

**SUPREME COURT CHANGES UNDUE HARDSHIP
ANALYSIS FOR RELIGIOUS ACCOMMODATION REQUESTS¹**

To: ICRMT Members
From: IFMK Law, Ltd.
Re: Supreme Court opinion in *Groff v. DeJoy*
Date: July 5, 2023

Title VII requires that employers reasonably accommodate the religious beliefs and practices of their employees unless doing so would result in undue hardship. The Supreme Court clarified in [*Groff v. DeJoy*](#) that an employer experiences “undue hardship” when the burden of providing the accommodation is “substantial in the overall context of its operations.”

Prior to the ruling in *Groff*, courts had routinely held that undue hardship resulted if the burden of providing the accommodation was more than *de minimis* (in other words, more than small or trifling). The *Groff* ruling is significant in that now an employer cannot deny an accommodation unless the burden is substantial.

The Court explained that an employer must consider the particular accommodation at issue and its practical impact in light of the operating cost and the nature and size of the employer. Bias or hostility to a religious practice or accommodation will never be a valid defense to a claim of failure to provide a religious accommodation.

Going forward, when evaluating whether a religious accommodation request will cause an undue burden, an employer should consider all relevant factors, which may include, but certainly are not limited to, the nature of the request, the size of the employer and its available resources, the monetary cost (if any) of the accommodation, any safety impact of the accommodation, and the effect of the accommodation on the employer’s overall operations. It is not enough for an employer to conclude that one possible accommodation would cause an undue hardship. Employers should also evaluate other options. Examples of possible accommodations contained in EEOC guidance prior to *Groff*, include flexible scheduling, voluntary shift substitutions or swaps, job reassignments, and modifications to workplace policies or practices. Employers are encouraged to consult with their State’s Attorney, Corporation Counsel, or other legal adviser when evaluating an employee’s request for a reasonable accommodation.

¹ This memo has been prepared by IFMK Law, Ltd. for informational purposes only. It is not intended as legal advice. Member entities are encouraged to consult with their State’s Attorney, Corporation Counsel, or other legal advisor for legal advice regarding the subject of this memo.