



## FREEDOM TO EXERCISE RELIGIOUS BELIEFS PUBLIC SCHOOLS

***Freedom to Exercise Religious Beliefs*** – Schools cannot force students to express views or adopt values that run contrary to their religious convictions, nor may they impose special restrictions based on students’ religious views or status.

The freedom to exercise one’s religious beliefs is enshrined in the First Amendment which declares in part that “Congress shall make no law respecting an establishment of religion or *prohibiting the free exercise thereof*. . . .”<sup>1</sup> The italicized clause—commonly known as the Free Exercise Clause—safeguards the freedom of citizens to practice their chosen form of religion.<sup>2</sup> The fact that one’s views differ from those of their church or that one does not belong to an “organized” religious group at all does not limit a person’s free exercise rights.<sup>3</sup>

The Free Exercise Clause offers varying protections depending upon whether the government action at issue infringes upon the citizen’s *beliefs* or *actions*. The Supreme Court has made clear on several occasions that—under the Free Exercise Clause—the freedom to *believe* and profess one’s religious doctrine is absolute.<sup>4</sup> This means that a public school may not regulate religious beliefs, compel affirmation of religious beliefs, punish the expression of religious doctrines, impose special restrictions on the basis of religious views or status, or lend its power to one side or the other in controversies over religious authority or theology.<sup>5</sup> Therefore, the Free Exercise Clause bars a public school from forcing students to change their religious beliefs or from insisting that all students adopt a specific school’s dogma, such as “multiculturalism” or “diversity.”<sup>6</sup>

The freedom to *act* on one’s religious beliefs, however, is not unlimited. The Free Exercise Clause permits public schools—and other government bodies—to enact rules and regulations that incidentally interfere with religious practice, as long as such measures are both “neutral” towards religion and “generally applicable” to members of the school community.<sup>7</sup> So schools cannot

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<sup>1</sup> U.S. CONST. amend. I (emphasis added).

<sup>2</sup> *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

<sup>3</sup> *Frazee v. Ill. Dept. of Emp’t Sec.*, 489 U.S. 829, 834 (1989).

<sup>4</sup> *Employment Div. v. Smith*, 494 U.S. 872, 877 (1990) (citations omitted).

<sup>5</sup> *Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 532-33 (1993); *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

<sup>6</sup> *Barnette*, 319 U.S. at 642.

<sup>7</sup> *Smith*, 494 U.S. at 885-86.



directly restrict religion or target it by enacting measures that specifically mention religious practices, that are motivated by antireligious bias, or that affect religious practice alone.<sup>8</sup>

Moreover, even “neutral” and “generally applicable” school rules may be unconstitutional if they affect religious liberty *and* other First Amendment rights, such as the freedoms of speech and association. This is significant because virtually all school policies and/or actions that inhibit religious practices will likewise affect other First Amendment liberties. So, if a school sought to enforce a speech code against a student on the grounds that his religious speech was “offensive,” that school action would implicate both the free exercise of religion *and* the freedom of speech, and may be found unconstitutional.

In short, the underlying protection behind the Free Exercise Clause is one of *neutrality*. A public school that treats religious students or student organizations differently than their non-religious counterparts does so at its own peril.

***What can students do if their rights are being violated?***

Students and parents should attempt to work with school administration to resolve the situation. If unsuccessful, Alliance Defending Freedom may be able to help legally defend the student’s rights. Contact Alliance Defending Freedom using the “Request Legal Help” form at [www.ADFLegal.org](http://www.ADFLegal.org) or by calling 1-800-835-5233. A legal representative will review your situation and advise you of a course of action.

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<sup>8</sup> *City of Hialeah*, 508 U.S. at 532-33.