition (BTA) will, where appropriate, refer requests for Religious Accommodations from applicants for Commonwealth employment to OA, EEOO, BEEOPA and will provide advice and guidance on requests for Religious Accommodations with regard to civil service testing and related issues.
- c. Religious Accommodation requests may be granted unless the requested accommodation imposes an Undue Hardship on the agency. Whether a particular requested Religious Accommodation imposes an Undue Hardship on an agency is fact-specific and dependent upon the circumstances of the given situation. Religious Accommodations may include, but are not limited to, the

following: scheduling modifications, voluntary shift swapping, job reassignments, lateral transfers, and exceptions to dress or grooming requirements, so long as such accommodations do not conflict with law or otherwise impose an Undue Hardship.

- (1)** Examples of an Undue Hardship may include, but are not limited to, substantial costs, compromised workplace safety, decreased workplace efficiency, infringement on the rights of other employees, shifting of potentially hazardous or burdensome workload to coworkers, or interference with a job preference or other benefit guaranteed by a bona fide seniority system or collective bargaining agreement. In addition, and in the case of potential interference with a collective bargaining agreement, the agency should consider having Human Resource (HR) staff supporting the agency approach the union that represents the impacted bargaining unit to discuss alternative options.
 - (2)** Before denying a Religious Accommodation request based upon an Undue Hardship, other available options should be considered by the agency and reviewed with the requesting applicant or employee.
- d.** OA, EEOO, BEEOPA shall review all requests for Religious Accommodation. OA, EEOO, BEEOPA shall consult with the employing agency to determine if the requested accommodation creates an Undue Hardship to the agency.
 - e.** The obligation to provide a Religious Accommodation absent an Undue Hardship is a continuing obligation that may change based on the circumstances presented. Employees' religious beliefs and practices may evolve or change over time and may result in requests for additional or different Religious Accommodations. Similarly, an agency may discontinue a previously granted accommodation if it is no longer utilized for religious purposes, or if the provided accommodation subsequently poses an Undue Hardship on the agency's operations due to changed circumstances. Any concerns about continuing a Religious Accommodation must be addressed to OA, EEOO, BEEOPA before the accommodation may be revoked or changed in any way, and consideration must be given to whether there are alternative accommodations that would not impose an Undue Hardship.
 - f.** Internal Equal Employment Opportunity (EEO) complaints from applicants for Commonwealth employment or Commonwealth employees alleging violations of applicable laws, this directive, or other applicable Commonwealth policies may be filed in accordance with the procedures outlined in *Management Directive 410.10 Amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints*.
 - g.** Retaliation against any applicant for Commonwealth employment or Commonwealth employee is expressly prohibited.

6. RESPONSIBILITIES.

- a. **Secretary of Administration** shall direct the development, implementation, and administration of the Commonwealth's policies related to Religious Accommodations through OA, EEOO.
- b. **OA, EEOO** shall:
 - (1) Oversee the processing of all Religious Accommodation requests submitted by applicants for Commonwealth employment and Commonwealth employees to OA, EEOO, BEEOPA.
 - (2) Develop and disseminate internal Commonwealth policies and procedures on EEO matters, including but not limited to those related to Religious Accommodations and Religious Discrimination.
 - (3) Oversee the internal complaint process in accordance with *Management Directive 410.10 Amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints*, through which applicants for Commonwealth employment and Commonwealth employees may file internal EEO complaints, including those alleging Religious Discrimination or Retaliation.
 - (4) Provide direction, technical assistance, information, and training on investigations of internal EEO complaints to OA, EEOO staff involved in the Religious Accommodation process.
- c. **OA, EEOO, BEEOPA** shall:
 - (1) Review, analyze, and make determinations regarding requests for Religious Accommodations from applicants for Commonwealth employment and Commonwealth employees. While evaluating a Religious Accommodation request, OA, EEOO, BEEOPA may consider other available accommodations than those specifically requested. If the request is from an applicant for Commonwealth employment, OA, EEOO, BEEOPA shall consult with OA, BTA, as appropriate. If the request is from a Commonwealth employee, OA, EEOO, BEEOPA shall consult with the employing agency, including with the employee's immediate supervisor, if necessary, as well as the HR staff supporting the agency, as necessary. After evaluating a Religious Accommodation request, OA, EEOO, BEEOPA will communicate the determination to the agency and to the applicant for Commonwealth employment or the Commonwealth employee.
 - (2) In coordination with OA, EEOO, provide training, information, and technical assistance on EEO policies, including on the rights of employees and obligations of agencies to provide Religious Accommodations, as needed and when requested.
 - (3) Review, in coordination with OA's Deputy Secretary for HR and Management, as necessary, whether policy requirements related to

Religious Accommodations are consistent within and across all applicable issuances and policies.

- (4) Utilize OA, EEOO's designated electronic case management system to document and process all Religious Accommodation requests.
- d. **OA, EEOO, Bureau of EEO Investigations (BEEOI)** shall oversee the internal EEO complaint process, through which applicants for Commonwealth employment and Commonwealth employees may file a complaint alleging noncompliance with religious-related employment policies in accordance with procedures outlined in *Management Directive 410.10 Amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints*.
- e. **OA, BTA** shall:
 - (1) Consult with OA, EEOO, BEEOPA on all requests for Religious Accommodations from applicants for Commonwealth employment, as needed and where appropriate.
 - (2) Refer requests for Religious Accommodations from applicants for Commonwealth to OA, EEOO, BEEOPA, where appropriate.
- f. **HR Staff Supporting the Agency** shall:
 - (1) Ensure that all requests for Religious Accommodations are referred to OA, EEOO, BEEOPA in a timely fashion for review and treated in a confidential manner.
 - (2) Provide information related to the provisions of this directive, including the process for requesting Religious Accommodations, to all Commonwealth employees and, upon request, to applicants for Commonwealth employment.
- g. **Agency Managers and Supervisors** shall:
 - (1) Forward all requests for Religious Accommodations from applicants for Commonwealth employment and Commonwealth employees in a timely fashion to OA, EEOO, BEEOPA and, where necessary, work closely with that bureau in addressing those requests.
 - (2) Ensure that HR staff supporting the agency are aware that a request for a Religious Accommodation was forwarded to OA, EEOO, BEEOPA.
 - (3) Coordinate with HR staff supporting the agency to develop and maintain updated position descriptions to include accurate and complete Essential Functions of the position.

7. PROCEDURES.

a. Religious Accommodation Requests.

- (1) All requests for Religious Accommodations should be submitted by email to the OA, EEOO, BEEOPA resource account, RA-OABEEO@pa.gov, or through Employee Self Service (ESS).
 - (2) OA, EEOO, BEEOPA shall receive and review the request, consult with the appropriate agency, and determine whether to grant a Religious Accommodation request. If the request is from an applicant for Commonwealth employment, OA, EEOO, BEEOPA shall consult with OA, BTA. If the request is from a Commonwealth employee, OA, EEOO, BEEOPA shall consult with the employing agency. All Religious Accommodation requests will be reviewed by OA, EEOO, BEEOPA and discussed with the agency to reach a determination on whether to grant an accommodation request.
 - (3) The agency shall implement any approved Religious Accommodation.
 - (4) The Religious Accommodation request, and all information related to the request, will be kept confidential, except as required by law and policy, and may be shared only on a need-to-know basis.
- b. Identifying the need for Religious Accommodation.** It is the obligation of the individual with a sincerely held religious belief, observance, or practice to request a Religious Accommodation.
- c. Decisions concerning a Religious Accommodation request.**
- (1) Requests for Religious Accommodations should be processed as expeditiously as possible. After consulting with the agency OA, EEOO, BEEOPA will notify the agency of the decision regarding the Religious Accommodation request and will, thereafter, provide notification of the accommodation, if any, being offered to the applicant for Commonwealth employment or the Commonwealth employee who requested the Religious Accommodation.
 - (2) The individual requesting the accommodation has the right to refuse an accommodation that differs from the original accommodation requested. However, if the individual cannot perform the Essential Functions of the position with or without accommodation, the individual may be considered unqualified for the position.