

## More Flu Vaccine News – EEOC Alleges Hospital’s Mandatory Flu Vaccine Policy Violates Title VII

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**Norma W.  
Zeitler**  
Partner

As summer temperatures soar, one might think the last thing to worry about is the upcoming flu season. And while that may be true in most respects, the flu is on the minds of the Equal Employment Opportunity Commission (EEOC). A lawsuit filed by the EEOC sheds light on the issue for healthcare employers who impose mandatory flu vaccine requirements on employees as a condition of continued employment. The EEOC alleges in *EEOC v. Mission Hospital, Inc.* – a lawsuit that includes class allegations – that Mission Hospital violated Title VII by failing to accommodate employees’ religious beliefs and by terminating employees in connection with the hospital’s mandatory flu vaccination program. In particular, the EEOC took issue with the hospital’s alleged strict enforcement of its deadlines, which required employees to request an exemption by Sept. 1 and, if the exemption request was denied, to obtain the vaccination by Dec. 1. According to Lynette Barnes, regional attorney for the EEOC’s Charlotte District Office, “An arbitrary deadline does not protect an employer from its obligation to provide a religious accommodation. An employer must consider, at the time it receives a request for a religious accommodation, whether the request can be granted without undue burden.” The key takeaway here is that, similar to what is required under the Americans with Disabilities Act (when, for example, an employer is analyzing the application of a policy to a particular employee with a disability), employers should consider analyzing their duty to accommodate under Title VII based on the facts and circumstances of the particular case, as opposed to applying an (allegedly) inflexible rule without regard to the circumstances of the particular case. The other take-away here is that employers should consider basing this kind of employment decision on more than one reason – for example, a missed deadline **plus** a determination that granting the exemption would (or would not) be an undue burden (and why). A copy of the EEOC’s lawsuit is [found here](#) and a copy of Mission Hospital’s answer is [found here](#). We will keep you updated on the resolution of this lawsuit.

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