

ABOUT THE KIRPAN: A GUIDE FOR THE PUBLIC

Disclaimer: This information is provided for general background on the experiences of the Sikh American community. It is not intended to be nor does it replace legal advice from a licensed attorney. As this is general information, it does not cover the differences between the laws and policies of each state and special rules that may apply to your situation. For further information about the kirpan please contact us at saldef.org.

ABOUT SIKHISM



The approximately 25 million Sikhs worldwide trace their origin of their religion to Punjab, meaning the land of the five rivers, located in present-day Pakistan and northern India. The word Sikh means disciple or student. Sikhs are students and followers of Guru Nanak (b. 1469), the founder of the Sikh religious tradition, and the nine prophet-teachers – called Gurus – who succeeded him. The fifth largest religion in the world, there are over 500,000 Sikhs in the United States.

GENERAL PUBLIC ACCOMMODATIONS

The kirpan is an article of faith that is covered by public accommodation laws prohibiting discrimination on the basis of religion (see, e.g., Title VII of the Civil Rights Act and the Religious Freedom Restoration Act (RFRA)). For example, it is allowed to be worn in federal facilities under guidance issued by the Federal Protective Service (FPS Guidance 2012).

It is legal to wear the kirpan, and it is not considered a weapon under various state statutes. For example, prosecutors and judges consistently drop and dismiss charges against those who are wrongfully detained for wearing a kirpan. See, e.g., *State v. Singh*, 117 Ohio App. 3d 381 (Ohio 1996).

ABOUT THE KIRPAN

One of the five articles of faith, integral to Sikh identity and practice, the kirpan is worn by Sikhs of all genders and ages. It is a small religious sword, which serves as a reminder to stand up against injustice and oppression. An individual carrying a kirpan will also be wearing other articles of faith, such as the turban and uncut hair.

There is no prescribed length for the kirpan, and the style is determined by the individual wearer. A kirpan is typically made of steel, sometimes with a wooden handle. When worn as part of daily wear, the kirpan is usually three to six inches long, with a short, often dull blade sometimes with a curved point. The kirpan is worn inside a sheath.

The kirpan is typically worn outside of the clothes in a cross-body strap (known as a gatra). Many individuals will wear their kirpan under their clothes, close to their body, when in public places such as at work or while at school.



WORKPLACE ACCOMMODATIONS

Numerous employers of all sizes have successfully permitted Sikh individuals to wear their kirpan in the workplace.

The kirpan is a recognized article of faith protected by federal and state laws in the workplace. (See *U.S. EEOC v. Heartland Employment Services, LLC*, Case No. 2:08-CV-00460-FCD-DAD (E.D. Cal., 2010)).

Under federal and state law, such as Title VII of the Civil Rights Act, an employer is required to provide a "reasonable accommodation" – an adjustment to the workplace environment to accommodate an employee's religious practices or beliefs when an employee makes a request. An employer may not punish or harm an employee due to their religious beliefs, such as segregating them from customer facing positions due to their kirpan.

Key Points of Religious Accommodation Laws



Employers may not discharge or discriminate against an employee or applicant for employment based on religion.



Employers must extend reasonable accommodations to an employee's religious beliefs or practices in the workplace.



Employers must make sure the workplace is neither hostile to nor harassing toward employees based on religious beliefs.



Employers may not retaliate against an employee for raising issues of religious discrimination/harassment, or for seeking an accommodation.

SCHOOL ACCOMMODATIONS

The kirpan has been worn by students across the country in various grade levels, from college campuses to elementary schools, both public and private. The exact accommodation of the kirpan does vary based on multiple factors.

Common considerations when developing an individualized accommodation including:

- The age of the student
- If the kirpan can be worn under the clothes
- The nature and size of the kirpan

Accommodations should be developed with the goal of allowing the student to practice their faith as broadly as possible, with the consultation of their parents and with deep respect for the religious significance of the kirpan. Laws that serve as the basis for accommodation of the kirpan include Title VII of the Civil Rights Act (federal law); the Religious Freedom Restoration Act (RFRA, federal law and state law versions); and court cases, including *Cheema v. Thompson*, 67 F.3d 883 (9th Cir., 1995).

HANDLING THE KIRPAN

If the kirpan is to be handled by someone other than the wearer, it should be handled with respect and care. The reason for inspection should be explained. It should be stored in a clean place and not on the floor.

ABOUT SALDEF

SALDEF (The Sikh American Legal Defense and Education Fund) is the nation's oldest Sikh American civil rights and advocacy organization. Based in Washington D.C. SALDEF works to build Sikh American capacity through education, fostering community, and civic engagement. To learn more please visit www.saldef.org

