

New Puerto Rico Labor Department Religious Accommodation Regulations Effective May 25

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The Employment Law Reform enacted earlier this year in Puerto Rico introduced a local requirement to accommodate an employee's observance of religious practices or beliefs. (See our article, [Top 20 Things You Should Know About the Proposed Puerto Rico Employment Law Reform](#).) The law directed the Secretary of the Puerto Rico Department of Labor to draft regulations for compliance with these provisions. These final regulations were recently published and are effective on May 25, 2017.

"Excessive Difficulty" Exception

Puerto Rico law now requires an employer to reasonably accommodate an employee's religious practice or belief, unless it presents an "excessive difficulty" for the employer. This standard is not necessarily the same as Title VII of the Civil Rights Act's "undue burden" exception for accommodation of religious beliefs or practices.

Under the local regulations, "excessive difficulty" requires the employer to prove that a given accommodation would involve major costs, create dangerous conditions, or impede the employee from being able to execute functions for which the employee was hired. It is the employer's burden to establish that a denied accommodation is unreasonable, and the assumption that other employees with the same religious beliefs may need the same accommodation is not "excessive difficulty."

Procedure for Requesting Accommodation

A request for religious accommodation must be in writing and contain a description of the religious activity, the accommodation requested, and the frequency of the accommodation. The request also must be delivered with reasonable anticipation. An employer must respond to any such request in writing within seven business days, unless the religious practice will occur before that time. Failure to respond within this time *creates a presumption that the request was granted by the employer*. Any denial must be in writing and explain the reasoning and the excessive difficulty justifying such denial. An employer may deny a request if the employee insists on the most onerous accommodation.

Remedies

In addition to existing remedies for religious discrimination, under the new regulations, an aggrieved employee can file a complaint against an employer for violations of these provisions before the PR-DOL Labor Standards Bureau, which shall investigate and request an employer's response within 10 calendar days. An employer's failure to respond or a finding of violation will result in a referral to the PR-DOL Office of Mediation and Adjudication for adjudicative proceedings.

A finding of a violation will result in a fine of a minimum of \$1,000 and a maximum of \$5,000 in addition to an order to accommodate the religious practice.

Employers should ensure that their procedures for requesting religious accommodation comply with the tight deadline imposed by the regulation. Jackson Lewis attorneys are available to answer inquiries regarding this and other workplace developments.

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