Every fall, students and employees who observe the Jewish High Holidays of Rosh Hashanah and Yom Kippur ("High Holidays") must resolve scheduling conflicts resulting from their concurrent religious obligations and school or work responsibilities.

**THE JEWISH HIGH HOLIDAYS**

**Rosh Hashanah:**
The beginning of the Jewish New Year and first of the High Holy Days, Rosh Hashanah marks the beginning of a ten-day period of penitence and spiritual renewal. Some adherents to Judaism only observe the first day of the holiday and others observe both days.

**Yom Kippur**
Known as the “Day of Atonement,” Yom Kippur marks the end of the Ten Days of Penitence that begin with Rosh Hashanah.

The Anti-Defamation League (ADL) firmly believes that to create welcoming and respectful school and workplace environments, diligent efforts should be made to accommodate observance of the High Holidays and other religious practices with school or work responsibilities in a meaningful way. (Click on these links for more resources about respecting diversity in K-12 schools, on college campuses and in the community.)

Accommodating students and employees who seek to take time off for the High Holidays is not merely a principled and worthy practice. Rather, in many instances it may be legally required. However, to obtain a religious accommodation for the High Holidays from schools or employers, students and employees often have to fulfill certain obligations.

Even if a K-12 or post-secondary school fully meets its obligations to accommodate a student’s religious observance, missing the first days of school or class due to the High Holidays can raise
intangible issues. The first days of the school year are a time when students establish their initial rapport with teachers or professors and learn about their educators’ expectations for the coming year or class.

Absence from these days or classes could wrongly convey the message that school or a class is not important to a student or his or her family. While such an interpretation of a student’s absence for religious observance is completely erroneous and unfounded, ADL strongly encourages older students and parents of younger children to advise teachers or professors in advance of the High Holidays – preferably in person - why they will be absent, and to ask for any important information or materials that will be provided during the days or classes missed.

Below are answers to common questions regarding religious accommodation for observance of the High Holidays by (1) K-12 public and private schools, (2) public and private post-secondary schools, and (3) public and private employers.

For more information or assistance in seeking a religious accommodation for observance of the High Holidays, contact your local ADL office.

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 (RFRAs). 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 student with an accommodation for the High Holidays.

**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 (RFRAs).\(^2\) 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

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\(^2\) See Footnote No. 1.
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.

PUBLIC & PRIVATE EMPLOYERS

Federal law – Title VII of the 1964 Civil Rights Act ("Title VII") - requires both public and private employers to provide employees religious accommodations for the High Holidays under certain circumstances. The Free Exercise Clause of the First Amendment, as well as state laws, provide public employees with additional religious accommodation rights. An in-depth discussion on employees’ religious accommodation rights can be found in the ADL publication Religious Accommodation in the Workplace: Your Rights and Obligations.

What Are Employees’ Religious Accommodation Rights and Obligations Under Title VII?

Title VII requires private and public employers with fifteen or more employees to reasonably accommodate an employee’s religious practices, including observance of the High Holidays, unless to do so would create an undue hardship upon the employer. Certain states have laws placing similar legal obligations on private and public employers with less than fifteen employees.

A reasonable accommodation is one that eliminates the conflict between an employee’s religious practices and work requirements. So for example requiring an employee to take a vacation day or unpaid leave to observe the High Holidays could be a reasonable accommodation under Title VII.

An undue hardship is any act requiring an employer to incur more than minimal costs in order to accommodate an employee’s religious practices. A requested accommodation can cause an undue hardship if it requires anything more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees’ job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee’s share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.

An employee seeking a religious accommodation to observe the High Holidays must tell an employer about the religious commitment at the time he or she becomes aware of the need for an accommodation. Given
that the dates of the High Holidays are known years in advance, an employee should alert his or her employer of the need for a religious accommodation weeks or even months before the holidays. Employees must also be clear in explaining why they need an accommodation. Vague requests or objections such as an employee saying that he or she cannot work on a particular day because of cultural tradition will not suffice. Rather, the employee must clearly state that he or she is required not to work because of religious observance for the High Holidays.

**What Religious Accommodation Rights Do Public Employees Have Under Other Laws?**

In addition to Title VII, public employees can seek a religious accommodation for observance of the High Holidays under the First Amendment and other state laws. The First Amendment’s Free Exercise clause may require a public employer to accommodate an employee’s religious observance. If the employer adversely treats religiously-motivated conduct compared to similar secular conduct, it can only justify its actions by demonstrating a compelling reason, which is called the “strict scrutiny” standard. Demonstrating this standard – the most stringent of all constitutional standards - is much more difficult than establishing an undue hardship under Title VII. Under such circumstances, a public employer that fails to meet this standard will be required to accommodate an employee’s observance of the High Holidays.

Additionally, twenty-eight states have laws called Religious Freedom Restoration Acts (RFRAs). State courts have generally not ruled on whether or not RFRAs are applicable to the public workplace. Therefore, they may be another avenue for public employees to seek religious accommodations. If applicable to the public workplace, these laws also would require an employer to demonstrate a compelling reason where it denies a religious accommodation to an employee who observes the High Holidays. For the purposes of these laws, it is irrelevant whether the 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 would apply to the denial even where a public employer does not allow employee absences without penalty for sickness, a death in the family, or any other secular reason.

For more information about your religious accommodations rights and responsibilities in the workplace, visit the web-site of the [U.S. Equal Employment Opportunity Commission](https://www.eeoc.gov).

**PROVIDED BY: Civil Rights Division**

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3 See Footnote No. 1