

RELIGIOUS FREEDOM

A Guide to Your Rights

SAMOA





“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

—Universal Declaration of Human Rights, Article 18



FREEDOM OF RELIGION AND WORSHIP IN SAMOA

1. What is the right to freedom of religion and worship?

The right to freedom of religion is the right to have, adopt, preserve or change your own religion. Closely tied to this right is the right to worship. The right to worship includes the right to believe, profess and practice, individually or collectively, the acts of worship or rituals of your preference. Likewise, people are free to abandon their religion, to not profess religious beliefs, and to refrain from practicing religious acts and rites.

The right to freedom of religion also protects people from discrimination, coercion or hostility because of their religious beliefs, as well as the right to not be forced to testify about such beliefs.

2. What is the right to freedom of belief?

This is a person's fundamental right to follow his or her personal faith and convictions and not to be subject to actions that are against his or her deeply held religious or moral standards.

3. What are the laws that protect religious freedom?

The Samoan laws that defend religious freedom are:

- Article 11 of the Constitution, which guarantees the right of belief, the right to manifest and propagate belief, and grants basic religious freedom protections against religious discrimination.
- Article 12 of the Constitution, which guarantees no person shall be required to receive religious instruction or to take part in any religious ceremony or attend religious worship that relates to a religion other than his or her own.



4. What is the official religion of Samoa?

There is no official, state sponsored religion in Samoa. The Constitution provides the framework for robust religious liberties wherein "...every person has the right to freedom of thought, conscience and religion" (See Article 11).

5. What can I do when my right to freedom of religion and worship is violated?

Religious freedom is a human right and the State has the obligation to promote, respect, protect, and guarantee such right to all. If it is violated, the State must prevent, punish, and remedy the violations of this human right.

Article 73(2) provides that the Supreme Court shall determine the interpretation or effect of Articles 11 and 12 governing religious freedom. Thus, a person may look to the court system for redress if that right is violated. The Supreme Court can make a binding ruling for the protection of freedom of religion unless overturned by an appeal to the Court of Appeal.



RELIGION IN THE PUBLIC SQUARE

6. Can I express my religious views in public?

Yes. The right to religious freedom established in the Constitution states that every person has the right to express his or her religion or belief in worship, teaching, practice and observance, provided that these expressions do not constitute a crime or offense sanctioned by the law.

7. Can I share or preach my beliefs to others?

Yes. Along with freedom of expression in public and in private, there is a right to share religious beliefs, ideas, thoughts, and opinions with others. Likewise, people can come together to establish a religion, to adhere to an existing religion, or change their religious affiliation.

8. Can I be part of a religious entity or organization?

Yes. Under the law, people have the right to associate and participate in religious activities as communities, which includes, among other rights: the right to establish places of worship or gathering for religious purposes, to freely exercise their own ministry, to establish their own leaders, and to have and direct their own faith institutes. The law does not require religious entities or organizations to accept people into their group because the freedom to disassociate and exclude is another important part of religious freedom.



9. What are the government authorities that regulate religious entities?

Samoa does not have one government agency overseeing all religious entities and activities. Nonetheless, religious organizations are regulated by the State for the same reasons people are regulated—to maintain civility, proper conduct, and the rule of law. The State regulates religious entities in the following ways:

- All religious entities may be incorporated and registered as a Board under the Charitable Trusts Act 1965.
- All religious organizations incorporated and registered by the Registrar of Charitable Trusts are regulated under Charitable Trusts Act 1965.

Because of this legal structure, religious entities may enjoy these benefits:

- The formal recognition of the Central Government.
- Tax exemption granted by the Ministry of Revenue and Customs on all ecclesiastical, charitable, and/or educational non-profit activities.
- Acquisition of movable and immovable property.
- Enjoyment of perpetual succession with the ability to sue and be sued in their own name.



RELIGIOUS FREEDOM IN THE WORKPLACE

10. What influence does freedom of religion have in the relationship between an employer and an employee?

The laws that govern the employment relationship between employer and employee have not established additional protections for employees' religious beliefs. Even so, the Constitution prohibits discrimination based on religion, so the employer should not impose religious obligations on its employees. Nor should an employer force an employee to act in a way that is contrary to the employee's religious beliefs. An employee's religion should not impact his or her wages. An employee's appointment should not be terminated because of his or her religious belief.

11. What is the relationship between religious freedom and working hours?

The Public Holidays Act 2008 provides for public holidays, which include Christmas Day, Boxing Day, New Year's Day, the day after New Year's Day, Good Friday, the Saturday after Good Friday, and Easter Monday.

The Labour and Employment Relations Act 2013 regulates working hours. An employee must not be required to work for more than 40 hours in any one week or more than 8 hours on any one day. An employer must not compel an employee to work on a Sunday unless the employee is engaged in work which is required to be carried out continuously as a succession of shifts. There are no laws that recognize any particular distinction for religious reasons. Employees should discuss situations which could potentially impact religious observance and/or prayer with their employers, and employers should work to accommodate employees' religious beliefs and the expression of their beliefs.



12. Can I wear religious clothing to work or refuse to wear part of a uniform because of my religious beliefs?

There is no specific Samoan law or regulation on wearing religious clothing in the workplace. Nevertheless, in recognition of a person's right to freely exercise his or her religion, an employee is generally allowed to wear religious clothing to work, or refuse to wear certain clothing as a uniform, if such clothing violates his/her religious practices or traditions. However, an employee may be required to wear appropriate work attire if it is essential to his or her safety, health, public order, or welfare (e.g., protective helmets/headgear, sanitary scrubs, etc.). Employees should notify their employers in a timely manner of any needs or special circumstances that arise due to religious beliefs or practices. This allows the employer to be aware of such circumstances and honour the religious freedom of employees more adequately.



RELIGIOUS FREEDOM IN SCHOOLS

13. Can there be religion classes in public schools?

Yes, if approved by the public school board and principal.

14. Is it mandatory for students to attend religious education or religious observances in their schools?

No. Article 12 of the Constitution prohibits requiring any student to receive religious instruction or take part in any religious ceremony or attend religious worship if that instruction, ceremony or worship relates to a religion other than his or her own.

15. Can students refrain from attending school or scheduled school activities because of their religious beliefs?

Yes. Schools should be respectful of students who, because of their religious beliefs, do not participate in activities for religious reasons. Parents, or the interested parties, should communicate with school leaders from the outset to discuss the religious reasons for not participating in activities or policies.

16. Can students modify school uniforms because of their religious beliefs?

Yes, if approved by the public school board and principal. However, the right of children to receive education should always remain in focus, and inclusive school policies should be promoted to respect religious freedom and allow more children access to education.



MILITARY AND PUBLIC SERVICE

17. Is there mandatory military or public service, and if so, are there any religious exemptions?

No. There is no mandatory military or public service in Samoa.

RELIGION AND JUSTICE

18. Can I refrain from taking an oath in legal proceedings because of my religious beliefs?

Yes. When you appear in court as a witness, you are entitled under the law to abstain from taking the oath. You must explain to the court your desire to refrain from taking an oath because of your religious beliefs. Instead, you are entitled to make an affirmation.

19. Can judges make decisions based on their religious beliefs?

No. Judges must decide cases based on law, regardless of their religious beliefs.

20. Is there any protection for statements made in confidence to religious leaders?

Yes. Under Section 48 of the Evidence Act 2015, communications with ministers of religion made for the purpose of a person obtaining or receiving religious or spiritual advice, benefit, or comfort from the minister are privileged, provided the communications are made in confidence to or by the minister in his or her capacity as minister.



RELIGIOUS FREEDOM IN INTERNATIONAL LAW

In addition to the protection of religious freedom in each country, there are also different international instruments or legal documents that protect this right. In 1948, the right to freedom of religion and conscience was introduced by the Universal Declaration of Human Rights. Since then, there have been different covenants and conventions that establish and develop this right at the international level.

What protections do I receive under international law?

International instruments establish that all people are equal before the law, regardless of their religion. These laws also state that no one may be discriminated against on the basis of religion as this is an offense against human dignity and is condemned as a violation of human rights and fundamental freedoms.

What freedoms do these international instruments include?

- **Freedom of thought, conscience, and religion.**

This freedom includes freedom of thought on all matters, freedom to hold beliefs, freedom of commitment to religion or belief, and freedom of personal conviction. It does not allow any limitations on the freedom to have or adopt a religion or belief of one's choice. No one can be compelled to reveal his thoughts or adherence to a religion or belief.

- **Freedom to change religion or beliefs.**

All people have the right to leave their own religion or belief and to adopt another, or to remain without any belief at all. The use of physical force, penal sanctions, policies, or practices to force a person to adopt, change, or maintain a certain religion or belief is prohibited.



- **The freedom to manifest and profess your own religion or beliefs, individually and collectively, both publicly and privately.**

Everyone enjoys the right to peacefully manifest and share one's religion or belief with others, without being subject to the approval of the State or another religious community. This right is not limited to members of registered religious communities. Moreover, registration should not be compulsory for religious communities or organizations in order to enjoy their rights.

- **The freedom to manifest your religion through teaching, practice, worship, and observance.**

The freedom to manifest religion or belief in worship, observance, practice and teaching includes a broad range of acts:

- Worship and observance extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual practices and objects, the display of symbols, and the observance of holidays and days of rest.
- Practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers; the freedom to establish seminaries or religious schools; and the freedom to prepare and distribute religious texts or publications.



- **The freedom of parents and guardians to have their children or pupils receive religious or moral education that is in accordance with their own convictions.**

Children enjoy the right to have access to religious education in accordance with the wishes, religion, or convictions of their parents or guardians.

Likewise, children should not be forced to receive religious instruction that is contrary to the wishes of their parents or guardians. In accordance with the principle of the best interests of the child, the State should encourage an atmosphere of religious tolerance in schools and promote respect for pluralism and religious diversity.

Are there any limitations to these freedoms?

Yes. There are some limitations that are given by law and their purpose is to protect public safety, order, health, morals, and the fundamental rights and freedoms of others. However, restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.



FINDING COMMON GROUND

As people, we have the freedom to choose, share, and live what we believe. We generally hold our religious freedoms and beliefs dear, as guiding principles in our lives. Just as we value our own religion and beliefs, we should highly value all people's rights to religious freedom and belief. Knowing the importance of these freedoms, how can we share the principles of freedom of religion in our communities? Is there a way to find common ground when we interact with people holding different beliefs?

The following strategies may allow you to find common ground in your community:

BECOME INFORMED

Before you can protect the religious beliefs of yourself or others, it is important to be informed and understand the rights and basic principles of freedom of religion. This brochure contains some relevant information with regards to your rights and the basics of freedom of religion. Seek to stay aware of changes in religious freedoms by watching the news for developments that may affect these freedoms.

LISTEN TO ALL SIDES

Listen and show concern for other people's religions and sincere beliefs. Even if you disagree with the beliefs or convictions of another, focus on seeking to understand and to be respectful of his or her perspective. People's words, beliefs and actions are influenced by many factors. You should be sensitive to the feelings of others as you explain and pursue your positions, and you should ask that others not be offended by your sincere religious beliefs.



PRACTICE CIVILITY

In order to live as a community with differences of opinion and beliefs, it is critical to know how to debate and not just what to debate. Your communications on controversial topics should not be contentious. All people should treat one another with civility and respect while striving to be accurate and fair. When your positions do not prevail, you should accept unfavourable results graciously and civilly. Remember to reject persecution of any kind, including persecution based on race, ethnicity, religious belief or nonbelief, and differences in sexual orientation.

PROMOTE TOLERANCE

People must be able to peaceably live together while having differences. To live peaceably does not mean you need to abandon your positions; rather, it means you should strive to live peacefully with others who do not share your values or accept the teachings upon which they are based. Strive to teach values and standards of behaviour to those around you without having them distance themselves or show disrespect to any who are different.

BUILD TRUSTED RELATIONSHIPS

Build trusted relationships in your community among people of diverse opinions. You will be better able to find ways to protect the rights of others in a way that benefits everyone as you get to know more people and as those people come to understand each other's beliefs. Concentrate on what you have in common with your neighbours and fellow citizens. Then, as you work together, speak out for religion and the importance of religious freedom.

