



# Religious Free Exercise Rights While Incarcerated

The law protects your right to practice your faith while you are incarcerated. If you are in a state facility, your strongest protection comes from the Religious Land Use and Institutionalized Persons Act (RLUIPA). If you are in a federal facility, you are protected under the Religious Freedom Restoration Act (RFRA). Both statutes restrict the government's ability to limit your religious practices. They also allow you to sue in federal court if you believe your rights are being violated. The Constitution and other state and federal statutes may also protect you.

## Examples of Religious Practices Courts Have Protected:

- Religious apparel or headgear (hijab, kufi, yarmulke, etc.)
- Haircuts, shaving, or grooming norms
- Religious diets (halal, kosher, vegetarian, etc.) and fasting
- Accessing religious services (e.g. weekly congregational prayer) or worship areas
- Receiving visits from religious advisors
- Sending and receiving religious mail
- Refusing medical treatment for religious reasons

**You have legal protections that allow you to practice according to your sincerely held religious beliefs while incarcerated.**

*Do you think your religious rights are being violated? You can check by going through the following questions.*

### Question 1: Is Your Practice “Religious”?

The law defines religious practice broadly. To be protected, the practice needs to be rooted in a “sincerely held belief” that is religious in nature. The law can even protect practices that are not central to or required by your religion. You must explain the religious nature of your practice in discussions or complaints with the facility.

### Question 2: Is the Facility Burdening Your Religious Practice?

Next, you are required to show that the facility's conduct “substantially burdens” your religious practice. Generally, a substantial burden means that the facility's actions either prevent you from engaging in religious practice in a manner that (1) is more than a mere inconvenience, or (2) pressures you to change your behavior and violate your beliefs.

### Question 3: Will a Court Find the Facility's Actions to be Justified?

If you show that your religious practice is substantially burdened, the facility must then justify this burden by showing some “compelling government interest.” Courts generally find that reducing expenses alone is **not** a compelling interest. On the other hand, courts often find that ensuring safety and security **is** a compelling interest. After establishing an interest, the facility must show the burden placed on your practice is the “least restrictive means” for achieving that interest. This is a very difficult standard for the facility to meet. It can sometimes be shown that the facility did not use the least restrictive means if, for example, it allows other similar practices for other groups or if other facilities or prisons allow the banned practice.

## How to Make Your Voice Heard: Grievances and Civil Complaints

If the prison is violating your religious rights, you generally have a two-step process to complete:

**First**, you can file a grievance (an internal procedure for making formal complaints). Grievances typically need to be filed **within days** of an incident. To learn more about the grievance process at your facility, ask an officer a written copy of the grievance policy, which may also be available in the library. Look for information about the grievance procedure and where to obtain grievance forms. Be sure you understand the steps of the grievance procedure. Be sure to:

- File a “grievance” and not just an informal “request.”
- Provide as much detail as possible on the forms. Ask for more sheets of paper.
- Include specific examples of the problem, how often it occurs, the dates on which it has occurred, and the officers personally involved in each incident. Name all officers individually and state what each officer did. If you don’t know their names, describe how each officer looked (6’ tall, male/female, hair color, etc.).
- Refer to Questions One and Two above. You must explain in your grievance your “sincerely held religious belief,” why your practice is “religious,” and how the facility has placed a substantial burden on this practice.
- Submit your grievance as soon as possible after each incident. Submit any appeals on time.
- Fully complete the administrative appeal process, even if you get replies partially resolving the issue. (This might require submitting one or more appeals to the facility warden or DOC depending on your facility rules.)
- Keep copies of all your requests, grievances, and appeals.

**Second**, if you complete the grievance process and still feel your complaint has not been addressed, then you can file a civil complaint (lawsuit) in court. If your facility refuses to let you file grievances, you may be able to go straight to court. However, if you are able to file grievances, you must do so first. The Prison Litigation Reform Act requires inmates to fully “exhaust” the formal grievance procedures available at the facility. This means pursuing your grievance until the end of the grievance appeal process, and filing grievances and appeals on time. Be sure to attach your grievances and appeals to any civil complaint.

**Contact Muslim Advocates to report religious harassment, discrimination, or religious practice violations at your facility:**

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