

Religious Accommodation Requests

<u>Immunization Exemption Requests</u> ¹	
STEPS	NOTES
1 Member requests exemption of immunization requirements	<p>Include, at a minimum, the name, grade, DoD Identification number, faith group, unit, and specialty code of the Airman or Guardian; the nature of the accommodation requested; the religious basis for the request; a comment on the sincerity of the request; and the substantial burden on the member's expression of religion. (Para 5.3)</p> <ul style="list-style-type: none"> - Example at DAFI 52-201, Attachment 6. - Decision authority is member's MAJCOM, Field Command, DRU or FOA commander (Para 6.6.1) - Member has a <i>temporary exemption</i> from immunization while request is processing (Para 2.12)
2 Unit commander counsels the requestor after receiving the request	<ul style="list-style-type: none"> - CC should counsel member that noncompliance with immunization requirements may adversely affect readiness for deployment, assignment, international travel, or result in other administrative consequences (Para 6.6.1.1) - CC's counseling must be documented in a memorandum and included with the religious accommodation request package.
3 Military medical provider counsels the requestor	<ul style="list-style-type: none"> - Counseling must be documented in a memorandum and included with the request package (Para 6.6.1.2) - Military provider must ensure member is making an informed decision and should address, at minimum, specific info about the disease concerned, specific vaccine info (including product constituents, benefits, risks), and potential risks of infection for unimmunized individuals (AFI 48-110, para 2-6b.(3)(a)2.)
Military Chaplain interviews the requestor	Chaplain must complete Interview Checklist (Attachment 5) and draft written memo (Para 5.4)
4 Submit package to the Religious Resolution Team (RRT) for review.	<ul style="list-style-type: none"> - At Installation level, the RRT will include the commander (or designee), Senior Installation Chaplain (or equivalent), public affairs officer, and staff judge advocate, and a medical provider (Para 3.8.1.1) - Wing Chaplain, as lead for RRT, shall write the memo to the decision authority detailing the RRT recommendation and any dissenting views of others (Para 5.6.3)
5 Staff judge advocate will draft a written legal review.	The review will also state whether the request and enclosures are complete within the provisions of the DAFI.
6 Each commander shall endorse the request with recommendation for approval or disapproval and	<p>Endorsements must address (para 6.6.1.5):</p> <ul style="list-style-type: none"> - If there is a compelling government interest and any effect the accommodation will have on readiness, unit cohesion, good order and discipline, health, or safety, and impact on the duties of the member

¹ See DAFI 52-201, paragraphs 5 and 6.6.1 generally.

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	forward through the chain of command to the decision authority.	<ul style="list-style-type: none"> - whether less restrictive means can be used to meet the government's compelling government interest - 30 business days from date of submission to unit to get the pkg to MAJCOM (Table 2.1) <p>NOTE: Although AFI 48-110 says the AF only grants temporary immunization exemptions, the new DAFI states that approvals will remain in effect during follow-on duties, assignments, or locations, and for the duration of a Service member's military career. However, there may be a change in circumstances that requires the accommodation to be reevaluated in the future (e.g., deployment, new duties, or other material change in circumstances). (Para 5.7.2)</p> <ul style="list-style-type: none"> - 5.7.3. New requests for the same accommodation are not necessary upon new assignment, transfer of duty stations, temporary duty, or other significant changes in circumstances, including deployment unless noted on the approval memorandum. - 5.7.4. Approved accommodations will continue unless the member's commander determines a compelling government interest exists requiring a temporary or permanent withdrawal of the approval. (T-1).
7	MAJCOM , Field Command, DRU, or FOA commander determines whether approval, or partial / complete denial is appropriate	<ul style="list-style-type: none"> - 60 business days from receipt by MAJCOM to final action, 5 days to notify member (Table 2.1) - If denial - he/she will indicate so on the memorandum, indicate the <i>reasoning</i> for disapproval and forward it to the servicing FSS (para 6.6.1.6).
8	Servicing FSS ensures a copy of the final decision is included in the member's automated personnel records.	Para 6.6.1.6
9	Member's commander should notify the member of the final decision.	Para 6.6.1.6
10	Member may appeal decision to AF/SG	<ul style="list-style-type: none"> - Member shall address a memorandum to the appeal authority with a copy given to the previous disapproval authority and provide the memorandum to the unit commander for processing (Para 5.8.2) - AF/SG is ultimate appeal authority for immunization exemptions (Table 6.1) - 30 business days to resolve appeal (Table 2.1)

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Checklist for Required Package Items	
	Member's request letter (<i>Para 5.3 and 6.6.1</i>)
	Unit CC's Written Counseling w/ requestor (<i>Para 6.6.1.1</i>)
	Chaplain's Interview Memo w/ requestor (<i>Para 5.4 and 4.2.7</i>)
	Military Medical Provider Counseling Memo w/ requestor (<i>Para 6.6.1.2 and AFI 48-110, para 2-6b.(3)(a)2.</i>)
	SJA Legal Review (<i>Para 5.6.2</i>)
	RRT's Recommendation from Wing Chaplain to Unit CC (<i>Para 5.6.1 and 6.6.1.3</i>)
	Chain of Command Recommendations (Include Unit, Wing, NAF endorsements at a minimum) (<i>Para 6.6.1.5</i>). <u>NOTE</u> : there may be a change in circumstances that requires the accommodation to be reevaluated in the future (e.g., deployment, new duties, or other material change in circumstances). (<i>Para 5.7.2</i>). Thus, we recommend CC endorsements consider whether to include any recommended circumstances that would require reevaluation (such as overseas PCS or deployments).

Other Important References: DODI 1300.17, AFPD 52-2, AFI 48-110.

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<u>General Legal Analysis</u>		
<u>STEPS</u>		<u>Definitions</u>
1	Request is based on expression of sincerely held beliefs ?	<p>"Sincerely held beliefs" (Para 2.2.1) = conscience, moral principles, or religious beliefs.</p> <p>NOTE: Sincerely held beliefs <i>based on conscience and moral principles</i> (as opposed to religion) are NOT evaluated using the strict scrutiny test, but rather a lower "balance of interests" standard. See para 2.5/2.6. "Under these circumstances, the needs of the requesting member are balanced against the needs of mission accomplishment. Only if it is determined that the needs of mission accomplishment outweigh the needs of the Service member may the request be denied."</p>
2	Does the policy, practice, or duty from which the member is requesting accommodation substantially burden the expression of that belief?	<p>"Substantial Burden" (Para 2.2.3) =</p> <ul style="list-style-type: none"> - Requires participation in an activity prohibited by a sincerely held religious belief; - Prevents participation in conduct motivated by a sincerely held religious belief; or - Places substantial pressure on a Service member to engage in conduct contrary to a sincerely held religious belief.
3	Would the accommodation request would have a real (not theoretical) adverse impact on military readiness, unit cohesion, good order, discipline, health or safety?	Describe impact in detail
4	Commanders <u>will</u> approve the religious accommodation request <u>unless</u> a compelling governmental interest exists for the policy, practice, or duty from which the member is seeking religious accommodation.	<p>"Compelling Govt Interest" Factors" (Para 2.4.1):</p> <ol style="list-style-type: none"> 1) The importance and need for the specific policy, practice, or duty as it relates to mission accomplishment, mission readiness, unit cohesion, good order and discipline, health, and safety. 2) Mission-related circumstances including operational tempo, location, and threat level. 3) Cumulative impact based on the real potential for multiple requests of a similar nature. 4) Previous decisions on similar requests, including decisions on similar requests made for other than religious reasons.
5	Balancing Test: Any restriction on the expression of sincerely held religious beliefs must use the <u>least restrictive means</u> with respect to the applicant to achieve the <u>compelling governmental interest</u> .	<p>"Least Restrictive Means" (Para 2.4) = partial approval, approval with specified conditions, or other means that are less burdensome on the member's religious beliefs.</p> <p>With the advice of a chaplain, alternative ways (i.e., partial approval) to satisfy the requested accommodation can also be considered.</p>