



**TAB F – CONSIDERATIONS IN ASSESSING REQUESTS FOR
EXEMPTIONS FROM
DAF GUIDANCE FOR CORONAVIRUS DISEASE 2019
VACCINATION ATTESTATION, SCREENING TESTING,
VACCINATION VERIFICATION,
AND ASSOCIATED IMPACTS FOR CIVILIAN PERSONNEL**

When a DAF civilian employee requests an exemption from the requirement(s) of this guidance on the basis of a disability, medical condition or circumstance, or a sincerely held religious belief, practice or observance, it is critical that approval authorities conduct a thorough and individualized assessment of the totality of circumstances surrounding each case to determine if an appropriate flexibility or accommodation is legally required and can be provided. Exemptions will be granted in limited circumstances and only where legally required, as directed by reference (c).

Servicing Exemption Review Teams (ERT) will assist in determining the facts and circumstances of each request and provide consultation and advice to the approval authority, as necessary, for both medical and religious-based requests. The ERT will also assist the approval authority, as needed, in obtaining reasonably necessary additional information (e.g., medical documentation, an interview of the requesting employee, supervisory statement, etc.) and will provide subject matter expertise to the approval authority.

Determining whether an exemption is legally required must be an individualized assessment of the particular facts and circumstances of the requesting employee's situation. It will include consideration of factors such as: the basis for the claim; the nature of the DAF civilian employee's job responsibilities; the impact, if any, of the volume of requests; and the reasonably foreseeable effects on the DAF's mission and operations, including protecting other employees and the public from COVID-19. Approval authorities should consider viable alternatives to exemptions that allow for accommodation of the religious belief or medical conditions without putting others at risk. Examples of such possible alternatives include, but are not limited to: telework; altering work schedules or using cohort schedules; and reassignment to a different position or to different duties that may allow for telework. In some cases, the nature of the DAF civilian employee's job may be such that the approval authority determines that no safety protocol other than vaccination is adequate; in such circumstances, the approval authority may deny the requested accommodation or exemption.

CONSIDERATIONS IN CASES INVOLVING A MEDICAL BASIS

Even in cases where a DAF civilian employee does not meet the legal definition of having a “disability” to be entitled to an accommodation under the Rehabilitation Act, in some limited circumstances an approval authority may grant an extension to a vaccination deadline based upon other medical considerations. For example, the CDC recommends delaying COVID-19 vaccination for at least 90 days after receiving monoclonal antibodies or convalescent plasma for COVID-19 treatment.

The ERTs, in conducting their review, and the approval authorities in making their decisions, should take note that an individual’s medical need is to be considered on a case-by-case basis, including any medical evaluation that addresses the individual’s particular circumstance. For this reason, as well as to provide expertise regarding the efficacy of potential alternative accommodations, to assist in assessing the impact of the employee’s job responsibilities and work environment on the request and the potential risk to the employee or others associated with the accommodation request, it is important to include an occupational health SME on the ERT (for both medical and religious-based requests) to assist in this assessment. It is NOT the occupational health SME’s role to re-assess the medical documentation or medical information, but rather to address the impact of that information as it relates to the employee’s accommodation/exemption request.

Approval authorities in receipt of documented medical reasons that may not qualify as a disability, but that necessitate a delay in vaccination, should grant extensions; but they should also specify, consistent with the nature of the medical necessity, by what date the employee must become fully vaccinated.

The CDC considers a history of the following medical conditions to be contraindications to vaccination with COVID-19 vaccines:

- Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine; and
- Immediate allergic reaction of any severity to a previous dose or known (diagnosed) allergy to a component of the COVID-19 vaccine.

If an individual is allergic to a component of one or more COVID-19 vaccines, that individual may not be allergic to components in all COVID-19 vaccines.

In the following circumstances, the CDC recommends delaying vaccination for COVID-19 for adults:

- Vaccination of people with known current SARS-CoV-2 infection should be delayed until the person has recovered from the acute illness (if the person had symptoms), and they have met criteria to discontinue isolation.
- People with a history of multisystem inflammatory syndrome in adults (MIS-A) should consider delaying vaccination until they have recovered from their illness and for 90 days after the date of diagnosis of MIS-A.
- Vaccination should be delayed for 90 days after receiving monoclonal antibodies or convalescent plasma for COVID-19 treatment.
- Whenever possible, mRNA COVID-19 vaccination doses (including the primary series and an additional dose) or the single dose Johnson and Johnson (J&J)/Janssen vaccine should be completed at least two weeks before initiation or resumption of

immunosuppressive therapies, but timing of COVID-19 vaccination should take into consideration current or planned immunosuppressive therapies and optimization of both the patient's medical condition and response to vaccine. A patient's clinical team is best positioned to determine the degree of immune compromise and appropriate timing of vaccination.

- People who develop myocarditis or pericarditis after a dose of an mRNA COVID-19 vaccine should delay receiving a subsequent dose. People who choose to receive a subsequent dose should wait until myocarditis has completely resolved.
- People who have a history of myocarditis or pericarditis unrelated to mRNA COVID-19 vaccination may receive any currently FDA-approved or FDA-authorized COVID-19 vaccine after the episode of myocarditis or pericarditis has completely resolved. This includes resolution of symptoms attributed to myocarditis or pericarditis, as well as no evidence of ongoing heart inflammation or sequelae as determined by the person's clinical team, which may include a cardiologist, and special testing to assess cardiac recovery.

The American College of Obstetricians and Gynecologists and Society for Maternal-Fetal Medicine recommends that all pregnant individuals be vaccinated against COVID-19. However, an approval authority may allow such DAF civilian employees to delay vaccination based on the employee's particular medical circumstances, consistent with the DAF process for reviewing such requests.

In situations where the same mRNA vaccine product is temporarily unavailable, it is preferable to delay the second dose to receive the same product rather than to receive a mixed series using a different product. In exceptional situations in which the mRNA vaccine product given for the first dose cannot be determined or is no longer available, any available mRNA COVID-19 vaccine may be administered at a minimum interval of 28 days between doses to complete the mRNA COVID-19 vaccination series. In such cases, an approval authority may approve a delay in meeting the vaccination requirement.

This is not an exhaustive list of the circumstances in which clinical considerations may inform a recommendation in favor of delaying vaccination.

CONSIDERATIONS IN CASES INVOLVING A RELIGIOUS BASIS

The ERTs, in conducting their review, and the approval authorities in making their decisions, should take note that an individual's objection due to a sincerely held religious belief, practice or observance is to be considered on a case-by-case basis. For this reason, it is recommended that a Chaplain representative be included as a SME on the ERT. Additionally, even for religious-based requests, it is still important to have expert consultation available regarding the medical efficacy of possible alternative accommodations, as well as to assist in assessing the impact of the employee's job responsibilities and work environment on the request and the potential risk to the employee or others associated with the accommodation request; therefore the occupational health SME on the ERT should also be consulted on religious-based exemption requests, as appropriate to the circumstances of the request, to assist in this assessment. The role of the occupational health SME should include appropriate input but should not generally require work site surveys/visits.

Title VII (29 CFR 1605.2(b)(1)) requires an employer to *reasonably accommodate* an employee whose sincerely held religious belief, practice, or observance conflicts with a work requirement, unless providing the accommodation would create an undue hardship. It is important to note that beliefs do not need to be rooted in an organized religion.

A religious accommodation is an adjustment to the work environment that will allow the employee to comply with their religious beliefs and typically involves making special exception from or adjustment to the requirement that creates the conflict.

The term *sincerely held* is typically tied to the sincerity and credibility of the individual; an employer ordinarily assumes the request is based on a sincere belief, but if the employer has an objective basis for questioning either the religious nature or the sincerity, they may seek supporting documentation. An employee who fails to cooperate with an employer's reasonable request for verification of the sincerity or religious nature of a professed belief risks losing any subsequent claim that the employer improperly denied an accommodation.

Undue hardship is a "more than de minimis" cost or burden to the employer. Accommodations that pose security concerns or a safety risk to the employee or others can be cause for an undue hardship determination.

Additionally, the *Religious Freedom Restoration Act of 1993* (RFRA) prohibits any agency from substantially burdening an employee's exercise of religion, except when the application of the burden to the person: 1) furthers a compelling government interest; and 2) is the least restrictive means of furthering that compelling governmental interest.

RFRA requires the Agency to show that it cannot accommodate the request, while achieving its interest, through a viable alternative. The number of DAF civilian employees requesting an accommodation and the collective impact are legitimate considerations.

In accordance with DAFI 36-2710, supervisors are to engage in the interactive process with the requesting employee, prior to the approval authority making a decision.

Detailed guidance on applying the legal standards to individual situations and creating the required administrative record will be sent shortly to Approving Authorities and ERTs.