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THE FREE EXERCISE CLAUSE:  
STANDARDS OF INTERPRETATION

When a law or regulation is said to abridge or restrict the free exercise of religion, the Supreme Court used two substantially different standards at different times.

In *Sherbert v. Verner* (1963) the Court said government regulation of religious practice was constitutional only if it:

1. **Served a compelling state interest.**
2. **Was narrowly tailored to achieve that interest with the least possible intrusion on free-exercise rights.**

But in *Employment Division v. Smith* (1990) the Court adopted a much less strict standard. A law or regulation was constitutional if it was:

1. **neutral**
2. **generally applicable**

Since then, the Congress (for the federal government) and several state legislatures have required the stricter *Sherbert* standard.

Sources: *Sherbert v. Verner* (1963), *Employment Division v. Smith* (1990)

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**The First Amendment:  
Standards of  
Interpretation**

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