

# RELIGIOUS FREEDOM: SEPARATION OF CHURCH AND STATE

In accord with the First Amendment of the U.S. Constitution, the ACLU supports the separation of church and state in order to preserve the free exercise of religion and to prevent the establishment of a state religion. The Tennessee State Constitution also prohibits government entanglement with religion.

## THE LAW

In Lemon v. Kurtzman, the U.S. Supreme Court developed a three-prong test to determine whether the government is violating the Establishment Clause of the United States Constitution which forbids the government from promoting a particular religion. The failure to pass any one prong of the test would render the government action unconstitutional. A court must determine that:

- The purpose of the government was not to further or inhibit religion.
- The primary effect of the government's action was not the furtherance of religion.
- The activity did not foster excessive government entanglement with religion.

Just as the government cannot promote any religion, it also cannot impede people from expressing or practicing their religious beliefs. The Free Exercise Clause of the First Amendment guarantees people's freedom to practice their religions without interference from the government. Such an infringement occurs, for example, where Jewish students are not allowed to wear yarmulkes, or Muslims are required to shave their beards. Other improper acts include asking someone to remove religious symbols, like a pin or necklace depicting a cross, Star of David or other religious ornament.

Not all religious practices are protected. To determine whether a particular practice is covered by the Free Exercise Clause, there are two important questions:

- Is the practice/ritual motivated by a "sincere religious belief"?
- Has the government imposed a "substantial burden" on the practice?

If these have occurred the government must show a good reason for the infringement. The U.S. Supreme Court in 1997 struck down the Religious Freedom Restoration Act, which would have required government to show a

"compelling" interest in order to intrude on religious liberties. Now, laws that burden religion are not subject to this higher level of scrutiny as long as the act does not single out a particular religion. Religion-based discrimination is prohibited in Tennessee under the Tennessee Human Rights Act (T.C.A. §4-21-401). The Tennessee Constitution and THRA prohibit differential treatment based on creed, color, religion, race, sex, age, and national origin.

If you believe your employer's actions discriminate against you because of your religion please see "Employee Rights".

## RESOURCES – NATIONAL AND STATE

ACLU-TN provides the following list of resources for informational purposes only. ACLU-TN does not endorse any of the organizations listed.

### National Organizations

- [Equal Employment Opportunity Commission](#)  
The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

#### National Office:

131 M Street, NE  
Washington, DC 20507

**Website:** <http://www.eeoc.gov/>

**Phone:** 202-663-4900

**TTY:** 202-663-4494

#### Memphis District Office:

1407 Union Avenue, 9<sup>th</sup> Floor  
Memphis, TN 38104

**Phone:** 800-669-4000

**TTY:** 800-669-6820

**Fax:** 901-554-0111

**ASL Video Phone:** 844-234-5122



P.O. Box 120160, Nashville, TN 37212

Tel: 615.320.7142

**Nashville Area Office:**

220 Athens Way, Suite 350

Nashville, TN 37228-9940

**Phone:** 1-800-669-4000**TTY:** 1-800-669-6820**Fax:** 615-736-2107**ASL Video Phone:** 844-234-5122**Chattanooga Office**

540 McCallie Avenue, Fourth Floor West Wing

Chattanooga, TN 37402

**Phone:** 423-634-6837**Fax:** 423-634-3837**Knoxville Office**

531 Henley Street, #701

Knoxville, TN 37902

**Phone:** 865-594-6500**Fax:** 865-594-6178**Memphis Office**

170 North Main Street

State Office Building

Memphis, TN 38103

**Phone:** 901-543-7389**Fax:** 901-543-6042▪ **[National Center for Science Education](#)**

1904 Franklin Street, Suite 600

Oakland, CA 94612-2922

**Website:** <http://ncse.com/>**Phone:** 510-601-7203**Fax:** 510-788-7971**E-mail:** [info@ncse.com](mailto:info@ncse.com)

The National Center for Science Education (NCSE) provides information and advice as the premier institution dedicated to keeping evolution and climate change in the science classroom and to keeping creationism and climate change denial out.

**State Organizations**▪ **[The First Amendment Center](#)****[Vanderbilt University](#)**

1207 18th Ave. South

Nashville, TN 37212

**Website:** <http://www.firstamendmentcenter.org/>**Phone:** 615-727-1600**Fax:** 615-727-1319

The center serves as a forum for the study and exploration of free-expression issues, including freedom of speech, of the press and of religion, and the rights to assemble and to petition the government.

▪ **[Tennessee Human Rights Commission](#)**312 Rosa L. Parks Avenue, 23<sup>rd</sup> Floor

Nashville, TN 37243

**Website:** <http://www.tennessee.gov/humanrights/>**Phone:** 800-251-3589**E-mail:** [ask.thrc@tn.gov](mailto:ask.thrc@tn.gov)

The Tennessee Human Rights Commission is an independent state agency created to encourage, promote and advise the public of their human rights.



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