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## THE ACLU OF UTAH AND COMPLAINTS REGARDING RELIGIOUS FREEDOM AT UTAH'S JAILS AND PRISONS

### Introduction

Thank you for contacting the American Civil Liberties Union (ACLU) of Utah. We are committed to combating unconstitutional jail and prison conditions and practices, and your complaint is important because it helps us identify problems in Utah's correctional facilities.

### Religious rights of inmates

The religious rights of inmates are protected by two federal legal sources: the Free Exercise Clause of the First Amendment of the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

### The First Amendment

The Free Exercise Clause protects beliefs that are "religious" and "sincerely held." *Kay v. Bemis*, 2007. A jail or prison system may not greatly "burden a prisoner's right of free exercise" without a convincing state concern and must use the "least restrictive means necessary to further that interest." *Werner v. McCotter*, 1995. In other words, if administrators can show a policy is necessary to maintain facility safety and order, then a court is likely to uphold that policy even if it restricts inmates' religious rights. Inmates do not always have a right to do things, or not do things, because of their religious beliefs. The courts allow limitations on religious practices so long as they are "reasonably related to legitimate penological interests." *Turner v. Safley*, 1987. Policies must be "neutral," affecting inmates with different religious beliefs equally; courts may find policies that treat some religions more favorably than others to be unconstitutional.

The courts have found the following restrictions on religious practice to violate the First Amendment:

- Restrictions on ability to attend religious services.
- Denial of religious literature.
- Requiring inmates to violate the Sabbath or other religious duties.
- Failure to accommodate religious dietary rules.

### The Religious Land Use and Institutionalized Persons Act

In 2000, Congress passed the Religious Land Use and Institutionalized Persons Act (RLUIPA) to provide stronger protections for religious freedom for jail and prison inmates.

RLUIPA defines "religious exercise" as "any exercise of religion, whether or not compelled by, or central to, a system of religious belief."

Since RLUIPA passed, courts have consistently held that maintaining order and security in the correctional facility is a "compelling governmental interest." Under RLUIPA, jail and prison officials

have the burden of showing to a court that a challenged regulation or policy is the “least restrictive means” of keeping order and security in the correctional facility.

In May 2005, the United States Supreme Court rejected a challenge to RLUIPA by states and found the law to be constitutional.

If you feel your religious freedom has been restricted, file a formal grievance with the jail or prison.

The ACLU of Utah compiled the above information from the following sources:

1. “2003-2004 Prisoner Resource Guide” by the ACLU of Texas Prison and Jail Accountability Project
2. “The Religious Land Use and Institutionalized Persons Act of 2000” by David C. Fathi, ACLU National Prison Project, September 2005
3. “Know Your Rights: Freedom of Religion” by the ACLU National Prison Project, November 2012