

FORMAL LEGISLATIVE TESTIMONY ON NH CACR 28

Attention: Members of the House Education Policy & Administration

Subject: Opposition to CACR 28

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Date: 2/3/2026

I. Introduction

Members of the Committee,

This testimony addresses the constitutional and civil-rights implications of **CACR 28**, a proposal to amend the New Hampshire Constitution by inserting religious preference language and removing religious neutrality protections.

The proposed language does not merely clarify religious freedom — it fundamentally changes it.

It transforms New Hampshire from a **religiously neutral state** into a **Christian-preferred state**, in direct conflict with the United States Constitution.

II. What the New Hampshire Constitution Currently Guarantees

The current constitutional language states:

“And every person, denomination or sect... shall be equally under the protection of the law.”

This language guarantees:

- Equal legal protection for **all people**
- Equal legal protection for **all religions**
- Equal legal protection for **all denominations**

This is the legal foundation of religious liberty.

Government neutrality toward religion is not optional — it is the mechanism that protects everyone’s freedom of belief.

III. What CACR 28 Adds

A. Government-Sponsored Religion and Religious Instruction

CACR 28 adds the phrase:

“by the institution of the public worship of the Deity, and of public instruction in morality and religion”

This language would:

- Authorize the state to support:
 - Public religious worship
 - Religious instruction
- Convert religion from a private right into a **government function**

This is a constitutional shift from freedom of religion to **state-sponsored religion**.

B. Legal Protections Limited to Christians

CACR 28 adds:

“denomination of Christians demeaning themselves quietly, and as good subjects of the state”

This limits legal protection to:

- Christians only

It replaces universal religious liberty with **religious favoritism**.

IV. What CACR 28 Removes

The proposal deletes the most important words in the current Constitution:

“And every person, denomination or sect”

Removing these words means:

- Jews are no longer guaranteed equal protection
- Muslims are no longer guaranteed equal protection
- Atheists are no longer guaranteed equal protection
- Buddhists, Sikhs, Native spiritualists, and others are no longer guaranteed equal protection

Only Christians remain protected.

This is not symbolic.

It is a legal redefinition of citizenship.

V. The Legal Effect of CACR 28

Current Law	After CACR 28
All religions protected	Only Christians protected
Religion is private	Religion becomes state-sponsored

Current Law	After CACR 28
Government neutral	Government favors Christianity
No religious tests	Religious conformity implied

This proposal would constitutionally establish **Christian preference** in New Hampshire.

VI. Why This Violates the U.S. Constitution

A. Violation of the Establishment Clause

The First Amendment states:

“Congress shall make no law respecting an establishment of religion...”

This prohibits:

- State-sponsored worship
- Government-funded religious instruction
- Official religious preference

The U.S. Supreme Court ruled in **Everson v. Board of Education (1947)**:

“Neither a state nor the Federal Government can... pass laws which aid one religion, aid all religions, or prefer one religion over another.”

CACR 28 does all three.

B. Violation of the Free Exercise Clause

When government conditions legal protection on religious identity, religious freedom no longer exists.

By protecting only “denominations of Christians,” CACR 28:

- Denies equal rights to non-Christians
- Creates a religious test for legal protection

The Supreme Court ruled in **Torcaso v. Watkins (1961)**:

“Neither a State nor the Federal Government can constitutionally force a person to profess a belief or disbelief in any religion.”

CACR 28 makes Christianity the gateway to full legal rights.

VII. Why CACR 28 Is Especially Unconstitutional in Education

CACR 28 explicitly promotes:

“public instruction in morality and religion”

That means religious teaching in publicly funded schools.

This directly violates Supreme Court precedent.

Engel v. Vitale (1962):

“Government in this country should stay out of the business of writing or sanctioning religious prayers.”

Abington School District v. Schempp (1963):

“The Constitution forbids the state to require religious exercises.”

Religious instruction in public schools is unconstitutional even if participation is voluntary or multiple religions are offered.

CACR 28 mandates it.

VIII. The Founders’ Warnings

James Madison wrote:

“Religion and Government will both exist in greater purity, the less they are mixed together.”

Thomas Jefferson stated:

“To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical.”

CACR 28 does exactly that.

John Adams declared:

“The Government of the United States is not, in any sense, founded on the Christian religion.”

IX. Why CACR 28 Is Dangerous

CACR 28 would:

- Turn New Hampshire into a **Christian-preferred state**
- Authorize **government-sponsored religion**

- Exclude non-Christians from equal legal protection
- Introduce religion into public education
- Create religious second-class citizens

These are the exact abuses the First Amendment was written to prevent.

X. Conclusion

CACR 28:

- Violates the Establishment Clause
- Violates the Free Exercise Clause
- Violates Equal Protection
- Violates Supreme Court precedent
- Violates the Founders' intent

It replaces religious freedom with **government-approved Christianity**.

If enacted, it would be unconstitutional and unenforceable.

Footnotes & Citations

1. New Hampshire Constitution, Part I, Article 83 (as amended and as proposed by CACR 28)
2. U.S. Constitution, First Amendment
3. *Everson v. Board of Education*, 330 U.S. 1 (1947)
4. *Torcaso v. Watkins*, 367 U.S. 488 (1961)
5. *Engel v. Vitale*, 370 U.S. 421 (1962)
6. *Abington School District v. Schempp*, 374 U.S. 203 (1963)
7. James Madison, *Memorial and Remonstrance Against Religious Assessments* (1785)
8. Thomas Jefferson, *Virginia Statute for Religious Freedom* (1786)
9. Treaty of Tripoli, Art. 11 (1797), ratified unanimously by the U.S. Senate

ADDENDUM

I. Purpose of This Addendum

This addendum provides historical and constitutional context demonstrating that the foundational theory behind CACR 28 (and other similar proposals) — that the United States or its states were created as Christian governments — is factually incorrect and constitutionally impermissible.

The Founders intentionally created a **religiously neutral government** in order to protect faith, not to control it.

II. The United States Was Never Founded as a Christian Nation

The United States was the first nation in world history to deliberately separate religion from government.

This was a direct response to centuries of:

- Religious warfare
- State churches
- Forced religious conformity
- Political persecution based on belief

The Founders did not establish a Christian republic.

They established a **constitutional republic where religion is private and government is secular**.

III. The Constitution Is Secular by Design

The U.S. Constitution:

- Mentions no deity
- Mentions no religious doctrine
- Mentions no church
- Mentions no scripture

It does, however, include a binding prohibition on religious government.

Article VI states:

“No religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”

This clause alone makes Christian government unconstitutional.

IV. The Founders Rejected Religious Government

The Founders were explicit:

Thomas Jefferson:

“Christianity neither is, nor ever was a part of the common law.”

James Madison:

“Religion and Government will both exist in greater purity, the less they are mixed together.”

George Washington:

“The Government of the United States gives to bigotry no sanction, to persecution no assistance.”

John Adams (Treaty of Tripoli, 1797):

“The Government of the United States of America is not, in any sense, founded on the Christian religion.”

V. Christian Nationalism Is a Modern Political Ideology

“Christian nationalism” did not exist at the founding.

It emerged in the late 19th century as a reaction to:

- Immigration
- Religious diversity
- Secular public schools
- Racial equality

It was a political strategy to preserve religious and cultural dominance — not religious freedom.

James Madison warned:

“The same authority which can establish Christianity... may establish any particular sect of Christians, in exclusion of all other Sects.”

That is the danger of religious government.

VI. Supreme Court Law Rejects Christian Nationalism

The Supreme Court has repeatedly held that government must be neutral toward religion.

Everson v. Board of Education (1947):

Government may not prefer one religion over another.

Engel v. Vitale (1962):

Government may not sponsor prayer.

Abington v. Schempp (1963):

Government may not require religious exercises.

Larson v. Valente (1982):

Government may not favor a particular religion.

County of Allegheny v. ACLU (1989):

Government may not appear to take sides in religious belief.

VII. Conclusion

Christian nationalism is not an American tradition and is actually the opposite of American constitutional law.

The United States protects religion by refusing to establish any. This principle applies to every state.

Any attempt to convert New Hampshire to a Christian-preferred government directly violates the U.S. Constitution.
