



Presidential Religious Liberty Commission

DRAFT- Frequently Asked Questions

The following is a draft of a frequently asked questions document which the Commissioners will consider in a virtual meeting, to be held in May or June 2026.

“KNOW YOUR RIGHTS” FAQ

1. What should I know about the “wall of separation between church and state?”

The phrase “wall of separation between church and state” does not appear in the First Amendment or anywhere else in the Constitution. What the First Amendment does say is that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”¹ In practical terms, that means the government may not take over the functions of a church or coerce religious observance.² For example, the government cannot dictate who will preach, teach, or carry out a religious institution’s mission or second-guess an institution’s religious decisions.³

At the same time, faith-based institutions and individuals are free to exercise their religion in public. This includes, among other things, a public employee’s right to personal prayer on public property,⁴ and equal access for religious groups to use public spaces for worship or discussions of faith.⁵ It also includes individuals’ rights to live out their faith in their daily activities, including their profession. For example, a family business has a right to operate based on religious principles,⁶ a prisoner has a right to practice their religiously-required grooming,⁷ a medical professional has a right to abstain from procedures that violate their faith, and a military member has a right to serve without being forced to violate their faith.

Nothing in the First Amendment allows the government to create a “wall” between an individual’s personal faith and our nation’s public life. That idea only took off in the mid-twentieth century, when the Supreme Court began citing Thomas Jefferson’s letter to the Danbury Baptist Association in 1802.⁸ The Association had written Jefferson to congratulate him on his election to the presidency and his advocacy for religious liberty—a cause near and dear to the Danbury Baptists, who were contending with the established Congregationalist Church in Connecticut. Jefferson responded by declaring:

¹ U.S. Const. amend. 1.

² *Shurtleff v. City of Boston*, 596 U.S. 243, 285-86 (2022) (Gorsuch, J., concurring); see also *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 537 & n.5 (2022); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 748 (2020).

³ See *Our Lady*, 591 U.S. at 746-48; *Carson v. Makin*, 596 U.S. 767, 787 (2022); *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012); *NLRB v. Catholic Bishop*, 440 U.S. 490, 502, 507 (1979).

⁴ *Kennedy*, 597 U.S. at 539.

⁵ *Good News Club v. Milford*, 533 U.S. 98 (2001).

⁶ *Hobby Lobby v. Burwell*, 573 U.S. 682 (2014).

⁷ *Holt v. Hobbs*, 574 U.S. 352 (2015).

⁸ See *Wallace v. Jaffree*, 472 U.S. 38, 92 (1985) (Rehnquist, J., dissenting).

“Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church & State.”⁹

Here, Jefferson’s aim was not to exile the practice of religion from public life. Indeed, nothing about his letter suggests that there is Founding-era evidence to wall off religion from public life. Rather, as many scholars and judges, like Justice Clarence Thomas, explain, that conclusion is an “ahistorical generalization ... substitut[ing] for careful constitutional analysis.”¹⁰ The text and history of the First Amendment itself show that what the Constitution prohibits is “the type of actual legal coercion that was a hallmark of historical establishments of religion,” like establishing a church as the official religion of a state and requiring worship at that church—not public displays of a community’s religious culture.¹¹

From 1947 to 1948, the Supreme Court ruled on a series of decisions in which it used the “wall” metaphor to regulate a child’s access to religious education¹² and, later the ahistorical “wall” led the Court to ban school prayer¹³ and public displays of religion (like the Ten Commandments).¹⁴ But in more recent years, the Supreme Court has begun reversing its restrictions on religious liberty and reverting back to a sound understanding of the role of faith in American life.¹⁵ Religious displays like the Bladensburg Peace Cross are allowed on public property.¹⁶ States and towns can open their meetings with prayer.¹⁷ Religious parents can use tuition-assistance programs like vouchers to send their children

⁹ Thomas Jefferson to the Danbury Baptist Association, 1 January 1802,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Jefferson/01-36-02-0152-0006>.

¹⁰ *Am. Legion v. Am. Humanist Ass’n*, 588 U.S. 29, 74 (2019) (Thomas, J., concurring) (citing Phillip Hamburger, *Separation of Church and State*, 391-463 (2002) (tracing the relationship between nativism—particularly, anti-Catholicism—and the “modern myth of separation” as part of the Constitution)).

¹¹ *Id.* at 73-74 (Thomas, J., concurring).

¹² *McCullum v. Board of Education*, 333 U.S. 203 (1948) (building off *Everson v. Board of Education*, 330 U.S. 1 (1947), embracing the “wall” metaphor as a line for permissible aid programs); *see also* *Lemon v. Kurtzman*, 403 U.S. 602 (1971) (accord).

¹³ *Engel v. Vitale*, 370 U.S. 421 (1962).

¹⁴ *Stone v. Graham*, 449 U.S. 39 (1980).

¹⁵ *Kennedy*, 597 U.S. at 534; *Espinoza v. Montana Department of Revenue*, 591 U.S. 464, 486 (2020).

¹⁶ *Am. Legion*, 588 U.S. at 38.

¹⁷ *See Town of Greece v. Galloway*, 572 U.S. 565 (2014).

to religious schools.¹⁸ As recently as 2022, the Supreme Court stated that the First Amendment’s “Religion Clauses” have “complimentary purposes, not warring ones,” thereby allowing a high-school football coach to publicly engage in personal prayer on-field after games.¹⁹

A “wall of separation” can wrongfully imply that Church and State are opposed to one another and that they are completely separate, but in reality the Church and State strengthen and support one another. Perhaps a better analogy is that religious liberty acts as a bridge between Church and State. In other words, when Americans exercise their religious liberty by living their faith—from praying to serving the poor to treating people with charity to upholding moral standards—people live more fulfilling lives, they build vibrant families, bolster our communities, and ultimately, strengthen our nation. In this way, religious liberty isn’t simply an appendage of our society. It is the beating heart of our republic and the lifeblood of America’s success.

2. If I am a parent with public school children, what religious liberty rights do I have?

Parents do not surrender their rights when their children enter a public school. The Constitution protects parents’ right to direct the religious upbringing of their children and does not permit public schools to interfere with that fundamental right. In most cases, federal law also ensures that parents have the right to review the curriculum and content taught in public schools.²⁰ In many circumstances, that includes notice of what your children are learning in school and the ability to opt out of particular content or school activities such as field trips, school holidays, or school assemblies that conflict with your family’s religious beliefs.

For example, in the *Mahmoud v. Taylor* case in 2025, the Supreme Court ruled that school districts must provide notice and opt-out options to parents who sought to excuse their children from reading LGBTQ-themed storybooks that violated the families’ religious beliefs.²¹ And in *Mirabelli v. Bonta* in 2026, the Supreme Court ruled that parents have the right to know and opt their children out of so-called “gender transition” policies at public schools.²²

¹⁸ *Carson*, 596 U.S. at 787.

¹⁹ *Kennedy*, 597 U.S. at 510.

²⁰ *See, e.g.*, 20 U.S.C. §1232h(a) (requiring all programs receiving Education Department funds to make “[a]ll instructional materials ... available for inspection by the parents or guardians.”); 20 U.S.C. §6318(d)(2) (requiring “frequent reports to parents on their children’s progress” and “meaningful communication” with parents); 20 U.S.C. §1232g(a)(1)(A) (conditioning federal funds on allowing parents access to their child’s “education records”).

²¹ *Mahmoud v. Taylor*, 606 U.S. 522 (2025) (relying on *Wisconsin v. Yoder*, 406 U.S. 205 (1972)).

²² *Mirabelli v. Bonta*, No. 25A810, 2026 WL 575049 (U.S. Mar. 2, 2026).

3. If I am a parent and want to send my children to religious school—or start one—what religious liberty rights do I have?

Parents may send their children to the religious school of their choice, home school their children, start a religious school, and seek tuition assistance for religious and non-religious schools alike.²³ Practically, this means, if your state provides financial assistance for your child to attend a school of your choice—whether through vouchers, tax credits, scholarships, education savings accounts or some other benefit—you have the freedom to use those benefits toward religious schools as much as you would for a non-religious school. As the Supreme Court has emphasized repeatedly, a “State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious.”²⁴

4. If I am a teacher or a staff member in a public school, what religious liberty rights do I have on the job?

Public school teachers and staff do not lose their own First Amendment rights when they walk into work. They may engage in personal religious practices, lead voluntary prayer, speak about their faith, and display religious symbols so long as they are not coercing students or are on duty (*i.e.*, they are not teaching, otherwise performing their official duties, and only using spaces for personal items to display religious symbols). This means that teachers are free to participate in voluntary religious services with fellow teachers and students after school hours or when teachers are otherwise free to attend to personal matters (like in-between classes or during a break). They are also not prohibited from sharing with students their religious beliefs when not on-duty.

5. If I am a school leader, can I put religious displays in my classrooms or teach religion in school?

Public schools may teach about religion if it is done so in the context of explaining its historical, literary, moral, or other implications—not as requiring religious observance. For much of American history, this was not controversial, and it only became so after the “wall of separation” metaphor distorted Supreme Court decisions in the mid-twentieth century.

Since the Supreme Court has dispensed with that misimpression in recent years, there has not yet been a Supreme Court case that has made a definitive judgement regarding religion in the classroom. However, it is likely constitutional for schools to display the Ten Commandments (as they are displayed on the wall of the Supreme Court) or include readings from religious

²³ See *Carson v. Makin*, 596 U.S. 767 (2022); *Espinoza v. Montana Dep’t of Revenue*, 591 U.S. 464 (2020); *Pierce v. Society of Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510 (1925); *Meyer v. Nebraska*, 262 U.S. 390 (1923).

²⁴ *Carson*, 596 U.S. at 785 (cleaned up).

works to understand the historical, moral, and cultural significance of such texts.²⁵ The key distinction is between teaching about religion and requiring religious observance. For example, the Book of Genesis could be studied as a literary masterpiece, or the Ten Commandments could be studied for its influence on the development of law.

6. If I am a student at a public school at any level (K-12 or higher education), what religious liberty rights do I have?

Students have the right to engage in voluntary, peaceful exercise of their religious beliefs. That can include forming or joining religious clubs,²⁶ accessing school facilities without exclusion or religious discrimination,²⁷ using facilities during noninstructional time, distributing religious materials where other materials may be distributed, speaking from a religious perspective in appropriate classroom settings, and participating in release-time programs (*i.e.*, leaving school early to attend religious instruction at a religious institution)²⁸ or voluntary prayer.

7. If I am an employee, what religious liberty rights do I have at work?

Employees may engage in private religious expression at work to the same extent that private non-religious expression is allowed. That can include displaying religious items, sharing one's beliefs with coworkers in appropriate settings,²⁹ seeking reasonable accommodation for religious practices (like being exempt from working on religious days of obligation) outside of an "undue hardship" to the employer's business,³⁰ and engaging in off-duty activities and expression the same as any other citizen.

8. If I am working in health care, what religious liberty rights do I have?

Federal law gives health care workers multiple conscience protections. The Church Amendments prohibit health care workers in any federally funded

²⁵ See *Roake v. Brumley*, No. 24-30706 (5th Cir. 2026) (en banc) (relying on recent Supreme Court precedent to "foreclose[] any categorical rule against [the Ten Commandment's] display on public property," and expressly saying that *Stone v. Graham* "is gone"); see also *id.* at 9 (Ho, J., concurring) (concluding a state law requiring display of the Ten Commandments in public schools is "constitutional and consistent with our Founding traditions").

²⁶ See *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664 (9th Cir. 2023) (en banc).

²⁷ See *Frankel v. Regents of the University of California*, Case No. 2:24-cv-04702-MCS-PD (C.D. Aug. 13, 2024).

²⁸ *Zorach v. Claiborn*, 343 U.S. 306 (1952).

²⁹ For more, see the cited sources and examples in OPM, *Protecting Religious Expression in the Federal Workplace* (Jul. 28, 2025), <https://www.opm.gov/chcoc/latest-memos/protecting-religious-expression-in-the-federal-workplace.pdf>.

³⁰ *Groff v. DeJoy*, 600 U.S. 447 (2023).

program from being forced to participate in abortion or sterilization procedures against their conscience—including protection from being fired or otherwise punished for conscience-based refusals.³¹ The Coates-Snowe Amendment prohibits any federal government entity—or state or local government entity receiving federal funds—from discriminating against any health care worker that refuses to engage in abortion training, perform abortions, or refer for abortions.³² The Weldon Amendment prohibits certain federal funds from going to federal, state, or local, government programs that discriminate against a health care worker that does not provide, pay for, provide coverage for, or refer for abortions.³³ The Vaccines For Children and Applicable State Law Exemptions law requires any provision of pediatric vaccines to comply with any state law religious exemptions to vaccines.³⁴ Additional protections also apply in matters involving assisted suicide, euthanasia, or mercy killing.³⁵ Further still, the Religious Freedom Restoration Act protects health care workers from being required to provide so-called “gender reassignment” procedures.³⁶

9. If I am a foster parent, what religious liberty rights do I have in foster care?

Foster parents have the right to participate in foster care without religious discrimination and to live out their faith while caring for children.³⁷ That can include sharing their beliefs with children in their home³⁸ and seeking protection from training requirements or policies that interfere with their religious exercise.³⁹

10.If I am a member of the armed forces, what religious liberty rights do I have?

Service members retain the right to exercise their religion, to receive support from chaplains, to worship according to their faith tradition, and to seek accommodations when military rules interfere with sincere religious practice. Those protections can extend to religious grooming, observance, symbols, speech,

³¹ See, e.g., HHS Office of Civil Rights, *Safeguarding Federal Conscience and Related Protections in Health Care* 2-3 (Jan. 21, 2026), <https://www.hhs.gov/sites/default/files/conscience-dcl.pdf>.

³² *Id.* at 3.

³³ *Id.*

³⁴ *Id.* at 4.

³⁵ *Id.*

³⁶ See *Franciscan Alliance Inc. v. Becerra*, 47 F.4th 368 (5th Cir. 2022).

³⁷ See, e.g., *Bates v. Pakseresht*, 146 F.4th 772 (9th Cir. 2025); *Lasche v. New Jersey*, No. 20-2325, 2022 WL 604025 (3d Cir. Mar. 1, 2022); *Burke v. Walsh*, No. 23-cv-11798, 2024 WL 3548759 (D. Mass. June 5, 2024); *Blais v. Hunter*, 493 F. Supp. 3d 984 (E.D. Wash. 2020).

³⁸ *Lasche*, 2022 WL 604025 at *4-7.

³⁹ See *Bates*, 146 F.4th at 800 (ordering a preliminary injunction against a state policy that required, over a potential foster parent’s religious objections, the potential foster parent to use child’s preferred pronouns and facilitate appointments for “gender transitions” as a condition of license).

and access to the rites or support that a service member's faith requires. This includes the right for a military member to express their religious beliefs on personalized military items like patches, insignia, scopes, and gun sights; the right for service members to wear their uniform to religious services or off-base religious functions; and the right to distribute information about religious services.

11.If I run a religious organization, what religious freedom protections do I have?

Religious organizations, including houses of worship, religious schools and other faith-based ministries,⁴⁰ generally have broad autonomy over internal decisions that are essential to their mission. That protection includes hiring and firing for key religious roles, setting internal religious standards, resolving internal disputes, and seeking protection from government actions that intrude on religious operations.⁴¹

12.If I am a religious leader, can I preach and teach about public issues from the pulpit?

Religious leaders have strong First Amendment protection when they preach and teach, including about public issues. However, there is one major threat to the right of faith leaders to speak freely: The Johnson Amendment, a 1954 provision of the U.S. tax code that prohibits non-profit organizations, including churches, from engaging in political speech. In 2017, President Trump signed an Executive Order “to defend the freedom of religion and speech,” reinterpreting the Johnson Amendment to lift the discriminatory burden on churches.⁴² However, this action could be reversed by a future administration. Many scholars believe that the Johnson Amendment is unconstitutional—yet, it will remain in place until it's challenged in court.

13.If I am a local legislator, can I open public meetings with prayer, add religious holidays to the calendar, or have religious displays on public property?

Yes. Public meetings may be opened with prayer, communities may recognize religious holidays, and public property may include religious imagery

⁴⁰ See *Seattle's Union Gospel Mission v. Woods*, 142 S. Ct. 1094, 1096 (2022) (Alito, J., statement respecting denial of certiorari) (identifying some of the “many” religious organizations to which “church autonomy” applies).

⁴¹ *Our Lady*, 591 U.S. at 746-47; *Catholic Bishop*, 440 U.S. at 507; *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 115-16 (1952).

⁴² See Executive Order 13798, “Promoting Free Speech and Religious Liberty” (May 4, 2017), <https://www.govinfo.gov/content/pkg/DCPD-201700309/pdf/DCPD-201700309.pdf>.

when those practices fit within the Nation's historical traditions, are open to all religions in that community, and do not coerce participation.⁴³

Additionally, when government opens a forum for private speech, it may not exclude religious speakers or religious viewpoints from otherwise permitted subjects.⁴⁴ For example, if a town hall allows non-religious groups to rent out the space, it must also allow religious groups to rent the space. Or if a city transit system allows non-religious groups to advertise their hours of operation on the transit system, then religious groups must also be allowed to advertise their hours of worship or other religious activities.

14.If I am a president, governor, or mayor, can I issue proclamations about religious holidays or issues?

Yes. Elected leaders may issue proclamations that reflect the religious traditions and culture of their communities, so long as participation is not coerced and the government does not discriminate among faiths.

⁴³ See *Town of Greece*, 572 U.S. at 579, 585-86; see also *Am. Legion.*, 588 U.S. at 55-56.

⁴⁴ *Shurtleff*, 596 U.S. at 258-59.