

THE U.S. MILITARY

FIRST  LIBERTY

RELIGIOUS LIBERTY PROTECTION KIT

How Service Members and Chaplains
Can Exercise Their Legal Rights



FirstLiberty.org



DEAR FRIEND OF RELIGIOUS FREEDOM,

Thank you for your desire to protect **the rights of military service members** against increasingly hostile legal threats to your freedom to believe and to act upon your beliefs. I hope you find this **Religious Liberty Protection Kit** a simple but high-quality tool for helping you guard the most precious freedom you or anyone in our society has: religious liberty, our first liberty in the Bill of Rights.

Please let us know any further way we can help you.

Kelly Shackelford, Esq.

President, CEO & Chief Counsel

FIRST LIBERTY INSTITUTE® RELIGIOUS LIBERTY PROTECTION KIT FOR THE U.S. MILITARY

Copyright © 2021 First Liberty. All rights reserved.

First Liberty Institute's Religious Liberty Protection Kit for the U.S. Military provides general guidance to assist service members and chaplains in response to current legal threats to religious freedom. This document does not create an attorney-client relationship, and it is not to be used as a substitute for legal advice from a licensed attorney. Because the law is constantly changing and each organization's policies and documents are unique, First Liberty Institute and its attorneys do not warrant, either expressly or impliedly, that the law, cases, statutes, and rules discussed or cited in this guide have not been changed, amended, reversed, or revised. If you have a legal question or need legal advice, please contact an attorney. First Liberty Institute's attorneys may be contacted by requesting legal assistance at [FirstLiberty.org](https://www.FirstLiberty.org).

First Liberty Institute

2001 W. Plano Parkway Suite 1600
Plano, Texas 75075

FirstLiberty.org

Copyright © 2021 First Liberty

Liberty Institute®, First Liberty Institute™, First Liberty®, and Liberty Watch™ are service marks of First Liberty Institute.



INTRODUCTION

Our nation's military leadership is under increasing pressure from the radical left and many military members are worried about their rights just for living out their faith. From chaplains to service members to veterans, First Liberty has been defending our religious military members for decades.

Thankfully, even with the escalating tension, the U.S. Constitution and other laws protect the liberties of our service members.

Our guidance has helped service members protect their ability to live out their faith without fear of leadership censorship or punishment. First Liberty Institute is a nationwide, nonprofit law firm dedicated to protecting religious freedom for all Americans, at no cost to our clients. Our President and CEO, Kelly Shackelford, has over 30 years of experience defending the constitutional rights of military members like you and your family.

We have carefully summarized our recommendations over the years to develop this Religious Liberty Protection Kit. First Liberty wants you to know your rights and be empowered and confident to live out your faith without fear. America thrives when our service members are cared for and can hold to their convictions.

Thank you for the important work you do for your community and for your interest in protecting our service members religious liberty – our First Amendment's First Liberty.

02

Introduction

04

5 Principles of Religious Freedom in the U.S. Military

06

Military Members: Fast Facts About Your Religious Rights

07

Military Chaplains: Fast Facts About Your Religious Rights

08

Complete FAQs for Military Religious Rights

18

The Legal and Historical Case for Religious Rights in the U.S. Military

24

How Federal Courts Protect Religious Freedom in the Military

28

Military Members Who Protected Their Religious Rights

For our other protection kits visit:

[FirstLiberty.org/kits](https://www.FirstLiberty.org/kits)

5 PRINCIPLES OF RELIGIOUS FREEDOM IN THE U.S. MILITARY

Here are five basic principles to remember about religious freedom within the U.S. Military:

- 1** Under most circumstances in the military, religious expression—including evangelism or proselytizing—is protected by the First Amendment, federal law, and military regulations.
- 2.** Greater care must be exercised when the speaker is senior in rank to the listener so as to avoid the appearance of coercion.
- 3.** Generally speaking, the military cannot restrict off-duty religious expression.
- 4.** The military can only restrict on-duty religious expression if it can demonstrate that the restriction furthers a compelling governmental interest by the least restrictive means.
- 5.** The military cannot engage in viewpoint discrimination and must treat religious expression in the same way it treats similar non-religious speech such as politics or controversial social issues.

Given the seemingly endless efforts of those devoted to targeting religious freedom in the military, it's easy to get the misimpression that such freedom doesn't exist, is vanishing, or can't be reclaimed.

But the truth is that those who oppose religious freedom in the military are on the wrong side of the law. We have every reason to confidently assert our constitutional religious rights as applied to the armed services.



5 Principles of Religious Freedom in the U.S. Military

***Military Members:
Fast Facts About Your Religious Rights***

If not prohibited by the Uniform Code of Military Justice (UCMJ), YOU HAVE THE RIGHT to:

Practice and follow the teachings of your faith.

Express your sincerely held religious or moral beliefs in action and speech.

Be free from government censorship, discrimination, threats, or punishment.

Please note: The government may deny your religious expression only when it can show a compelling governmental interest and uses the least restrictive option in accomplishing that interest.

If you believe your religious liberties are being violated or threatened, you should respectfully:

1. Seek confirmation of the order, command or instruction at issue.
2. Ask for the order, command or instruction in writing.
3. Request an accommodation of your sincerely held religious beliefs.
4. Contact your Chaplain, military attorney, or member of your command for guidance.
5. **Contact First Liberty for free legal guidance and help at FirstLiberty.org/help or call toll-free at 972-941-4444** (all communications are confidential).

***Military Chaplains:
Fast Facts About Your Religious Rights***

If not prohibited by the UCMJ, YOU HAVE THE RIGHT to:

Conduct religious services, worship, teaching, counseling, and ecclesiastical or sacramental functions in accordance with their endorsing faith group's beliefs.

Provide and care for the religious, spiritual, and moral needs of service members.

Observe the tenets of their faith.

Express: your sincerely held religious or moral beliefs in action and speech.

Be free from: Government censorship, discrimination, threats, or punishment.

Please Note: The Government may deny your religious expression only when it can show a compelling governmental interest and uses the least restrictive option in accomplishing that interest.

If you believe your religious liberties are being threatened, you should respectfully:

1. Seek confirmation of the order/command/ instruction that you believe violates your religious liberties.
2. Ask for the order, command or instruction in writing.
3. Request an accommodation of your sincerely held religious beliefs.
4. Contact your endorser for guidance.
5. Contact your senior chaplain, military attorney, or member of your command for guidance.
6. **Contact First Liberty for free legal guidance and help at FirstLiberty.org/help or call toll-free at 972-941-4444** (all communications are confidential).

Complete FAQs for Military Religious Rights

"Members of the military are not excluded from the protection granted by the First Amendment"

The First Amendment to the Constitution of the United States protects the "free exercise" of religion: "*Congress shall make no law... prohibiting the free exercise*" of religion.

However, because of the unique nature of the military and its mission, [1] courts sometimes apply the First Amendment rights of service members differently than in other contexts. This is because, unlike civilian society, less individual autonomy exists in the military. Obedience to orders, good order, and discipline are vital to a military force that is capable of fighting and winning wars. As the United States Supreme Court stated:

The military need not encourage debate or tolerate protest to the extent that such tolerance is required of the civilian state by the First Amendment; to accomplish its mission the military must foster instinctive obedience, unity, commitment, and esprit de corps. The essence of military service is the subordination of the desires and interests of the individual to the needs of the service... [W]ithin the military community there is simply not the same [individual] autonomy as there is in the larger civilian community. [2]

But this must not be read to mean that service members forfeit their religious freedom simply because they join the military. Indeed, members of the military are never excluded from the protection granted by the First Amendment. Instead, the different character of the military community and the military mission simply requires a different application of those protections. The fundamental necessity for obedience, and the consequent necessity for imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it. [3]

This fundamental concept of the "needs of the service" being greater than the "desires and interests of the individual" is central to how courts view the religious liberties of service members. As a result, the Department of Defense and the five branches of the military created policies that govern how the military must accommodate the religious needs of service members.

Complete FAQs for Military Religious Rights

HOLY
BIBLE

Citations:

1 *Parker v. Levy*, 417 U.S. 733, 743 (1974) (“[I]t is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise.”)

2 *Goldman v. Weinberger*, 475 U.S. 503, 507 (1986).

3 *Parker*, 417 U.S. at 758.

Questions and Answers

The following information is only intended to provide general guidance and should not be construed as legal advice.

RELIGIOUS EXPRESSION POLICIES

Q: What is the Department of Defense’s (DoD) policy regarding religious expression?

Short Answer:

Service members are free to act and speak in accordance with their religious beliefs as long as there is no demonstrable negative effect on mission accomplishment.

Legal Answer:

The official Department of Defense policy states: “The Department of Defense places a high value on the rights of members of the Military Services to observe the tenets of their religion or to observe no religion at all.”

Regulations:

DoD Instruction 1300.17, of September 1, 2020.

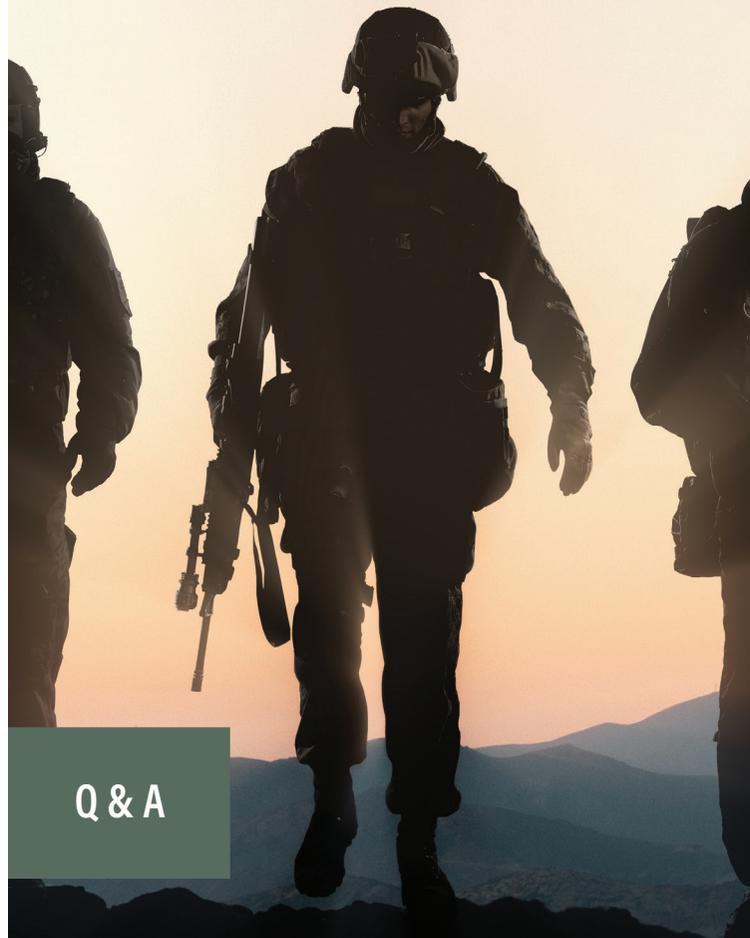
Q: What is the Department of Defense’s religious accommodation policy?

Short Answer:

A request for religious accommodation should usually be approved unless the government can demonstrate a compelling interest that is furthered by the least restrictive means.

Legal Answer:

The official Department of Defense policy states: “In accordance with [the Religious Freedom Restoration Act] and [DoD Instruction 1300.17], DoD Components will normally accommodate practices of a Service member based

**Q & A**

on sincerely held religious belief.

Accommodation includes excusing a Service member from an otherwise applicable military policy, practice, or duty.

In accordance with [the Religious Freedom Restoration Act], if such a military policy, practice, or duty substantially burdens a Service member's exercise of religion, accommodation can only be denied if:

- (1) The military policy, practice, or duty is in furtherance of a compelling governmental interest.
- (2) It is the least restrictive means of furthering that compelling governmental interest.

This broad policy applies to the entire Department of Defense.

Regulations:

Instruction 1300.17, of September 1, 2020.

Q. What are the religious accommodation policies for the military branches?

Short Answer:

Each branch of the military is responsible for devising its own policy consistent with DoD Instruction 1300.17. To date, none of the services have revised their service-specific policies following the most recent revision to DoD Instruction 1300.17.

Legal Answer:

United States Army policy is provided in Army Regulation (AR) 600-20, July 24, 2020.

United States Navy/United States Marine Corps policy is provided in Secretary of the Navy Instruction (SECNAVINST) 1730.8B with Change 1, March 28, 2012.

United States Air Force policy is provided in Air Force Instruction (AFI) 1-1 with Change 1, November 12, 2014.

United States Coast Guard policy is provided in USCG Commandant Instruction (COMDTINST) 1730.4C, March 9, 2012.

Q: What are my options if my requested religious accommodation is denied?

Short Answer:

Service members can appeal the denial of a religious accommodation request via their chain-of-command. Service members may also file a complaint with their commanding officer or higher echelon commanders for grievances.

Legal Answer:

Article 138, Uniform Code of Military Justice, provides a formal complaint/grievance procedure when a service member believes he/she has been wronged by his/her commanding officer. Each military branch has detailed instructions on how to file Article 138 complaints. As an alternative to Article 138, each military branch also provides for informal filing of grievances. You should contact your installation military attorney for specific information and guidance on how to pursue an informal grievance within your command.

Regulations:

Article 138, UCMJ (10 U.S.C. §938)

Q: What should I do if I believe the military violated my religious freedom?

Short Answer:

If you believe that the military is discriminating against you because of your religious beliefs, please contact First Liberty.

Legal Answer:

Although we cannot guarantee that we will represent you, we may be able to assist you in determining what rights you have. There are several options for contacting First Liberty:

Phone:

Contact First Liberty for free legal guidance and help at [FirstLiberty.org/help](https://www.firstliberty.org) or call toll-free at 972- 941-4444 (all communications are confidential).

PERFORMANCE OF MILITARY DUTIES

Q: Can I request excusal from some of my military duties for religious reasons?

Short Answer:

Yes, excusal should usually be granted unless the government can demonstrate a compelling governmental interest that is furthered by the least restrictive means.

Legal Answer:

Depending on the nature of your request and the military duties from which you seek excusal, you may request that your chain of command provide accommodation for your religious practice. Generally speaking, your command should grant your request for accommodation unless it will have a direct, adverse impact on the unit or the mission. However, the accommodation may be very limited in scope (e.g., you may be excused from duty only on Sunday mornings in order to attend a worship service).

Regulations:

Department of Defense Instruction 1300.17

Q: Am I required to perform military duties if I have a religious objection to them?

Short Answer:

Yes, religious objection does not excuse service members from the duty to follow orders.

Legal Answer:

You must request and be granted a religious accommodation to be excused from performing your military duties. Refusal to follow orders, even for religious reasons, may be a criminal violation in the military. This includes the requirement to perform military duties on Sabbath days, holy days, and/or religious observances. The only exception is if the order at issue is unlawful. However, all orders from superiors are presumed lawful unless a judge rules that the order was unlawful. Some courts may be receptive to the "religious objection" if the service member sought a religious accommodation, or applied for Conscientious Objector status prior to their objection (See

Conscientious Objector FAQ for more information).

Case Precedents:

United States v. Wilson, 41 C.M.R. 100 (C.M.A. 1969) ("If the command was lawful, the dictates of the accused's conscience, religion, or personal philosophy could not justify or excuse disobedience.")

United States v. Avila, 41 C.M.R. 654 (A.C.M.R. 1969)

United States v. May, 41 C.M.R. 663 (A.C.M.R. 1969)

Q: Can the military deploy me if I have a religious objection to the mission?

Short Answer:

Yes.

Legal Answer:

There is no "right" to not deploy, and the military does not violate your First Amendment rights by requiring you to deploy with your unit.

Citations:

United States v. Webster, 65 M.J. 936 (2008)

FREEDOM TO ATTEND CHURCH OR PLACE OF WORSHIP

Q: Can the military prohibit me from attending a particular place of worship?

Short Answer:

Generally speaking, no.

Legal Answer:

Generally speaking, the military cannot interfere with your right to worship as your faith tradition dictates. However, certain affiliation or participation with certain faith groups are incompatible with military service. For example, because polygamy is illegal in the military, service members may not engage in polygamy

even if their religion permits it. If you are unsure

whether your religion or religious practice is incompatible with military service, you should seek the advice of your installation military attorney (judge advocate/JAG).

Regulations:

Department of Defense Instruction 1300.17

Q: Are there any exceptions to these rules?

Short Answer:

It depends. The member's commanding officer has final approval for religious accommodation.

Legal Answer:

The final authority for approval of a requested accommodation rests with the service member's commanding officer. For example, a unit commander has authority to approve the use of certain illegal substances for religious ceremonial purposes.

Regulations:

Department of Defense Instruction 1300.17

EVANGELIZING AND PROSELYTIZING IN THE MILITARY

Q: Can I evangelize/proselytize/share my faith with others in the military?

Short Answer:

Yes, but caution should be exercised when the speaker is senior to the listener.

Legal Answer:

Under most circumstances in the military, religious speech is protected by the First Amendment. However, greater care must be exercised when the speaker is senior to the listener. This could lead to the appearance of coercion or even claims of harassment because the subordinate may perceive or allege that he/she has no choice but to listen.

Regulations:

Equal Employment Opportunity Commission Compliance Manual, of July 22, 2008, promulgated by Department of Defense Directive 1020.02, of February 5, 2009.

Q: Can the military restrict my ability to speak about religion in the workplace?

Short Answer:

No, unless the commander can demonstrate the religious speech is disrupting the military mission and the commander restricts nonreligious speech that create similar issues.

Legal Answer:

Commanders have authority to restrict on-duty religious speech if they can demonstrate that it will have an adverse effect on the unit or mission. However, if a commander exercises this authority, he must also restrict nonreligious on-duty speech that may have an adverse effect on the unit or mission. For example, if a commander prohibits on-duty religious speech because he/she believes it will have a divisive effect on the unit, the commander must apply the same prohibition to similarly divisive nonreligious speech (e.g., politics, controversial issues, etc.).

As a general rule, commanders cannot restrict off-duty religious speech. Please note that other forms of speech, such as political speech, are usually given less protection than religious speech.

Regulations:

EEOC Compliance Manual

Department of Defense Instruction 1300.17

The Legal and Historical Case for Religious Rights in the U.S. Military

The Legal and Historical Case for Religious Rights in the U.S. Military

“It is crucial that men and women in the military know the strong legal basis for their rights”

Religious liberty in the U.S. military is under fire from politically correct government officials and radical legal organizations. When asked whether service members lose their religious freedom upon joining the military, the answer is an emphatic, “No, they keep their rights.”

It is crucial that men and women in the military—or who are thinking of serving in the military—know the strong legal basis for their right to openly live and express their faith while in uniform.

Here is a brief summary of the legal and historical analysis supporting our claim that members of the military do not forfeit their religious liberty:

I. AMERICANS HAVE MORE RELIGIOUS FREEDOM THAN WE THINK

Despite serious attacks on religious expression, the American legal basis for religious liberty is strong and has withstood many challenges. Usually, we lose when we fail to stand up for our rights. When we do stand up, we win. Consider:

The U.S. Constitution itself is pro-religious freedom. The First Amendment **outlaws government interference with the “free exercise” of religion.**

In 1789, Congress passed a law providing for the payment of **legislative chaplains.**

194 years later, in *Marsh v. Chambers* (1983), the Supreme Court upheld the payment of legislative chaplains, concluding that it “is not . . . an establishment of religion,” but rather “a tolerable acknowledgement of beliefs widely held among the people of this country.”

In *Zorach v. Clausen* (1952), the Supreme Court

acknowledged, “we are a religious people whose institutions presuppose a Supreme Being” and that the First Amendment “**does not say that in every and all respects there shall be a separation of Church and State.** . . . Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly.”

In *Corporation of Presiding Bishop v. Amos* (1987), the Supreme Court stated “this Court has long recognized that the **government may (and sometimes must) accommodate religious practices** and that it may do so without violating the Establishment Clause.”

In *Westside Board of Education v. Mergens* (1990), the Supreme Court held that the **Government “does not endorse or support . . . speech that it merely permits on a nondiscriminatory basis.”** In other words, permitting religious speech is not establishing that religion as a state church.

In *Rosenberger v. Rector* (1995), the Supreme Court stated: “private religious expression receives preferential treatment under the Free Exercise Clause,” and warned that “**discrimination against speech because of its message is presumed to be unconstitutional.**” In other words, don’t suppress private religious expression even in public places like a college! The *Rosenberger* decision said that unconstitutional “viewpoint discrimination” even includes unreasonable restrictions on “proselytizing . . . or even acts of worship.”

In *Van Orden v. Perry* (2005), the Supreme Court held that a Ten Commandments monument on public grounds did not violate the Establishment Clause, noting that “people may take offense at all manner of religious as well as nonreligious messages, but offense alone does not in every case show a violation.”

In *The American Legion v. American Humanist Association* (2019), the Supreme Court held that a memorial cross on government property to honor WWI veterans did not violate the Establishment Clause. The court also made clear that Establishment Clause challenges should be analyzed based on the history and tradition surrounding

the challenged practice, not whether there is a risk of endorsement or entanglement between government and religion.

II. MILITARY LAW PROTECTS FREEDOM OF RELIGIOUS EXPRESSION

Many secularists might read Point 1 and exclaim, “*But wait! That doesn’t apply to the military! The military has its own system of laws, and as an arm of the government has to be sterilized of all religious influence!*” This is incorrect. It’s a scare tactic aimed at frightening people of faith in the military into silence. So let’s look at actual military law.

The History of Military Law Favors Open Religious Expression

President Thomas Jefferson—often described as a strong church-state separatist—signed the Articles of War (the precursor to the Uniform Code of Military Justice) which “earnestly recommended to all officers and soldiers, diligently to attend **divine services.**”

In 1791, Congress passed the Military Establishment Act, which included the creation of the U.S. Army chaplaincy.

In 1799, Congress required commanders of U.S. Navy ships “to take care that **divine service** be performed twice a day, and the sermon preached on Sundays.”

In 1800, Congress required U.S. Navy ships’ crews “to attend at every performance of the **worship of Almighty God.**”

To this day, the U.S. Navy maintains the tradition of saying a **daily prayer** aboard each vessel.

In 1955, President Dwight Eisenhower signed Executive Order 10631, prescribing the Code of Conduct for Members of the Armed Forces.

Article VI concludes: “I will never forget that I am an American, fighting for freedom, responsible for my actions, and dedicated to the principles that made my country free. I will trust in my God and in the United States of America.”

Current Federal Law Favors Open Religious Expression in the Military

The **Free Exercise clause of the First Amendment** to the Constitution of the United States applies to members of the military.

The 1993 **Religious Freedom Restoration Act (RFRA)** applies to military service members to the same degree that it does to civilians. In order to be lawful, a statute or regulation that burdens a service member's religious expression must demonstrate that it: (1) furthers a compelling governmental interest; and (2) uses the least restrictive means to further the interest.

Department of Defense Policy Favors Open Religious Expression in the Military Legal Rights as a Public-School Employee

Department of Defense Instruction 1300.17, Religious Liberty in the Military Services (2020) establishes the "policy, procedures, and responsibilities for the accommodation of religious practices in the Military Services."

This important regulation states that the Department of Defense "places a high value on the rights of members of the Military Services to **observe the tenets of their respective religions.**"

It specifies and therefore restricts the circumstances that give a commander the authority to deny religious accommodation.

DoD Directive 1304.19, Appointment of Chaplains for Military Departments (2004) states that commanders are required to provide comprehensive religious support to service members. Chaplaincies are established to assist commanders in carrying out this responsibility.

DoD Directive 1350.2, Department of Defense Military Equal Opportunity Program (2003) prohibits discrimination based on factors which include "religion."

U.S. Air Force Policy Favors Free Religious Expression

United States Air Force Instruction 1-1 states that as

a government entity, the U.S. Air Force must **allow free exercise of religion** of its members, with the reasonable caution that superior officers must not appear to seem biased for or against those under their command because of religious beliefs.

This regulation also states: "**Supporting the right of free exercise of religion relates directly to the Air Force core values and the ability to maintain an effective team.** All Airmen are able to choose to practice their particular religion, or subscribe to no religious belief at all. You should confidently practice your own beliefs while respecting others whose viewpoints differ from your own."

U.S. Army Policy Favors Free Religious Expression

United States Army Regulation 600-20 states that: "The Army places a high value on the rights of its Soldiers to **observe tenets of their respective religious faiths.**"

The only restrictions are those that reasonably apply to any religious activity that would overtly impair military functions and readiness.

U.S. Navy and Marine Policy Favors Free Religious Expression

Secretary of the Navy Instruction 1730.8B states: "Department of the Navy policy is to **accommodate the doctrinal or traditional observances of the religious faith** practiced by individual members . . ."

Again, the only restriction allowed is when religious activity to overtly impair necessary military functions.

U.S. Coast Guard Policy Favors Free Religious Expression

United States Coast Guard Commandant Instruction M1730.4B states: "In keeping with the provisions of Coast Guard policy, unit commanding officers shall provide for the free exercise of religion for Coast Guard personnel, their dependents, and other authorized persons, and seek to accommodate the religious practices and observances of individual members when they will not have an adverse impact on military readiness, unit cohesion, health, safety or discipline."

How Federal Courts Protect Religious Freedom in the Military

By Mike Berry, Esq

Summary: Contrary to popular misconception, federal courts have enforced the principle that members of the military don't surrender their religious rights due to the circumstances of their job. Three key court rulings are emblematic of this reality. Both service members and authorities need to take such judicial decisions into account and work to uphold constitutional free exercise of religion in the military.

"It is good to see federal courts ruling that the military itself retains freedom of religion."

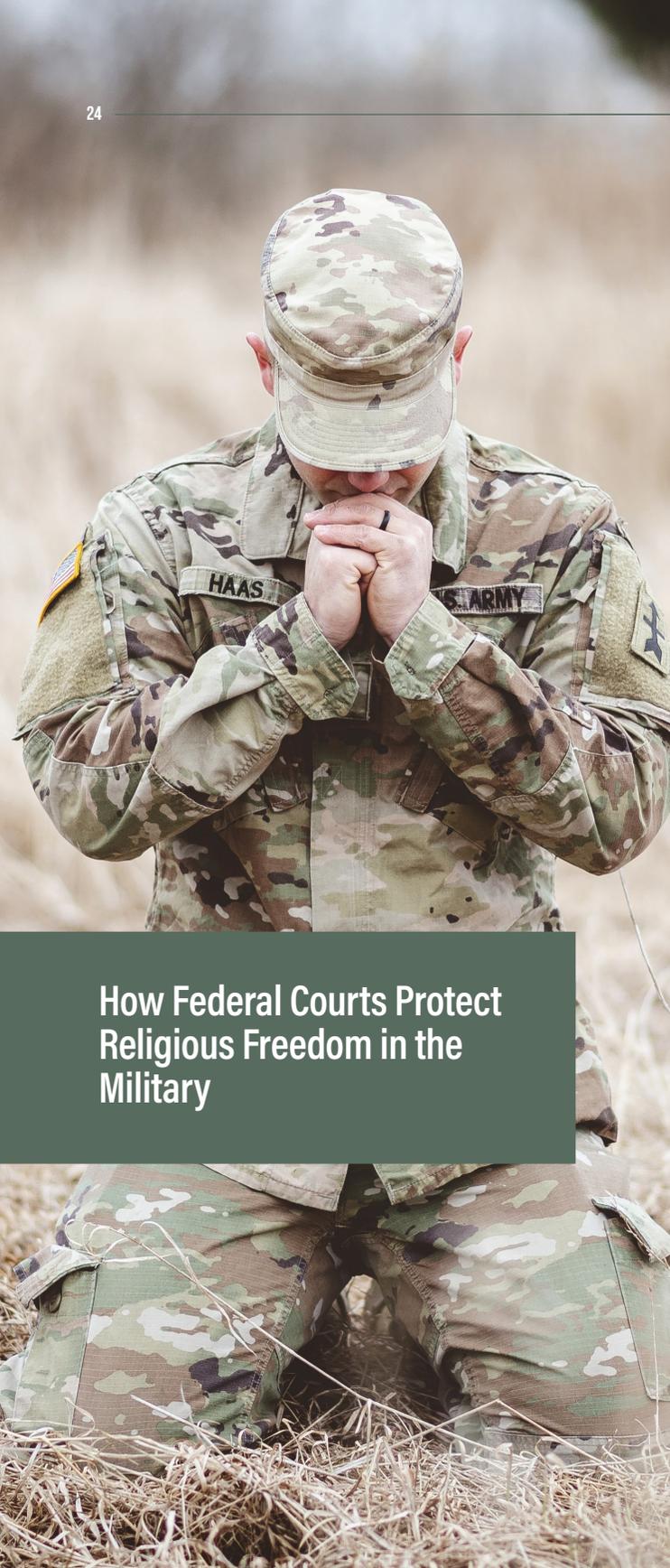
Members of the U.S. military do not shed their citizenship when they join, nor does the United States Constitution suddenly stop applying to them, including the First Amendment guarantee of "free exercise" of religion. Moreover, the federal laws warning against prohibiting free exercise of religion do not stop applying to military personnel.

Yes, there are different circumstances in the military which, as in any institution, inform the application of these broad federal guarantees, but the guarantees are still there and must be enforced in a substantial manner.

The U.S. Constitution, federal laws, and even military policy guarantee broad exercise of religious liberty in the U.S. military. And federal courts have agreed.

For example:

In 2010, a **U.S. District Court** upheld the right of a civilian employee at the Camp Lejeune, North Carolina Marine Corps base to put decals on his car that included some carrying an overtly religious message. Even though the decals offended some base personnel, **the Court ruled that the base commander engaged in "viewpoint discrimination" by permitting non-religious decals but banning those with a religious message**, and ruled in favor of the religious rights of the base employee.

A soldier in camouflage uniform is kneeling in a field of dry grass, with his hands clasped in prayer. He is wearing a camouflage cap and a uniform with a name tag that reads "HAAS" and "ARMY".

How Federal Courts Protect Religious Freedom in the Military

In 1997, a U.S. District Court ruled that Roman Catholic military chaplains could encourage their military parishioners to contact legislators regarding proposed laws they deemed of utmost spiritual importance. **The military sought to prohibit the chaplains from engaging in such activity, but the Court ruled for the chaplains.**

In 1985, a U.S. Court of Appeals rejected the claim that a government-funded chaplaincy violates the First Amendment's Establishment Clause.

In fact, the Court ruled that the Constitution **"obligates Congress, upon creating an Army, to make religion available** to soldiers who have been moved by the Army to areas of the world where religion of their own denominations is not available to them.

Other cases could be cited, but the moral of the story is two-fold:

- 1.** Service members should be confident that they have religious rights. If someone tells a member of the military that they don't have religious liberty in a certain circumstance, I would advise them not to accept that claim at face value. Religious freedom is precious—it's one of the American values that service men and women are working, fighting, and often dying to protect. Service members should not meekly surrender those rights. Contact a lawyer who is an expert in military religious liberty.
- 2.** Commanders should respect religious freedom and avoid facing federal judges. In the cases I've cited above, those in authority believed they had the ironclad authority to step on the rights of members of the military. They were wrong. And they eventually had to be told they were wrong by a federal judge after arduous legal proceedings. Authorities can avoid such needless hours and sweat by simply doing the right and legal thing: respect the religious freedom of those under your authority, and consult with legal experts in military religious liberty if you have questions.

Though the military is a very distinct sector of American society, it is not a separate nation. It exists to serve the greater good of the nation of which it is part—the United

States of America—and must uphold the principles of that nation, including free exercise of religion, within its own community. When military authorities have failed to do that and stepped beyond the boundary of honoring the very religious freedoms they are sworn to defend against foreign enemies, then federal courts have stepped in and corrected them.

At a time when religious freedom is under attack globally by the very enemies of the United States that the brave men and women of the armed forces are up against, it is good to see federal courts ruling that the military itself retains freedom of religion. But cases like those I've cited show how we must remain vigilant against misguided military personnel who would be instruments of intolerance that goes against the grain of our nation's laws.

Mike Berry, Esq.,

a former active duty U.S. Marine Corps officer, is Director of Military Affairs and General Counsel at First Liberty.



Bladensburg WWI Veterans Memorial

In a landmark victory at the U.S. Supreme Court, First Liberty Institute successfully represented The American Legion and protected the Bladensburg WWI Veterans Memorial in Prince Georges County, MD. Built in the shape of a cross, the memorial was erected by Gold Star mothers and members of The American Legion in 1925 in honor of 49 fallen heroes who paid the ultimate sacrifice during the Great War.



U.S. Air Force Col. Leland Bohannon

U.S. Air Force Col. Leland Bohannon was relieved of his command when he was unable to sign a document that would signify his personal endorsement for same-sex marriage and deny his Christian beliefs. The blowback nearly ruined Col. Bohannon's military career and nearly 20 years of distinguished service. First Liberty's legal action prompted the Secretary of the U.S. Air Force to rule that ruling that Col. Bohannon's First Amendment rights could not be viscerated by Air Force policy.



U.S. Navy Chaplain Wes Modder

Former chaplain for Navy SEAL Team Six, Wes Modder, nearly lost his job, pension and retirement benefits. Why? He answered questions about his church's teaching on marriage in a private counseling session. First Liberty intervened, and Chaplain Modder was fully exonerated and retired honorably after more than 20 years of military service.



U.S. Air Force Senior Master Sgt. Phillip Monk

The U.S. Air Force relieved SMSgt Monk of his duties and threatened to charge Monk with military crimes, which could have led to a court-martial and the loss of his pension—all because his religious beliefs were different from those of his superior. With the help of First Liberty, SMSgt. Monk stood his ground and won his case. He not only retired with honor, but received a prestigious award for his distinguished service.



U.S. Army Chaplain Scott Squires

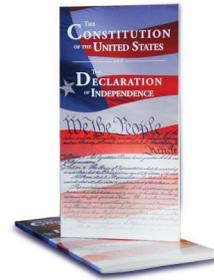
U.S. Army Chaplain Scott Squires adhered to his church's religious teachings on marriage and faced potential disciplinary action. After a complaint, an Army investigator declared that Chaplain Squires was guilty of discrimination. First Liberty Institute sent a letter to the U.S. Army urging it to reverse the investigator's conclusion. The U.S. Army complied and cleared Chaplain Squires of any wrongdoing or potential disciplinary action.



U.S. Army Chaplain Joseph Lawhorn

Army Chaplain Joseph Lawhorn received a "Letter of Concern," which threatened to end his career, all because he shared a personal religious testimony during a suicide prevention class. Thanks to First Liberty's involvement, the Army agreed to remove the letter from Chaplain Lawhorn's permanent record.

Additional FREE Resources



Back to the Constitution: Learn it, Love it, Live it.

Today, there are many who like to blame the Constitution for our nation's problems. But the truth is, our Constitution is not the problem—it's the solution. Make America's Founders proud and take the source of your first freedom with you wherever you go!

Visit:
FirstLiberty.org/Constitution



Faith and Freedom: Force Multipliers in America's Military

Even before the founding of our great nation, faith and religious freedom have been inseparable from America's military. From our Founders to our present leaders, America has always taken deliberate steps to meet the spiritual and religious needs of the men and women serving in uniform. Discover more with this special resource from First Liberty's military experts.

Visit:
FirstLiberty.org/Faith-And-Freedom



Learn More on First Liberty's Website

Visit our website, where you'll find information on our cases, clients and breaking updates on religious liberty in America. Whether you want to learn more about our attorneys, leadership and staff, or if you need to request legal assistance, our website is a one-stop shop for everything you need to know about religious freedom.

FirstLiberty.org



Subscribe to First Liberty Live!

Join our exclusive live streaming channel that features expert commentary from the leaders you know and trust. Subscribe to be a part of the action today, and get email notifications every time we go live!

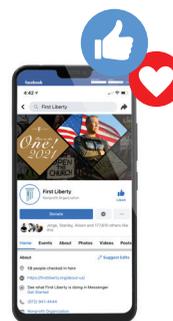
FirstLibertyLive.com



Become an FLI Insider

Subscribe to our weekly e-newsletter that's sent straight to your inbox, complete with news, analysis, and encouraging stories of the everyday American heroes we defend.

BecomeAnInsider.com



Follow us on Social Media

Like and follow First Liberty on our social media platforms to get the latest updates on our cases and other exclusive content.



MAKE US YOUR *FIRST CALL!* GET FREE LEGAL HELP NOW!

If you believe your religious liberty has been threatened or violated, please contact us at:

 [FirstLiberty.org/Help](https://www.FirstLiberty.org/Help)

 (972) 941-4444



Mike Berry

General Counsel

First Liberty's Military Expert

First Liberty is our nation's largest legal organization solely dedicated to protecting religious liberty for all Americans. We have won cases at all court levels, including the United States Supreme Court, federal and state courts, and administrative courts and agencies. Victories are won through a nucleus of top-ranked staff attorneys who coordinate a national network of top litigators from firms that include 24 of the largest 50 in the world.



Kits are available for:

Students & Teachers in Public K-12 Schools

Houses of Worship

Vaccines

Religious Nonprofits

Healthcare Professionals

Religious Employees

The U.S. Military

Religious Schools



[FirstLiberty.org](https://www.FirstLiberty.org)