

Students' Rights

Reprinted in part from *Students' Rights: Conscientious Objection in the Classroom*, by The Rutgers Animal Rights Law Center.

"...because our legal system does not yet recognize the right of animals to be free from the pain and stress and possible death inflicted in the classroom, the law must look to vindicate the right of the student—which is protected by the law—not to be forced to participate in harming animals."

Students' Rights and the First Amendment Guarantee of Freedom of Religion: A Brief Review of a Student's Claim

The First Amendment to the United States Constitution provides that: *Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof...*

The second prohibition, guaranteeing the free exercise of religion, has been the basis of a succession of successful Animal Rights Law Center cases that have vindicated a student's right not to use animals in education. In order to make a free exercise of religion claim, the student must show that her or his situation satisfies the following five elements.

1. There Must Be *State Action*.

Because the First Amendment guarantees do not apply if the entity alleged to infringe upon the student's religion is not a state actor, there must be some relationship between the federal, state, or local government and the challenged activity. This is most easily satisfied if the student attends an educational institution run by the government. In some instances, however, it has been possible to show that a private school has a sufficiently close relationship with some aspect of government that it is deemed to be a state actor for the purpose of this claim.

2. The Belief Must Be *Religious*.

The First Amendment protects beliefs that are religious in nature, not simply *ethical*. This does not mean that the student must be a member of an organized religion or that he or she must interpret the teachings of an organized religion in an orthodox way. Also, religions that are not based on theistic concepts, but which play a role in the adherent's life that is comparable to a belief in a traditional religion, qualify for the protection of the First Amendment.

3. The Belief Must Be *Sincere*.

An implied requirement of invoking First Amendment protection for religious beliefs is that the claimant be sincere in holding her or his beliefs. Indeed, it would make no sense to protect insincere beliefs. In the context of a student's rights, a court may consider whether the asserted religious belief has other impacts on the student's life. A person does not have to be consistent in her or his religious beliefs, and a court is not permitted to be the arbiter of religious orthodoxy. If a student eats meat and wears leather or engages in other practices such as hunting, a court might question the sincerity of the asserted belief that prevents the student from using an animal in the classroom.

4. There Must Be a *Burden on the Free Exercise of Religion*.

A court will consider whether the state is seeking to impose some sort of burden on the exercise of religious freedom. In the context of student rights, the situation is usually that the state conditions the receipt of a benefit—an education—on the performance of an act that is proscribed by the student's religious beliefs.

5. The State Must Have a *Compelling Interest and Use Means Narrowly Tailored to Serve That Interest*.

Once it is determined that the state is burdening the free exercise of religion, that state must prove that its action serves a compelling state interest and that it is employing the least restrictive, most narrowly tailored way of satisfying that compelling interest. If, for example, a school has permitted students who were ill on the day of a laboratory exercise using animals to be exempted from the laboratory requirement, the school cannot argue that it has a compelling state interest in forcing a student with religious objections to the procedure to participate in the laboratory exercise. Also, if there is a nonanimal method of

satisfying the pedagogical concerns of the state that are determined to be compelling, the state must still satisfy its concerns in the manner least restrictive to religion. If there are nonanimal alternatives to the procedures in question, the state must use those alternatives if they also satisfy the state's concerns for education.

Editor's Note: Keep in mind that even if legal cases are lost and even if the courts do not yet recognize the rights of animals, every time a student raises the issue of the suffering of animals before a court, it raises the consciousness of the legal system.

Vivisection/ Dissection

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Be aware that animal rights organizations can offer you help. Contact them for valuable support and information. Once you have learned all that you can about your rights and options, you can plan your approach.

Good luck!

FOR MORE INFORMATION:

Vivisection and Dissection in the Classroom: A Guide to Conscientious Objection, by Gary Francione and Anna Charlton, is available from the Rutgers Animal Law Clinic, 15 Washington Street, Newark, NJ 07102. Cost is \$7.95 plus \$1.75 shipping. It includes:

- General students' rights legal principles
- Analysis of students' rights cases and legislation
- Model letters for student use
- Copy of an actual Complaint

The College Student Handbook for Objecting to Dissection is available free from the National Anti-Vivisection Society. Call their Dissection Hotline at 1-800-922-3764.

The Animal Legal Defense Fund, located at 127 - 4th Street, Petaluma, CA 94952, can be reached at (707) 769-7771.