

SCHOOL & WORKPLACE ACCOMMODATIONS FOR THE JEWISH HIGH HOLIDAYS:

KNOW YOUR RIGHTS & OBLIGATIONS

COLLEGES & UNIVERSITIES

Generally, public post-secondary schools have a greater legal obligation to accommodate students who observe the High Holidays compared to students at private colleges and universities. In either situation, students should review and follow school policies on how to request a religious accommodation for the High Holidays. A student request for an accommodation to professors or administrators should be made well in advance of the High Holidays – even if classes are 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 college or university is not legally required to provide an accommodation for the High Holidays, such notice gives administrators the time to develop or approve an accommodation.

PUBLIC COLLEGES & UNIVERSITIES

Is a Public Post-Secondary 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 public colleges and universities to allow students time off from classes without penalty for observance of the High Holidays. This means that in addition to permitting the student to be absent from class, the post-secondary school should give a reasonable amount of time for the student to make up any missed assignments or tests.

Specifically, if a college or university allows students to be absent from classes without penalty for secular reasons such as sickness or a death in the family, the Free Exercise Clause requires a post-secondary 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 college or university can meet this standard. A public post-secondary school failing 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).¹ These laws also require demonstration of a compelling reason where a public post-secondary school fails to provide an accommodation to 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 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 college or university does not allow student absences without penalty for sickness, a death in the family, or any other secular reason.

Additionally, certain state laws specifically require public colleges and universities to provide students time off without penalty for religious observances. More generally, local or state laws prohibiting religious discrimination in “public accommodations” may cover public colleges and universities, and require them to provide students accommodations for the High Holidays.

PRIVATE COLLEGES & UNIVERSITIES

Is a Private Post-Secondary School Required to Accommodate a Student’s Observance of the High Holidays?

Generally, private colleges and universities are not legally required 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 private post-secondary schools and require them to provide students accommodations for the High Holidays. Furthermore, students should closely review school policies and handbooks. Language in such documents that affirm equality of opportunity, prohibit discrimination, or allow for religious accommodations may create a contractual duty for the college or university to provide a student an accommodation for the High Holidays.

PROVIDED BY: Civil Rights Division

¹ 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.