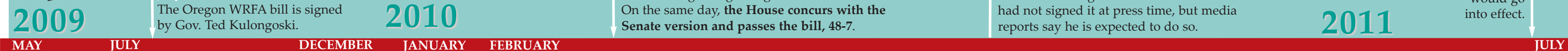




Working for teachers' religious liberty in Oregon

Throughout the year, you read stories in *Report from the Capital* outlining the Baptist Joint Committee's work in Washington, D.C. But, our efforts extend outside the beltway as we fight for true religious liberty across the country and in all levels of government, as illustrated by a recent situation in Oregon. The state passed a landmark Workplace Religious Freedom Act in 2009, but it still left a law in place that explicitly forbade public school teachers from wearing religious clothing in the classroom. The BJC and other partner organizations (such as The Sikh Coalition) got involved in a state thousands of miles away from our Washington, D.C., offices. This timeline illustrates one example of how the BJC works to advance religious freedom for all while protecting the separation of church and state.



May 29:
The Oregon legislature passes the Workplace Religious Freedom Act (WRFA), requiring employers to provide accommodation for religious beliefs if there is no "undue hardship" on the business. A news item appears in June's *Report from the Capital*. The bill leaves a law in place that prohibits teachers from religious dress.

Dec. 1:
Media reports Oregon House Speaker Dave Hunt plans to introduce a bill to repeal the ban on teachers' religious clothing in the 2010 legislative session. The news item appears in the Nov./Dec. *Report from the Capital*.

Jan. 1:
Oregon's WRFA law takes effect.

Feb. 1:
The 2010 Oregon Legislative Session convenes. **House bill 3686**, which would repeal the ban on teachers' religious garb, has its first reading.

Feb. 4:
The Baptist Joint Committee joins a diverse group to send a letter to Oregon legislative leadership urging the immediate repeal of the law forbidding public school teachers from wearing religious dress. Excerpts are below. Visit www.BJConline.org to read the entire letter.

Feb. 10: Brent Walker's editorial calling for teachers' rights to wear religious clothing in the classroom is published by *The Register-Guard* in Eugene, Oregon. Later that day, **the Oregon House passes bill 3686 by a vote of 51-8**, sending the measure to the state Senate.

Feb. 23:
The **Senate votes 21-9 to pass the bill**, making a few wording changes. It goes back to the House. On the same day, **the House concurs with the Senate version and passes the bill, 48-7.**

Final step
The bill needs the signature of Oregon Gov. Ted Kulongoski to become law. He had not signed it at press time, but media reports say he is expected to do so.

July 1:
Law would go into effect.

Oregon's religious freedom law shouldn't exclude teachers

By J. Brent Walker
Published Feb. 10, 2010, in *The Register Guard*, Eugene, Oregon

On Jan. 1, workers in Oregon got a boost in the protection of their religious expression when the state's Workplace Religious Freedom Act went into effect. Public school teachers, however, were left out in the cold.

Even though the Civil Rights Act of 1964 forbids workplace discrimination on the basis of religion by employers with 15 or more employees, the U.S. Supreme Court has interpreted that provision so narrowly that employers generally do not have to accommodate religion if it would cause even minimal inconvenience.

For example, employers are not required to allow employees to use their vacation leave for religious observances or to allow employees to wear clothing called for by their religion.

Oregon's Workplace Religious Freedom Act protects employees by requiring employers to provide accommodation for religious belief as long as it does not impose an "undue hardship" on the business.

The Oregon legislation, however, specifically excludes the right for public school teachers to wear religious clothing. Section 4 of the act makes sure Oregon law (Oregon Revised Statutes 342.650) continues to prevent all public school teachers from wearing "any religious dress while engaged in the per-

formance of duties as a teacher."

The punishment for doing so, according to ORS 342.655, is suspension or dismissal from his or her job.

Allowing teachers to wear religious clothing is vital to protecting their religious freedom, and it would not interfere with our country's wise separation of church and state. The Baptist Joint Committee was proud to join a coalition of various faith, citizenship and legal organizations in sending a letter to Senate President Peter Courtney and House Speaker Dave Hunt to call for the repeal of these statutes.

The letter makes clear that repeal will not hamper religious neutrality in the classroom. In most other states, public school teachers are allowed to wear yarmulkes, hijabs and other items of religious dress.

Public school teachers have a specific set of rules to follow because they are instructors and government employees; as representatives of the state in their classrooms, they cannot endorse religion in front of their students.

The First Amendment's first 16 words have two distinct clauses relating to religion: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It is important that true religious freedom is not compromised by a govern-

mental establishment of religion.

Teachers do not have to leave their faith at the schoolhouse door.

However, they also cannot advance or otherwise threaten to establish religion in the public schools, because this would imply governmental establishment.

Public school teachers should be allowed to wear non-obtrusive jewelry and clothing that reflects their personal faith, but they still cannot wear anything that proselytizes.

There is a big difference between wearing a cross on a necklace that has personal religious meaning, and wearing a T-shirt or button with an undeniable and direct religious message to others, such as "Jesus saves."

The Workplace Religious Freedom Act is a huge step forward for Oregon, but it did not go far enough.

House Bill 3686 would repeal the ban on religious garb for teachers, thereby extending workplace religious freedom to all employees in Oregon by protecting teachers' rights. It will be another means by which the government allows all persons to choose their faith through the dictates of their conscience without forcing others to share their beliefs.

The First Amendment — and true religious liberty — demand no less.

The bill is scheduled for a House vote today.

Feb. 4, 2010
Dear Senate President Courtney and House Speaker Hunt:

We, the undersigned interfaith, civil rights, and Bar association organizations, represent millions of diverse constituents around the nation in the cause of promoting robust workplace religious freedom legislation consistent with our constitutional heritage and values. In this context, we join together to urge an immediate repeal of ORS 342.650 . . . an Oregon law that forbids teachers from wearing religious dress . . .

Supporters of the status quo have argued that allowing public school teachers to wear religious dress will disrupt religious neutrality in the classroom and lead to proselytization of students. Both propositions are factually incorrect. The private act of wearing religious dress in adherence to faith is distinguishable from the public act of asserting a proselytizing message. The Establishment Clause of the U.S. Constitution affords sufficient protection against state endorsement of religion; banning all forms of religious dress for teachers is a prohibitively overbroad approach to the issue. This explains why . . . it is increasingly common to find teachers wearing yarmulkes (headcoverings), hijabs (headscarves), and dastaars (turbans) in public schools throughout our diverse nation.

Given our nation's growing commitment to the cause of workplace religious freedom, and our desire to give a greater measure of security to our constituents and people of all faiths by strengthening protections for religious freedom in the workplace, we respectfully urge you to repeal ORS 342.650 and amend the Oregon WRFA so that all Oregonians have a fair opportunity to find self-fulfillment and economic security in any career they choose.

- American Islamic Congress
- American Islamic Forum for Democracy
- American Jewish Committee
- Anti-Defamation League
- Asian American Justice Center
- Asian Law Caucus
- Baptist Joint Committee
- The Becket Fund for Religious Liberty

- Interfaith Alliance
- Japanese American Citizens League
- North American Religious Liberty Association
- North American South Asian Bar Association
- Portland Chapter of the National Lawyers Guild

- Sikh American Legal Defense and Education Fund
- The Sikh Coalition
- South Asian Bar Association of Northern California
- Union of Orthodox Jewish Congregations of America