



Written by [R. Cort Kirkwood](#) on March 28, 2011

Obama Sues Town For Refusing Three-Week Vacation To Muslim

The federal Justice Department is suing a small school district outside Chicago because it refused to give a Muslim teacher three weeks' leave so she could make a pilgrimage to Mecca.

The Obama administration believes the [Berkeley School District](#) violated the religious rights of Safoorah Khan, who resigned as a teacher at [MacArthur Middle School](#) in November of 2008.

The question the court will decide is whether the schools decision to refuse the leave was reasonable given the length of time Khan wanted off.



The Case

[Berkeley is](#) a village about [16 miles west](#) of Chicago. [Its schools educate](#) about 2,800 students.

[Khan joined](#) the school district in 2007. Just nine months later, in October 2008, she requested her leave to make [the hajj](#) to [Mecca](#), Islam's holiest city. She wanted time off from December 1 through December 19.

[The hajj is](#) Islams fifth pillar, or one of the essential acts of devotion that all Muslims are obliged to perform. The fifth pillar enjoins them to trek to Mecca at least once in a lifetime.

Khans attorney, [Kamran A. Memon](#), told the *Washington Post* that his client sought permission for the leave because she had always wanted to make the hajj to fulfill the sacred Islamic injunction.

This was the first year she was financially able to do it, Memon said. Its her religious belief that a Muslim must go for hajj quickly that its a sin to delay.

They put her in a position where she had to choose, Memon said. Berkeley has qualified subs. She didnt feel her absence would cause any problem at all.

The school district, obviously, felt differently, and refused Khans request. She resigned effective Nov. 30, 2008, and sought redress with the [Equal Opportunity Employment Commission](#), which referred the case to the Justice Department.

"Employees should not have to choose between their religious practice and their livelihood," [said Thomas Perez](#), Assistant Attorney General for the Civil Rights Division, in a prepared statement when the department sued in December.

"Federal law prohibits employers from treating employees and applicants less favorably because of their religion, and requires employers to make reasonable accommodations for the religious beliefs and practices of their employees."

"The EEOC is committed to ensuring that individuals are protected from religious discrimination



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at work,” said Jacqueline A. Berrien, Chair of the EEOC. “We are pleased to foster this important collaboration with the Department of Justice to enforce the laws that ensure our workplaces are free of bias.

The Justice Departments [lawsuit includes](#) four main allegations against Berkeley:

- a. Failing or refusing to provide Ms. Khan with a reasonable accommodation of her religious observance, practice, and/or belief;
- b. Maintaining a policy under which Berkeley School District refuses to grant leave to which a non-tenured teacher would not otherwise be entitled under the district’s leave policy as an accommodation for the teacher’s religious observance, practice, and/or belief;
- c. Compelling Ms. Khan to choose between her job and her religious observance, practice, and/or belief and thus forcing her discharge; and
- d. Failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment against Ms. Khan.

[Perez told](#) the *Washington Post* that the Khans case was pursued in part to fight a real head wind of intolerance against Muslim communities.

The school district has refused to comment on the case, [the Post reported](#), but its filing in federal court says Khans request is unreasonable and would have imposed an undue hardship.

Placating Muslims

Hans von Spakovsky, a civil rights official for the second Bush administrations Justice Department, [told the Post](#) the lawsuit is ridiculous. No jury anywhere, he said, would think that a teacher leaving for three weeks during a crucial time at the end of a semester is reasonable. This is a political lawsuit to placate Muslims.

Michael Mukasey, the Attorney General for President Bush, commented similarly: It sounds like a very dubious judgment and a real legal reach. The upper reaches of the Justice Department should be calling people to account for this.

Picture: Pilgrims walking around the Kaaba, in Mecca, during the Hajj



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