

Guidance on Accommodations for Workers

Per the December 13, 2021 Order of the Commissioner of Health workplaces are required to exclude staff who are not vaccinated and do not fit within exceptions provided by the Order no later than December 27, 2021.

Pursuant to Section 6 of that order, workers may apply for a Reasonable Accommodation to be exempt from this requirement. Reasonable accommodations may be granted for religious reasons and for documented medical reasons (including documented medical reasons relating to pregnancy).

In some cases it may be appropriate to allow a brief extension of time to be vaccinated for a person who is the victim of domestic violence, sex offenses or stalking. A claim for a reasonable accommodation on this basis should be supported by documentation from a social worker, clergy member or other professional who can confirm the worker's status as a victim.

Employers may deny accommodations that impose an undue burden on the employer. EEOC guidance states that whether undue hardship exists should be based on an analysis of several factors, including:

- the nature and cost of the accommodation needed;
- the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility;
- the overall financial resources, size, number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity);
- the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer;
- the impact of the accommodation on the operation of the facility.

The attached checklists are not legal advice. The checklists are intended to guide employers and managers in evaluating requests they may receive from workers for reasonable accommodations or exemptions from the requirement that they be vaccinated against COVID-19. It is not intended, nor is it a substitute for legal advice from a licensed attorney.

For more information about the reasonable accommodation process you can review the information provided by the [New York City Commission on Human Rights](#) and the [Equal Employment Opportunity Commission](#).

MAINTAIN COPIES OF COMPLETED CHECKLISTS TO SERVE AS A RECORD FOR ANY EXEMPTIONS OR ACCOMMODATIONS THAT ARE GRANTED.

Accommodation for Medical Reasons

All medical documentation must be from the worker's health care provider with a valid medical license. The below are circumstances found by the CDC and the New York City Department of Health and Mental Hygiene as worthy of medical exemption from vaccination:

1. A **Permanent** Medical Exemption may be granted if:

- Worker had a severe allergic reaction (for example, anaphylaxis or angioedema) after a previous dose or to a component of all three approved COVID-19 vaccines.
- Worker has a known diagnosed allergy to a component in all three approved COVID-19 vaccines.

2. A **Temporary** Medical Exemption may be granted if:

- Worker has presented medical documentation showing that they are within 90 days of monoclonal antibody or convalescent plasma treatment of COVID-19.
- Worker has presented medical documentation showing they recently underwent stem cell transplant, CAR Tcell therapy, or other therapy or treatment that would temporarily interfere with the worker's ability to respond adequately to vaccination, or mount an immune response due to treatment.
- Worker has Pericarditis or myocarditis.

The length of a temporary medical exemption will be determined on a case-by-case basis after considering the medical documentation. An employee will be required to be vaccinated at the end of the temporary period.

If any of the above boxes in 1 or 2 are checked, Worker may receive an accommodation and not be vaccinated.

Accommodation

- Weekly PCR testing for COVID-19 and Masking at all times when not eating or drinking. Any eating or drinking must occur at least six feet away from others.
- Telework or remote work that does not expose others to the accommodated worker.
- Leave of Absence.
- Other _____
- No accommodation is granted because the unvaccinated worker would likely pose a direct threat to themselves or others.
- No accommodation is granted because accommodation presents an undue burden on the employer.

Worker Name: _____ Date: _____

Temporary Accommodation Ends On: _____

Employer Representative: _____ Title: _____

Accommodation for Religious Reasons

1. Is the request based solely on a personal, political, or philosophical preference?

- The government should not force people to get vaccines or interfere with medical decisions.
- This vaccine is not safe or ineffective.
- COVID is a hoax.
- Other expression of personal, political or philosophical belief _____
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If any of the above are the only basis for the accommodation request, Worker does not qualify for a religious accommodation.

2. Is the request based on a sincerely held religious, moral, or ethical belief?

- Worker has explained/documented how the belief requires the worker not to be vaccinated.
- > Worker saying, for example, they practice a particular religion is not enough on its own.
- > A clergy letter is not required, but helpful and persuasive when the clergy is someone who has a personal relationship with the employee; Form letters or letters from out-of-town clergy who do not know the worker generally are not.
- The worker has not taken other kinds of vaccinations previously.
- >If worker has received other vaccines, they should explain why those vaccines were not against their religion.
- Worker says religious belief prevents them from allowing certain substances to enter their body.
- >If yes, the worker should list/describe other commonly used medicines, food/drink, or other substances that they do not allow to enter their bodies.
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Worker says that they cannot take the vaccine because it was developed and/or tested using fetal cells that the worker is concerned may have been the result of an abortion.

>Does worker takes medications such as ibuprofen (Advil), acetaminophen (Tylenol), or any other medications similarly developed or tested using fetal cell derivative lines? Such behavior would be inconsistent with this religious belief and generally means the worker would be denied an accommodation.

If any of the above are checked, Worker may qualify for a religious accommodation.

Accommodation

- Weekly PCR testing for COVID-19 and Masking at all times when not eating or drinking. Any eating or drinking must occur at least six feet away from others.
- Telework or remote work that does not expose others to the accommodated worker.
- Leave of Absence.
- Other _____
- No accommodation is granted because the unvaccinated worker would likely pose a direct threat to themselves or others.
- No accommodation is granted because accommodation presents an undue burden on the employer.

Worker Name: _____ Date: _____

Employer Representative: _____ Title: _____