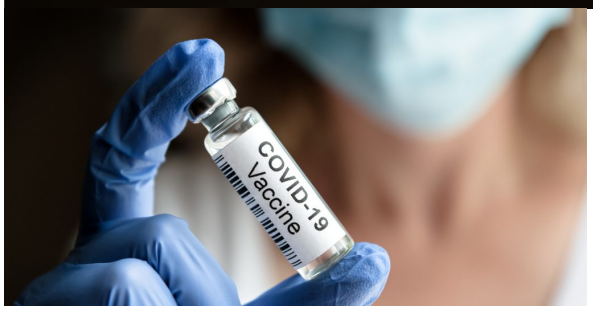
EEOC Updates Guidance on ADA and Title VII Issues Regarding COVID Vaccinations, Including Handling Religious Objections to Vaccinations



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On October 13, 2021, the EEOC updated Section K of its Technical Assistance Questions and Answers regarding what employers need to know concerning ADA, Title VII and Genetic Information Nondiscrimination Act (GINA) obligations with respect to COVID-19 vaccinations. On October 25, 2021, the EEOC issued another update by adding a new Section L, providing guidance on how to deal with religious objections to COVID-19 vaccine mandates. The newly updated Technical Assistance Questions and Answers can be accessed by clicking this link: What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission (eeoc.gov).

The updated guidance in Section K deals with a range of issues including whether employers can require employees entering the workplace to be vaccinated, confirming that vaccination status is confidential medical information under the ADA (but making clear that employers can inquire or request documentation regarding vaccination status), objections by pregnant employees to vaccination, and incentives that an employer can offer to encourage vaccinations.

The new guidance in Section L addresses a range of issues that employers may deal with when employees claim religious objections to COVID-19 vaccine mandates. Some of the highlights of this new guidance explain the broad definition of “religious objection,” to what extent an employer can question whether the objection is a sincerely held religious belief, and how an employer could establish that accommodating the religious belief would be an undue hardship. For example, the guidance makes it clear that simply because an employer grants some employees a religious exemption, it does not mean that it must grant a religious exemption to every employee who requests one. The guidance also notes that an employer need not provide the religious accommodation requested by the employee if the

employer prefers another reasonable accommodation. Further, the guidance states that an employer who grants a reasonable accommodation for religious reasons has the right to discontinue a previously-granted accommodation if it subsequently poses an undue hardship on the employer's operations due to changed circumstances.

This new guidance will help employers who are likely to face religious accommodation requests when OSHA publishes its Emergency Temporary Standard requiring mandatory COVID vaccinations or periodic testing, which standard is expected to be published imminently, and when the Centers for Medicare & Medicaid Services (CMS) issues the forthcoming interim final rule implementing a mandatory COVID-19 vaccination policy for hospitals and other health care providers participating in Medicare and Medicaid, which rule is also expected to be published imminently. We are prepared to assist you with legal advice on these issues, including helping you develop policies, procedures and forms to deal with applicable mandatory vaccinations and potentially conflicting federal, state and local guidance.

This article is general in nature and does not constitute legal advice. Please note that new guidance is being provided by authorities on a daily basis so please monitor new developments and guidance, including but not limited to our firm's COVID-19 Resource Center. Readers with legal questions should consult the authors, John Vering (jvering@sb-kc.com), John Neyens (jneyens@sb-kc.com) Shannon Johnson (sjohnson@sb-kc.com), Mark Opara (mopara@sb-kc.com), or other shareholders in Seigfreid Bingham's Employment Law Group, including: Brenda Hamilton, Julie Parisi, or Christopher Tillery or your regular contact at Seigfreid Bingham at 816-421-4460.