



MEMORANDUM

From: Loveless Law Firm, LLP

Date: April 27, 2020

Re: What Qualifies as Undue Hardship for Employers During a Pandemic

The EEOC has recently clarified what constitutes an undue hardship preventing an employer from reasonably accommodating an individual with a disability in a pandemic. The agency stated that “it may be significantly more difficult in this pandemic to conduct a needs assessment or to acquire certain items, and delivery may be impacted, particularly for employees who may be telecommuting.”

In addition, the EEOC said, “The sudden loss of some or all of an employer's income stream because of this pandemic is a relevant consideration. Also relevant is the amount of discretionary funds available at this time—when considering other expenses—and whether there is an expected date that current restrictions on an employer's operations will be lifted (or new restrictions will be added or substituted). These considerations do not mean that an employer can reject any accommodation that costs money; an employer must weigh the cost of an accommodation against its current budget while taking into account constraints created by this pandemic.”

The factors impacting what constitutes an undue hardship are going to be motivated by a vastly different operational and financial reality for some businesses than was the case prior to the pandemic.

Disclaimer: This policy template is meant to provide general guidelines and should be used as a reference.