

FREEDOM FROM RELIGION *foundation*

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July 17, 2026

SENT VIA EMAIL & U.S. MAIL: jclm@cga.ct.gov

Joint Committee on Legislative Management
Legislative Office Building, Room 5100
300 Capitol Avenue
Hartford, CT 06106

Re: Revising Capitol Display Policies to Avoid Constitutional Litigation

Dear Members of the Joint Committee on Legislative Management:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the July 13, 2026 letter sent by First Liberty Institute and Jones Day on behalf of the Family Institute of Connecticut. FFRF is a national nonprofit organization with more than 41,000 members across the country, including more than 400 members in Connecticut. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that on July 13, 2026, First Liberty Institute and the law firm Jones Day sent a letter to Connecticut's Joint Committee on Legislative Management on behalf of the Family Institute of Connecticut (FIC) after it was prohibited from displaying a nativity scene in the state Capitol building in December.

We write to encourage the committee to adopt a content-neutral policy prohibiting all unattended private displays inside the State Capitol. Such a policy would better serve the Capitol's governmental purposes, avoid unnecessary constitutional litigation and protect the committee from precisely the type of lawsuit First Liberty appears eager to bring.

The committee is under no obligation to transform the State Capitol into a venue for privately sponsored displays. If the committee wishes to avoid becoming embroiled in disputes over which private groups may place unattended displays inside the Capitol, it should adopt a neutral rule prohibiting all such displays regardless of viewpoint or subject matter. As you are well aware, Connecticut is home to citizens with a variety of religious and nonreligious backgrounds, and all of these residents should feel welcome in their State Capitol.

A policy that disallows private unattended displays is a valid time, place, or manner restriction consistent with the First Amendment. *See, e.g., Lubavitch Chabad House, Inc. v. City of Chicago*, 917 F.2d 341, 347 (7th Cir. 1990) ("We are not cognizant of . . . any private constitutional right to erect a structure on public property. If there were, our traditional public forums, such as our public parks, would be cluttered with all manner of structures. Public parks

are certainly quintessential public forums where free speech is protected, but the Constitution neither provides, nor has it ever been construed to mandate, that any person or group be allowed to erect structures at will.”); *Knights of Columbus v. Town of Lexington*, 272 F.3d 25 (1st Cir. 2001), *cert denied*, 122 S.Ct. 1911 (2002) (finding a ban on unattended displays in a park to be neutral and narrowly tailored); *Santa Monica Nativity Scenes Comm. v. City of Santa Monica*, No. CV 12-8657 (C.D. Cal. Order of Dismissal Nov. 29, 2012).

The State is not obligated to allow private entities to erect unattended displays on public property. The Supreme Court has said:

The right to use government property for one’s private expression depends upon whether the property has by law or tradition been given the status of a public forum, or rather has been reserved for specific official uses. *Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U.S. 788, 802–803, 105 S.Ct. 3439, 3449, 87 L.Ed.2d 567 (1985). If the former, a State’s right to limit protected expressive activity is sharply circumscribed: It may impose reasonable, content-neutral time, place, and manner restrictions (**a ban on all unattended displays, which did not exist here, might be one such**), but it may regulate expressive *content* only if such a restriction is necessary, and narrowly drawn, to serve a compelling state interest. *Perry Ed. Assn., supra*, at 45, 103 S.Ct., at 955.

Capitol Square Review & Advisory Bd. v. Pinette, 515 U.S. 753, 761(1995) (holding that it was unconstitutional to ban a KKK cross from a public forum because of its message) (emphasis added).

Rather than attempting to distinguish among religious and nonreligious displays, the committee can simply determine that unattended private displays are incompatible with the intended governmental use of the Capitol.

We also recommend that the committee temporarily suspend approval of any new unattended private displays while it reviews and revises its policies. A temporary moratorium applied equally to all applicants would preserve the status quo while allowing the committee to adopt a constitutionally sound, content-neutral policy.

The Supreme Court has repeatedly found that “[t]he Free Speech Clause restricts government regulation of private speech; it does not regulate government speech.” *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 467 (2009). When the state controls the display and citizens view the display as sponsored by the state, it is government speech and no group has the right to demand inclusion. In *Lubavitch Chabad House, Inc.*, the Seventh Circuit Court of Appeals held that private speakers did not have a right to place a menorah among an airport’s holiday decorations. 917 F.2d 341. The court said:

[W]e see no reason to mandate that *Allegheny* provides a basis for Lubavitch’s assertion that Chicago *must* allow it to erect free-standing Chanukah menorahs in the public areas of O’Hare along with the City’s Christmas decorations.

Id. at 345.

The committee should not allow First Liberty to force it into defending a policy that distinguishes among private displays based on their content. Instead, it should adopt a straightforward, viewpoint-neutral policy providing that unattended private displays are not permitted inside the State Capitol. Such a policy would preserve the Capitol as a place for conducting the people's business, substantially reduce the risk of costly litigation, and eliminate recurring disputes over which private groups receive access to government property.

If you have any questions, the FFRF legal department, which has extensive experience in First Amendment matters, would be more than happy to consult with you or your attorney on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a stylized flourish extending to the right.

Christopher Line
Legal Counsel
Freedom From Religion Foundation