

# SCHOOL & WORKPLACE ACCOMMODATIONS FOR THE JEWISH HIGH HOLIDAYS:

## KNOW YOUR RIGHTS & OBLIGATIONS

### ELEMENTARY & SECONDARY SCHOOLS

Generally, K-12 public schools have a greater legal obligation to accommodate students who observe the High Holidays than private schools. In either situation, parents should review and follow school policies on how to request a religious accommodation for their children. A request for an accommodation should be made well in advance of the High Holidays – even if school is not in session. Advanced notice of the need for an accommodation helps ensure that important assignments, tests or events are not calendared on the High Holidays. And in situations where a school is not legally required to provide an accommodation for observance of the High Holidays, such notice gives school officials the time to develop or approve an accommodation.

### K-12 PUBLIC SCHOOLS

#### **Are Public Schools Required to Close on the High Holidays?**

The Establishment Clause of the First Amendment to the U.S. Constitution *prohibits* K-12 public schools from closing solely for the purpose of observing a religious holiday, including the High Holidays. Public schools may, but are not required to close for secular reasons associated with observance of religious holidays, such as logistical issues created by significant student or teacher absences due to a religious holiday.

#### **Is a Public School Required to Accommodate a Student's Observance of the High Holidays?**

The Free Exercise Clause of the First Amendment and certain state laws will in many situations require K-12 public schools to allow students time off from school without penalty for observance of the High Holidays. This means that in addition to permitting a student to be absent, a school should give a reasonable amount of time for the student to make up any missed assignments or tests.

Specifically, if a school allows students to be absent without penalty for secular reasons, such as sickness or a death in the family, the Free Exercise Clause requires a school to demonstrate a

compelling reason in order to justify denial of a similar accommodation for a student who observes the High Holidays. Called the “strict scrutiny” standard, this is the most stringent of constitutional standards. Under such circumstances, it is highly unlikely that a school can show that it has such a compelling reason. A school that fails to meet this standard will be required to accommodate a student’s observance of the High Holidays.

Furthermore, twenty-eight states have laws called Religious Freedom Restoration Acts (RFRA).<sup>1</sup> These laws also require demonstration of a compelling reason where a school fails to provide an accommodation to a student who observes the High Holidays. For the purposes of these laws, it is irrelevant whether denial of the accommodation is based on a rule or practice that is neutral towards religion – meaning that it does not differentiate between religious and secular activity. So the stringent “strict scrutiny” standard will apply to the denial even where a school does not allow student absences without penalty for sickness, a death in the family, or any other secular reason.

Additionally, certain state or local laws prohibiting religious discrimination in “public accommodations” or other contexts may cover K-12 public schools and require them to provide students with accommodations for the High Holidays.

## **K-12 PRIVATE SCHOOLS**

### **Are Private Schools Required to Close on the High Holidays?**

The Establishment Clause of the First Amendment and other laws do not control whether a private school closes on a religious holiday. A private school may close to observe a religious holiday, or close for secular logistical or practical reasons associated with the holiday. Therefore, a private school has full discretion as to whether it closes for the High Holidays.

### **Is a Private School Required to Accommodate a Student’s Observance of the High Holidays?**

Generally, K-12 private schools are not legally obligated to provide students with religious accommodations for observance of the High Holidays or other religious practices. However, certain state or local laws prohibiting religious discrimination in “public accommodations” or other contexts may cover K-12 private schools and require them to provide an accommodation for the High Holidays. Furthermore, parents should closely review school policies and handbooks. Language in such documents that affirms equality of opportunity, prohibits discrimination, or allows for religious accommodations may create a contractual duty for the school to provide a

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<sup>1</sup> The twenty-eight states are Alabama, Alaska, Arizona, Arkansas, Connecticut, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Mexico, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin.



student with an accommodation for the High Holidays.

**PROVIDED BY: Civil Rights Division**