

FOR-PROFIT BUSINESS LEADERS OF FAITH

FIRST  LIBERTY

RELIGIOUS LIBERTY PROTECTION KIT

How Business Leaders Can
Exercise Their Faith at Work



FirstLiberty.org



DEAR FRIEND OF RELIGIOUS FREEDOM,

Thank you for your desire to learn more about your rights and the rights of other **for-profit business leaders of faith**. 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® FOR-PROFIT BUSINESS LEADERS OF FAITH RELIGIOUS LIBERTY PROTECTION KIT

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First Liberty Institute's For-Profit Business Leaders of Faith Religious Liberty Protection Kit provides general guidance to assist your for-profit business leaders of faith 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 situation is 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).

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INTRODUCTION

How can I run my for-profit business in accordance with my faith-based values? What are my options if the government requires me to run my business in a way that violates my religious beliefs? What are my personal rights at work as a person of faith?

First Liberty Institute regularly advises business leaders asking these questions so that they understand their rights and obligations under the law. 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 leaders like you.

This Religious Liberty Protection Kit for For-Profit Business Leaders of Faith summarizes our guidance to help you infuse your business practices with your faith and ensure compliance with the law in light of current religious liberty protections.

Thank you for the important work you do for your community and for your interest in religious liberty in the workplace. [1]

[1] First Liberty Institute's Protection Kit for For-Profit Business Leaders of Faith provides general guidance to assist business leaders 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.

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Actions You Can Take to Better Protect Your Business

For our other protection kits visit:

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Overview of Religious Liberty Rights at For-Profit Organizations

Business leaders of faith at for-profit companies and organizations face unique challenges. They can acknowledge faith in corporate culture, but they must ensure that all employees are treated equally. While sometimes complicated, the law protects religious freedom for both employers and employees. We highly recommend reaching out to an attorney if you have any questions about your specific situation. That said, we can offer a few points of guidance and caution regarding the current state of the law.

Generally, religious non-profit organizations have stronger religious liberty legal protections than for-profit organizations. Churches and non-profit faith-based organizations generally have the right to work together in a community of people who share the same religion. This means that churches can legally consider religion when hiring staff and making other employment decisions. By contrast, unless certain narrow exceptions apply, for-profit businesses must be careful not to discriminate on the basis of religion or other characteristics covered by state or federal law. [2] We go into more detail about when these laws apply in the next section.

Still, owners of for-profit businesses do have religious liberty rights. As a general matter, business leaders of faith may implement a business culture inspired by religious values. Religious faith can inspire the name of a company and infuse its logo, its values, its mission statement, and its philanthropic goals.

Business leaders of faith may offer Bible studies, [3] as long as attendance is voluntary. For instance, if an employer wants to start a Bible study at his or her place of work, it cannot be mandatory. [4] It is a best practice for it to take place outside of working hours, such as on lunch break.

Business leaders of faith can also hire chaplains to care for the needs of their employees. Employers can allow Employee Resource Groups or affinity groups, including Christian and religious ones, as long as they do so on equal



OVERVIEW OF RELIGIOUS LIBERTY RIGHTS AT FOR-PROFIT ORGANIZATIONS

terms. Employers must be careful not to give preferential treatment to members of one affinity group over another.

In adopting these faith-friendly policies and practices, leaders must also remember that employers, managers, and supervisors may not discriminate against employees or members of the public on the basis of religion. Discrimination or penalizing employees or members of the public on the basis of their religion violates the law.

Employment Discrimination Law Primer

Business leaders of faith in a supervisory role should be aware of federal and state employment laws, particularly employment discrimination law, so that they understand how to balance the infusion of faith into the workplace with legal obligations to avoid actual religious discrimination. Businesses should foster a culture that is respectful of employees of different faiths and of no faith in order to avoid allegations of religious discrimination. Businesses also should make every effort to work with employees to grant religious accommodations to employees.

Does Federal Employment Discrimination Law Apply to My Business?

Federal employment discrimination law, set out in Title VII of the Civil Rights Action of 1964, applies to businesses that have 15 or more employees. [5]

Title VII, as amended, prohibits employment discrimination on the basis of sex, race, color, national origin, and religion. [6] By a congressional amendment, the prohibition on sex discrimination also forbids pregnancy discrimination. [7] In addition, in 2020, the United States Supreme Court held that the prohibition on sex discrimination also includes a prohibition on sexual orientation and transgender status discrimination. [8] While many argue that the statutory and constitutional religious liberty rights of religious business owners override attempts to apply this new holding to religious employers, there is no decision at the Supreme Court yet to determine the matter. [9]

Title VII provides protections for employees, rather than independent contractors. [10] Religious, non-profit organizations such as churches, synagogues, religious



Employment Discrimination Law Primer

schools, and faith-based charities are entitled to a number of exceptions to Title VII. [11]

Most states have employment discrimination laws that parallel federal law, and some states have more restrictive laws. For instance, in a few states, employers with as few as one employee are regulated under the state's employment discrimination law. [12] Some states protect a more expansive list of protected classes. [13] Title VII should be understood as the "floor," with some states choosing to impose more regulations.

Religious Discrimination

If Title VII applies to a business, it must not engage in religious discrimination (or discrimination based on other protected characteristics). [14] This means that the business cannot consider religion or any aspect of religious belief, practice, or observance when making employment decisions. Religion cannot be a motivating factor when it comes to hiring, firing, promotion, demotions, transfers, and the like. Businesses should also be careful not to create a hostile work environment on the basis of religion. Title VII prohibits religious harassment that is severe or pervasive. Businesses should be careful to avoid even the appearance of discriminatory preferences or differential treatment based upon religion. That can often be avoided by simply stating publicly that the company does not provide preferences on the basis of religion. For instance, if a company was offering a voluntary Bible study before work, it could make clear that no one will get discriminatory preferences for coming or be discriminated against for not coming.

Employers also have an affirmative obligation to grant reasonable religious accommodations to their employees unless doing so would pose an undue hardship on the business. [15] Before First Liberty's Supreme Court 2023 victory in *Groff v. DeJoy*, courts typically allowed employers to avoid granting religious accommodations if they could point to any minimal or "de minimis" cost to the business. This interpretation was based on a poorly-written 1977 Supreme Court decision called *TWA v. Hardison*. [16]

However, in *Groff v. DeJoy*, the Supreme Court clarified the law in a way that gives more protections for religious employees. The Court unanimously concluded that federal law requires workplaces to accommodate religious employees unless the employer can "show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." [17] This standard takes into account "all relevant factors ..., including the particular accommodations at issue and their practical impact in light of the nature, size, and operating cost of [an] employer." [18]

The Supreme Court explained that, in general, temporary costs, voluntary shift swapping, occasional shift swapping, or administrative costs will not impose an "undue hardship." [19] Additionally, a co-worker's dislike of a religious practice, religious expression, or the accommodation itself should not factor into the calculus of the undue burden; only coworker impacts that affect the conduct of the business should be taken into account. [20] Finally, an employer cannot simply assess the reasonableness of a particular possible accommodation; instead, it must consider other options. [21] It is a best practice to proactively engage in dialogue with any employee seeking a religious accommodation to come up with a mutually beneficial solution that resolves the conflict between the employee's faith and the work requirement. [22]

We provide a sample religious accommodation form at the end of this toolkit to assist business leaders of faith at for-profit organizations so they can navigate the best way to honor the mission of the company while protecting the religious liberty of employees.

Sex, Sexual Orientation, and Transgender Status Discrimination

Many business leaders of faith have questions about the changing legal rules related to sex discrimination, sexual orientation discrimination, and transgender status discrimination in the workplace.

In 2020, in *Bostock v. Clayton County*, the Supreme Court held that the prohibition on sex discrimination also implies

a prohibition on sexual orientation discrimination and “transgender status” discrimination. [23] That decision concluded that employers generally cannot make an adverse employment decision against employees because they identify as gay or transgender. The decision left many questions unanswered. For instance, the opinion does not come to any conclusions about pronoun usage, dress codes, or bathroom policies. These issues remain unclear, and many cases raising these issues are working their way through the courts.

The EEOC (the federal agency that enforces the nondiscrimination provisions of Title VII of the Civil Rights Act) currently aggressively interprets the Bostock decision. In a 2021 guidance document, it took the position that “intentionally and repeatedly using the wrong name and pronouns to refer to a transgender employee could contribute to an unlawful hostile work environment,” that “[p]rohibiting a transgender person from dressing or presenting consistent with that person’s gender identity would constitute sex discrimination,” and that “employers may not deny an employee equal access to a bathroom, locker room, or shower that corresponds to the employee’s gender identity.” [24] As of this writing, at least one court has limited the applicability of this guidance documents in some states. [25]

Similarly, in 2024, the EEOC issued “Enforcement Guidance on Harassment in the Workplace” stating, “Harassing conduct based on sexual orientation or gender identity includes ... repeated and intentional use of a name or pronoun inconsistent with the individual’s known gender identity (misgendering)...” [26] Although this statement is only guidance, [27] and its legality is being challenged in court, many employers and courts may follow it in interpreting Title VII. The EEOC does not detail how this guidance interacts with potential religious liberty defenses.

This is an emerging area of law, and these issues are currently being litigated. Many of these issues could be applied differently depending upon where in the country your business is located. Reach out to an attorney for any specific questions.

Possible Defenses

Many employers will face difficult legal questions related to transgender employees, such as dress codes, pronoun policies, name usage, and insurance policies related to gender dysphoria. These issues will be made more difficult when they come into conflict with the sincerely-held religious beliefs of other employees or of the employers themselves. If a company asks an employee to violate their sincerely-held religious beliefs on moral issues, they may be able to request a religious accommodation. [28]

Businesses with only a few owners, like sole-proprietorships or closely-held businesses, where the owners are people of faith may be able to assert a RFRA defense if the law requires them to operate their business in a way that violates their religious beliefs. [29] RFRA prohibits the federal government from imposing a substantial burden on religious exercise unless it can demonstrate a compelling reason for its action that is narrowly tailored to be the least restrictive means of achieving its goals. [30] The availability of this defense, particularly against non-government defendants, is an open question and will be litigated in the courts. [31]

The Supreme Court has been very attuned to protecting the rights of religious people with respect to their beliefs on issues of gender and sexuality. For example, in *Obergefell v. Hodges*, the Court recognized that many traditional beliefs about issues of marriage and sexuality are based on “decent and honorable religious or philosophical premises[.]” [32] In *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, the Court went a step further and held that it was unconstitutional discrimination for the state agency to disparage such religious beliefs or fail to display respectful consideration for people who hold traditional religious beliefs on such matters. [33] However, this is a developing area of the law.

Faith-Inspired Culture and Mission

Many small businesses and for-profit companies maintain a faith-inspired culture. This can manifest in mission statements, values statements, logos, company names, and philanthropic giving.

Many for-profit companies maintain faith-inspired mission or values statements. For example:

- Hobby Lobby: “We are committed to: Honoring the Lord in all we do by operating the company in a manner consistent with Biblical principles. . . . Providing a return on the family’s investment, sharing the Lord’s blessings with our employees, and investing in our community. Providing a return on the family’s investment, sharing the Lord’s blessings with our employees, and investing in our community.” [34]
- Chick-fil-A: “To glorify God by being a faithful steward of all that is entrusted to us and to have a positive influence on all who come into contact with Chick-fil-A” [35]
- Interstate Batteries: “To glorify God and enrich lives as we deliver the most trustworthy source of power to the world. We fulfill our purpose by doing business based on biblical principles – such as honesty, humility, service and care – in a way that is welcoming and loving to all. As a company contributor, you are free to interact with the purpose in whatever way is most meaningful to you. Our values, however, are unchanging, and we ask that our team members try their best to live them as they serve our key stakeholders: team members, customers, distributors and franchisees, suppliers and vendors, communities and shareholders. By creating a welcoming and caring environment, we hope to create a positive experience for our team members and everyone else whom Interstate touches, no matter their background or belief system.” [36]

Other companies have printed Bible verses on their products, such as In-N-Out Burger’s cups. [37] Tyson Foods employs over 100 chaplains and calls its culture “faith-friendly.” [38] Marriott includes the Bible and Book of Mormon in its hotel rooms. [39] Others have corporate philosophies that are inspired by the founders’ spiritual beliefs, such as Whole Foods’ environmentalist philosophy. [40]

The Supreme Court has, at least once, cited for-profit companies’ use of faith-inspired mission statements favorably. In *Hobby Lobby*, the Court recited the faith-based

Faith-Inspired Culture and Mission Statement

mission statements of the two for-profit companies at issue as evidence that the closely-held companies held sincere religious beliefs for the purpose of the Religious Freedom Restoration Act. [41] For instance, the Court quoted Hobby Lobby's statement of purpose that "commits the Greens [the owners] to '[h]onoring the Lord in all [they] do by operating the company in a manner consistent with Biblical principles.'" [42] For the other company, Conestoga Wood Specialties, its mission was to "operate in a professional environment founded upon the highest ethical, moral, and Christian principles." [43] These statements provided key evidence of the sincerity of the owners' religious beliefs and were helpful to these companies in the case.

Faith-based mission statements and company values do not violate Title VII. To constitute a Title VII violation, a company's actions would need to rise to the level of religious discrimination or a hostile work environment. Religious discrimination means taking an adverse action against an employee (such as firing, demoting, refusing to promote) motivated at least in part by religion. For a hostile work environment claim, religious harassment would need to be either severe or pervasive to constitute a claim. A continuous pattern of small instances of harassment could constitute a claim. But a faith-based mission or values statement in and of itself is unlikely to violate either of these standards.

It is possible that faith-inspired company actions could conflict with employee religious beliefs. Any request for a religious accommodation should be addressed individually.

In conclusion, it would not violate Title VII to maintain a faith-inspired mission statement, provided the company does not discriminate against employees of other religions or no religions.

Voluntary Bible Studies and Chaplains

Employers may offer Bible studies and chaplains for their employees, as long as participation is voluntary. For instance, a federal appellate court concluded that a closely-held manufacturing business could not require employees to attend mandatory religious devotional services at work that included prayer, singing, and scripture. [44]

To avoid being seen as mandatory, it is recommended that any such meetings such as Bible studies to take place outside of working hours, such as on lunch break. Participation or lack of participation should not be used as a factor in any employment decision such as project assignments, promotions, or evaluations. Employees of other faiths should be free to start their own similar groups on the same terms.

Religious Conflicts with Local, State, or Federal Mandates

As government continues to expand its reach, the likelihood of conflicts with religious beliefs in the workplace increases. There are many areas of law in which we could see government regulations infringing on religious beliefs in the workplace, including with respect to insurance and other employee benefits.

In 2021, for example, the federal government sought to use an administrative agency, the Occupational Safety and Health Administration ("OSHA"), to force employers with over 100 employees to implement a COVID-19 vaccine-or-testing mandate. [45] Many organizations and businesses brought legal challenges to the mandate as unlawful government overreach. First Liberty Institute also challenged OSHA's mandate as unlawful under RFRA because it imposed a substantial burden on the religious beliefs and practices of some religious organizations. The Supreme Court struck down the mandate. [46]

Every law should be evaluated individually based on its impact on the faith-based practices of business leaders. Attorneys can assess whether any particular law was properly created using the proper processes. It is possible some government mandates could be challenged as federal government overreach or improperly put in place. In some cases, it may be possible to bring a lawsuit before the law takes effect or is enforced against a particular business.

For challenges to federal laws that substantially burden the religious beliefs of a closely-held business's owners, RFRA also may provide a possible defense. [47] For example, in *Burwell v. Hobby Lobby Stores*, [48] the U.S. Supreme Court held that the federal Religious Freedom Restoration

Act [49] protected a closely-held corporation from being forced to violate its owners' religious beliefs. If your business is facing a government mandate that violates the religious beliefs of those owners, you should be able to use the federal RFRA law, as well as the Constitution and other state laws to assert your rights. [50]

Religious Conflicts with Public Accommodation Laws

Public accommodation laws have an honorable purpose and history. The federal public accommodation statute was enacted primarily to ensure equal access to hotels and restaurants regardless of race. [51]

Some states have chosen to wield their state public accommodations laws to impose their preferred beliefs, in conflict with religious beliefs, on businesses open to the public. We have primarily seen this threat in the context of wedding-related businesses. States such as Colorado and Oregon have targeted bakeries who refuse to create custom cakes for same-sex weddings. [52]

Recently, in *303 Creative v. Elenis*, the Supreme Court addressed whether applying a public-accommodation law to compel a custom website designer create wedding websites for same-sex couples in violation of her religious beliefs violated the free speech clause of the First Amendment. [53] The Court observed the public accommodations laws play a "vital role" in protecting the civil rights of all Americans, yet "no public accommodations law is immune from the demands of the Constitution." [54] Because the websites were "pure speech," the Court concluded that the Colorado law violated the First Amendment, which protects Americans from being forced to speak messages that violate their beliefs.

We have also seen state agencies, such as Massachusetts, issue guidance arguing that businesses, and even churches, open to the public would have to use speech, pronouns, and bathroom policies preferred by the state on issues related to gender identity. [55]



Voluntary Bible Studies and Chaplains

COVID-19 Vaccination Record Card

Please keep your record card, which includes medical information about the vaccines you have received.

Last Name

First Name

Date of birth

Patient number

Vaccine	Product Name/Manufacturer	Date
	Lot Number	
1** Dose COVID-19	Moderna 13-6-1371	03/17/21 mm dd
2** Dose COVID-19	Moderna 21-6-1433	06/12/21 mm dd
Other		___/___/___ mm dd
Other		___/___/___ mm dd

Actions You Can Take to Better Protect Your Business

State public accommodation laws vary widely in how they are written and how they are interpreted. Laws that infringe on a business owner's freedom of religion or freedom of speech may be susceptible to legal challenge. If you have an issues or questions in this area, reach out to First Liberty or your attorney.

Actions You Can Take to Better Protect Your Business

- Put your religious values in your mission and values statements.
 - Businesses seeking to implement a faith-based culture should clearly articulate their religious perspective in these documents.
 - This is especially important for small or closely-held businesses.
 - If a business owner's religious beliefs come into conflict with a government mandate, this can be helpful evidence that a business is run from a religious perspective.
 - For instance, in *Hobby Lobby*, the Supreme Court held that the company's Christian values statement provided evidence that the company was entitled to assert a religious liberty defense under the Religious Freedom Restoration Act.
- Consistently run your business in accordance with your religious beliefs.
 - Consistency is key to a strong religious liberty defense.
- Adopt a non-discrimination employment policy that respects religious liberty for all employees.
 - This policy should include a Religious Accommodation policy.
 - We include a sample Religious Accommodation policy below.
- Call First Liberty Institute if you have any questions or concerns.

Conclusion

Faith based employers have religious freedom and protection under the law. We hope this guide will be a helpful resource for you as a business leader of faith. If you have any questions about this guide or other religious liberty issues, please seek legal assistance. First Liberty attorneys are standing by at **FirstLiberty.org** to help protect your religious freedom.



Conclusion

Sample Religious Accommodation Request Form

[Adapted from the EEOC's Template Form]

Employee's Name: _____

Date of Request: _____

Email Address: _____

Telephone Number: _____

Employee's Position/Title: _____

Work Location: _____

We respect religious diversity. Although we may not be able to accommodate every request, our goal is to provide religious accommodations to ensure that people of all faiths thrive at our company. Please provide this form to your direct supervisor who will schedule a time to discuss your request and possible accommodation options.

1. To help us understand your request, please identify the workplace requirement, policy, or practice (hereinafter "workplace policy") that conflicts with your sincerely held religious observance, practice, or belief (hereinafter "religious beliefs").

2. Please describe the nature of your religious beliefs that conflict with the workplace policy identified above.

3. What accommodation do you request?

4. Please list any alternative accommodations that also would eliminate the conflict between the workplace policy and your religious beliefs.

Employee Signature: _____

Date: _____



**Sample Religious
Accommodation Request
Form**

Accommodation Decision

Accommodation:

- approved as requested
 approved but different from the original request
 denied

Identify the accommodation provided:

If the approved accommodation is different from the one originally requested, explain the basis for denying the original request.

If an alternative accommodation was offered, indicate whether it was:

- accepted rejected

If it was rejected, state the basis for rejection.

If the accommodation is denied and no alternative accommodation was proposed, explain the basis for denying the request without an alternative accommodation.

Supervisor's Name: _____

Supervisor's Signature: _____

Date: _____

An individual who disagrees with the resolution of the request may ask the COO/Director of Human Resources to reconsider that decision within 30 business days of receiving this completed form with the Supervisor's decision. Note: an employee may pursue legal remedies from the EEOC or a court of proper jurisdiction if the employer improperly denies the requested religious accommodation.

Citations:

[2] See, e.g., Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e et seq.

[3] Because we most often receive questions from Christian business leaders, many of the examples in this Protection Kit will involve this group. Nevertheless, our mission is to protect religious liberty for all Americans, and the legal principles given in this guide are applicable to people of all faiths.

[4] See, e.g., *EEOC v. Townley Eng’g & Mfg. Co.*, 859 F.2d 610, 613 (9th Cir. 1988).

[5] 42 U.S.C. § 2000e(b).

[6] 42 U.S.C. § 2000e-2(a).

[7] 42 U.S.C. § 2000e(k).

[8] *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1753 (2020) (holding “employers are prohibited from firing employees on the basis of homosexuality or transgender status”).

[9] The *Bostock* decision itself notes that there was no religious claim in that case, and, if there had been, those would be interests of the highest order. Religious freedom laws such as, the Religious Freedom Restoration Act, “might supersede Title VII’s commands in appropriate cases.” *Bostock*, 140 S. Ct. at 1754.

[10] 42 U.S.C. § 2000e(f).

[11] See, e.g., 42 U.S.C. § 2000e-1(a) (the main statutory exemption for religious employers); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020) (explaining the constitutional “ministerial” exception for religious employers). For more information about the applicability of Title VII to religious organizations, please see *First Liberty’s Religious Liberty Protection Kit for Religious Nonprofits*.

[12] See, e.g., Haw. Rev. Stat. Ann. § 378-1.

[13] California’s analogous law, for instance, covers the following protected classes: “race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status.” Cal. Gov’t Code § 12940(a).

[14] 42 U.S.C. § 2000e-2(a).

[15] 42 U.S.C. § 2000e(j).

[16] *Hardison*, 432 U.S. 63.

[17] *Groff*, 600 U.S. at 470.

[18] *Id.* at 471.

[19] *Id.*

[20] *Id.* at 472.

[21] *Id.* at 473 (an employer must not “merely ... assess the reasonableness of a particular possible accommodation or accommodation”; rather “[c]onsideration of other options ... would also be necessary”).

[22] For more information for employees requesting religious accommodations, see *First Liberty’s Religious Liberty Protection Kit for Religious Employees*.

[23] *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1753 (2020).

[24] Protections Against Employment Discrimination Based on Sexual Orientation or Gender Identity, EEOC, OLC Control No.

NVTA-2021-1 (Issued June 15, 2021), available at <https://www.eeoc.gov/laws/guidance/protections-against-employment-discrimination-based-sexual-orientation-or-gender>.

[25] *Tennessee v. U.S. Dep’t Educ.*, No. 3:21-cv-308 (E.D. Tenn., July 15, 2022).

[26] Enforcement Guidance on Harassment in the Workplace, II.A.5.c, EEOC (issued Apr. 29, 2024; last accessed May 2, 2024), available at <https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace>.

[27] The Guidance itself states, “the contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public...” *Id.*

[28] For more information for employees requesting religious accommodations, see *First Liberty’s Religious Liberty Protection Kit for Religious Employees*.

[29] The Supreme Court noted that RFRA “might supersede Title VII’s commands in appropriate cases.” *Bostock*, 140 S. Ct. at 1754.

[30] 42 U.S.C. §2000bb-1.

[31] For example, the Second Circuit Court of Appeals explained: “There is little caselaw addressing the issue whether the RFRA applies to an action by a private party seeking relief under a federal statute against another private party who claims that the federal statute substantially burdens his or her exercise of religion. The RFRA’s language surely seems broad enough to encompass such a case... An action brought by an agency such as the EEOC is clearly one in which the RFRA may be asserted as a defense, and no policy of either the RFRA or the ADEA should tempt a court to render a different decision on the merits in a case such as the present one.”

Hankins v. Lyght, 441 F.3d 96, 103–04 (2d Cir. 2006).

[32] 576 U.S. 644, 672 (2015).

[33] *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 138 S. Ct. 1719, 1729, 1731 (2018).

[34] HOBBY LOBBY, <https://www.hobbylobby.com/about-us/our-story>.

[35] CHICK-FIL-A, <https://www.chick-fil-a.com/careers/culture>.

[36] INTERSTATE BATTERIES, <https://www.interstatebatteries.com/about/our-culture>.

[37] Brett Molina, *In-N-Out Owner Explains Why Fast-food Chain Prints Bible Verses on Food Packaging*, USA TODAY (Oct. 8, 2019, 9:59 AM), <https://www.usatoday.com/story/money/2019/10/08/in-n-out-owner-lynsi-snyder-interview-bible-verses/3906363002/>.

[38] TYSON FOODS, <https://www.tysonfoods.com/who-we-are/our-story/purpose-values>.

[39] Haley Britzky, *Marriott to Require Bibles and Books of Mormons in Newly Acquired Hotels*, AXIOS (Aug. 25, 2018), <https://www.axios.com/2018/08/25/marriott-to-require-bibles-and-books-of-mormon-in-hotels>.

[40] Isaac Chotiner, *The Whole Foods C.E.O John Mackey’s “Conscious Capitalism.”* THE NEW YORKER (Feb. 22, 2021), <https://www.newyorker.com/news/q-and-a/whole-foods-ceo-john-mackeys-conscious-capitalism>.

[41] *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

[42] *Id.* at 711 n. 3.

[43] *Id.* at 701.

[44] *EEOC v. Townley Eng'g & Mfg. Co.*, 859 F.2d 610, 613 (9th Cir. 1988).

[45] *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety & Health Admin.*, 142 S. Ct. 661 (2022).

[46] *Id.*

[47] See *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

[48] *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

[49] Religious Freedom Restoration Act of 1993 ("RFRA"), 42 U.S.C. § 2000bb et seq.

[50] It is possible that this defense may not be available for publicly-traded corporations due to the likelihood that corporate shareholders will hold a variety of different beliefs. No cases have ruled on this issue yet for publicly traded corporations.

[51] 42 U.S.C. § 2000a.

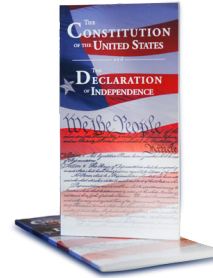
[52] *Masterpiece Cakeshop, Ltd. v. Colo. Civ. Rts. Comm'n*, 138 S. Ct. 1719 (2018); *Klein v. Bureau of Lab. & Indus.*, 143 S.Ct. 2686 (2023) (vacated and remanded to the Court of Appeals of Oregon).

[53] *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023). The designer would "gladly create custom graphics and websites" for clients of any sexual orientation, as long as the message did not violate her religious beliefs. *Id.* at 582.

[54] *Id.* at 590 & 592.

[55] See *Horizon Christian Fellowship v. Williamson*, No. 1:16-cv-12034 (D. Mass, filed Oct. 11, 2016).

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Lacey Smith - Alaska Airlines

Alaska Airlines fired dedicated flight attendant Lacey Smith for expressing her religious beliefs. The firing was in direct violation of federal civil rights law which prohibits workplace religious discrimination. Woke madness is now governing our nation's companies from the boardroom to the break room, and it's forcing Lacey to choose between her job and her faith.



Sweet Cakes by Melissa

Melissa Klein, award winning baker and former owner of SweetCakes by Melissa, was forced to close her business and endure violent death threats simply for running her family business according to her religious beliefs. The state of Oregon imposed a \$135,000 penalty and told her she needed "rehabilitation". Now, she is still searching for justice.



Gerald Groff - US Postal Service

Gerald Groff was forced to quit his job as a postal carrier because of his religious beliefs. He believes in the Sunday Sabbath, but the USPS refused his religious accommodation request not to work on Sundays after initially granting his request. First Liberty won for Gerald Groff at the U.S. Supreme Court 9-0 where the Court made it clear that federal law requires reasonable religious accommodations.



Fire Chief Ron Hittle

After 24 years of service, Fire Chief Ron Hittle was fired by the city of Stockton, California, because he attended a leadership conference that took place at a church. The city fired him, listing his attendance at the "religious event" and his decision to allow others to attend as the primary reasons for his termination. First Liberty is fighting for him.



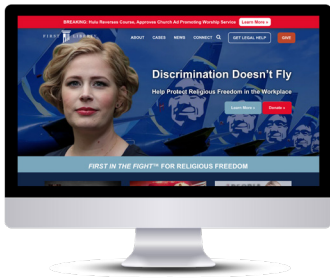
Valerie Kloosterman - Physician Assistant

Valerie Kloosterman, a physician assistant, was fired by University of Michigan Health system because of her religious beliefs. She was terminated for seeking a religious accommodation from affirming statements about gender that violated her faith, and from referring patients for gender-transition drugs and surgeries. To fight this injustice, we filed a lawsuit against Michigan Health for violating federal law prohibiting workplace religious discrimination.



Dr. Eric Walsh

Dr. Eric Walsh, a medical expert with decades of experience and multiple advanced degrees, was fired from his job as a public health administrator because of the sermons he gave as a lay minister in his church. No one should be fired from their job because of something they said in a sermon. First Liberty successfully protected the rights of Dr. Walsh in court.



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.

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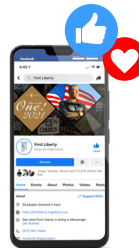
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Stephanie Taub

Senior Counsel

First Liberty's For-Profit Leaders of Faith 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.



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