

## ***Religious Accommodation***

The City of Baltimore (“City”) is committed to maintaining a work environment that accommodates the religious beliefs and practices of applicants and employees. To achieve this objective, the City provides guidance by way of this Policy to ensure compliance with Title VII of the Civil Rights Act of 1964.

### **I. PURPOSE**

The purpose of this Policy is to promote an environment for individuals working for the City that is free from religious discrimination and to provide instructions on what to do if an employee is in need of a religious accommodation.

### **II. SCOPE**

This Policy applies to all employees and individuals involved in the City’s operations, including, but not limited to, full-time and part-time employees, temporary employees, probationary employees, seasonal employees, contractual employees, and applicants.

### **III. DEFINITIONS**

**A. Religious Discrimination:** Religious discrimination involves treating an individual (whether it is an applicant or employee) unfavorably because of his or her bonafide religious beliefs.

Religious discrimination can also involve treating an individual differently because they are married to or associated with an individual of a particular religion. The law forbids discrimination regarding any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term of consideration of employment.

**B. Religion (as defined by Title VII of the Civil Rights Act of 1964):** Religion includes traditional, organized religions as well as religious beliefs that are new, uncommon, not part of a church sect, or only held by a small number of people.

### **IV. PROHIBITED CONDUCT**

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion. This includes refusing to accommodate an employee’s sincerely held religious beliefs or practices, unless the accommodation would pose an undue hardship (more than a minimal burden on the business).

### **V. ACCOMMODATIONS**

Common requested religious accommodations may be:

- Adherence to a specific dress code;
- Schedule changes for holidays or prayer time;
- Requests to be excused from religious practices offered in the workplace;

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- Attendance at ritual ceremonies;
- Breaks for daily prayers at prescribed times;
- Requests from working on a Sabbath day;
- Job reassignments (where a lateral transfer is not available, an employer can offer a lower paying position if that position would enable the employee to abide by his or her religious beliefs). The decision is up to the requesting employee to accept or decline the offer; and
- Modifications to the workplace or policy practices.

### **VI. DETERMINING AN UNDUE HARDSHIP**

- A. The determination of what constitutes an undue hardship is made on a case by case basis. Under Title VII, the “undue hardship” defense requires a showing that the proposed accommodation poses a “more than de minimis” cost or burden. However, a few common examples includes:
1. Violating a seniority system;
  2. Causing a lack of necessary staffing;
  3. Jeopardizing health or security;
  4. Costing the employer more than a minimal amount;
  5. Infringing on the rights of other employees;
  6. Requiring other employees to do more than their share of potentially hazardous or burdensome work;
  7. Decreasing workplace efficiency; and
  8. Violating a collective bargaining agreement.
- B. Even when an undue hardship exists, the Agency can take measures to alternatively accommodate the employee. If scheduling poses an undue hardship, the Agency should consider allowing employees to voluntarily substitute or switch shifts. An Agency may have to make an exception to its scheduling policies, procedures, or practices in order to grant the accommodation if doing so does not pose an undue hardship. The Director of DHR or designee and the employee’s Agency Head or designee must be involved in any decisions regarding this exception.
- C. Schedule changes that cause infrequent payment of overtime is not a qualification for undue hardship. If an Agency is unable to accommodate the requesting employee in their current position, they should consider offering a lateral transfer or demotion into a vacant position.

### **VII. STEPS FOR REQUESTING A RELIGIOUS ACCOMODATION**

- A. The employee must make the Agency aware of the need for an accommodation based on a conflict between the individual’s belief or practice and their work duties or the application process. The initial request can be made orally and/or in writing to the immediate supervisor. The Agency HR Practitioner will assist the employee with completing *AM 207-3-1 Religious Accommodation Form (“AM 207-3-1”)*.

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- B.** Should the Agency HR Practitioner need more information, the Agency HR Practitioner and the employee will discuss the request and the options. The employee is obligated to explain the religious nature of the belief or practice at issue and cannot assume that the Agency will already understand. Requested accommodations may vary, so the employer must attempt to arrange the employee to allow an employee to meet their religious accommodations. An Agency may require an employee to use paid time off, such as accrued personal or vacation leave, to meet the requested accommodation.
- C.** An Agency may not refuse to accommodate an employee because it is based on an unfamiliar religious belief or practice. Additionally, an Agency must demonstrate how the requested accommodation qualifies as an undue hardship. The Agency must make a good-faith attempt to meet the employee's religious needs and job requirements if the specific request cannot be granted. The employee may not be unreasonable in demanding an accommodation. Although the employee must be clear when requesting their accommodation, they do not need to prove anything regarding their religious belief. However, the employee must cooperate with the Agency's efforts to determine whether a reasonable accommodation can be granted.
- D.** Upon a reasonable request of an employee, the Agency will give consideration to accommodating an employee's sincerely held religious belief, practice, or observance which conflicts with a work requirement, unless doing so would pose an undue hardship. Because the definition of religion is so broad and protects unfamiliar beliefs and practices, the Agency should assume that the employee's request for religious accommodation is based on a sincerely held belief. In order to consider a requested accommodation, the following steps must be followed:
- 1.** The employee initiates the request orally or in writing;
  - 2.** The employee must complete *AM 207-3-1*;
  - 3.** The supervisor will forward the form to the Agency's HR Practitioner;
  - 4.** The Agency HR Practitioner and supervisor will review the form with the employee.
    - a.** If the accommodation is not immediately apparent, the Agency HR Practitioner will discuss the request with the employee to determine what alternative accommodations might be effective, taking into consideration any additional factors or extenuating circumstances.
    - b.** When the accommodation cannot be promptly implemented, the Agency should consider alternative methods of accommodation on a temporary basis while a permanent accommodation is being explored. In this case, the employee should be informed, in writing, of the status of the employer's efforts to implement a solution.
  - 5.** The Agency HR Practitioner shall submit the completed request along with the Agency's recommendation to the Director of DHR or designee within five (5) business days of receipt of the request.
  - 6.** The employee shall be notified, in writing, of the decision of the proposed accommodation within five (5) business days of review by the Director of DHR or designee. The letter shall also be sent to the Agency HR Practitioner and immediate supervisor.

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- E. Factors that are considered when a religious accommodation request is made include, but is not limited to, the nature of the accommodation, the duration of the request, alternative accommodations, the impact on the operation of the respective department within the Agency, and the ability of the individual to perform the essential functions of the position should the accommodation be granted.

### **VIII. AUTHORITY**

This Policy was issued pursuant to *AM 002-1* and *002-1-2* Administrative Manual wherein the Department of Human Resources recommended changes to the Administrative Manual to the Board of Estimates for approval.

### **IX. INTERPRETATION**

The Department of Human Resources reserves the right to revise or eliminate this policy at any time, with the approval of the City's Board of Estimates.

### **X. RELATED POLICIES**

- AM 204-18 Equal Employment Opportunity
- AM 207-3-1 Religious Accommodation Form
- AM 207-3-2 Religious Accommodation – Sample Approval Letter
- AM 207-3-3 Religious Accommodation – Sample Denial Letter