



CHRISTIAN LEGAL SOCIETY
CENTER FOR LAW &
RELIGIOUS FREEDOM

Latest Legal Preventatives for Churches and Ministries

Practical guidelines for how churches, religious schools, and other religious ministries can be prepared for some of the latest challenges as seen in case law, administrative regulation, and legislation.

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I. In What Can Your Church or Ministry Client Not Afford To Fail?

A. Free to preach the gospel and teach all of God's Word

1. In corporate worship

a. Johnson Amendment

The Johnson Amendment regulates what tax-exempt organizations such as churches can do in the political arena. Under terms of the 1954 legislation (named for its principal sponsor, then-Sen. Lyndon Johnson), churches and other nonprofit organizations that are exempt from taxation are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Organizations claiming tax-exempt status cannot collect contributions on behalf of political campaigns or make any statement for or against a particular candidate. Clergy are not allowed to endorse candidates from the pulpit. On the flip side, nonpartisan voter education activities and church-organized voter registration drives are legal. Pastors are free to preach on social and political issues of concern. Churches can publish issue guides for voters.

b. HR 2501- Free Speech Fairness Act

Short title: To amend the Internal Revenue Code of 1986 to allow charitable organizations to make statements relating to political campaigns if such statements are made in the ordinary course of carrying out its tax exempt purpose.

This bill seeks to modify the Internal Revenue Code to provide more flexibility for 501(c)(3) charitable organizations regarding political campaign statements. Specifically, the bill would allow these tax-exempt organizations to make statements about political campaigns without losing their tax-exempt status, provided that such statements are made during the organization's regular, customary activities in pursuit of its exempt purpose and result in only minimal additional expenses (defined as "de minimis incremental expenses"). Currently, 501(c)(3)

organizations are strictly prohibited from engaging in political campaign activities, which can limit their ability to discuss issues that might intersect with political campaigns. The proposed amendment would create a narrow exception to this rule, enabling these organizations to speak more freely about political matters without risking their tax-exempt status, as long as the statements are made in the ordinary course of their established charitable work and do not involve significant additional costs. The bill would take effect for taxable years ending after its enactment date.

2. In biblical counseling

Chiles v. Salazar, No. 24-539 (U.S. Supreme Court), cert. granted

Issue: Does a Colorado law threatening the license of a therapist or counselor who does not affirm “gender transition” by a client violate the Free Speech Clause as viewpoint discrimination?

This is a case in which a licensed professional counselor in Colorado wants to continue helping clients talk about various issues without being forced to promote the government’s gender ideology. Colorado’s Minor Conversion Therapy Law (MCTA) prohibits licensed mental health counselors from engaging in counseling conversations with minors that might encourage them to *change* their “sexual orientation or gender identity, including efforts to change behaviors or gender expressions,” but it allows conversations that offer “[a]cceptance, support, and understanding for . . . identity exploration and development,” as well as “[a]ssistance to a person undergoing gender transition.” Colo. Rev. Stat. § 12-245-202(3.5). Kaley Chiles assert MCTA violates her freedom of speech and infringes on her free exercise of religion and that of her clients by censoring and prohibiting certain private client-counselor conversations regarding sexual orientation and gender identity that the government disfavors while allowing—even encouraging—conversations the government favors. Significantly, MCTA only prohibits counseling conversations in one direction. For example, it allows counseling conversations that aim to steer young people *toward* a gender identity different than their sex but prohibits conversations that aim to help them return to comfort with their sex when they desire that. The law threatens severe penalties, including suspension and even revocation of the counselor’s license. This one-sided censorship comes amidst a growing national mental-health crisis and prevents many Colorado children from obtaining the counseling that they desire—and that science says is likely to help.

Practice Pointer: Available Arguments

- *First Amendment free exercise of religion (targeting, state law is not generally applicable because it only strips clergy of exemption)*
- *Priest-penitent evidentiary privilege (complete)*

- *Church autonomy*¹ (structural, not strictly jurisdictional)
- *State constitutions' religious freedom provisions may trigger strict scrutiny*²

3. In public square, park, or sidewalk

Eric Dressel is a campus minister who for the past dozen years has been a full-time evangelist, mostly at college campuses. When preaching, Mr. Dressel uses an amplifier so that he does not have to shout over downtown traffic, lest he sound angry. Christian Legal Society's Center for Law & Religious Freedom, along with local counsel, represented Mr. Dressel against the city of Miami Beach after a city official cited him for preaching on a noisy downtown sidewalk using an amplifier. Together, the Center and local counsel wrote the city attorney arguing that the city's noise ordinance violated Mr. Dressel's free speech rights on a quintessential public forum and asking the city to amend its noise ordinance to constitutional compliance. The ordinance currently is virtually standardless, allowing for selective and, therefore, unconstitutional enforcement. The deputy city attorney withdrew the citation and promised not to interfere with Mr. Dressel's religious speech on public sidewalks.

Practice Pointer: Questions to Ask

- *Is this a traditional or designated public forum?*
- *Does the public nuisance or noise abatement ordinance specify decibel levels or subjective standard ("too loud")?*
- *Is the objection to the content or message of preached word or to the imminence of violence?*

4. At work

The Civil Rights Act of 1964, Title VII, Section 701(j)³ as "clarified" by the Supreme Court in *Groff v. DeJoy*, 600 U.S. 447 (2023), provides a right to religious accommodation at work unless an employer can prove the accommodation would impose a substantial hardship on the employer.

a. Section 701(j) of Title VII of the Civil Rights Act of 1964, as amended

Section 701(j) defines "religion" to include "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

Section 701(j), in conjunction with section 703(c), imposes an obligation on a labor organization to reasonably accommodate the religious practices of an

¹ "Church Autonomy, Textualism, and Originalism: SCOTUS's Use of History to Give Definition to Church Autonomy Doctrine", [University of Missouri School of Law Legal Studies Research Paper No. 2025-02](#), 108:4 Marquette Law Review 101 (2025).

² *First Covenant Church of Seattle v. City of Seattle*, 840 P.2d 174 (Wash. 1992).

³ 42 U.S.C. 2000e-j.

employee or prospective employee, unless the labor organization demonstrates that accommodation would result in undue hardship.

b. *Groff v. DeJoy*, 600 U.S. 447 (2023)

Gerald Groff began working for the U.S. Postal Service (USPS) in 2012. In 2013, USPS contracted with Amazon to deliver packages, including on Sundays. Groff's religious beliefs prohibit working on Sunday, and so postmaster initially exempted Groff from Sunday work. Later, because of a union agreement had gone into effect, Groff was required to work Sundays during the peak season. Groff transferred to another station but then that station also began Sunday Amazon deliveries. The postmaster offered to adjust Groff's schedule to permit him to attend religious services on Sunday mornings and to report to work afterward. He later sought others to cover Groff's Sunday shifts. When Groff did not work on scheduled Sundays on which he was scheduled, he was disciplined. Groff's request for a transfer to a position that did not require Sunday work could not be honored because no such position was available. The postmaster continued searching for Sunday coverage and sometimes made Sunday deliveries himself. Groff's refusal to report on Sundays led to resentment among his coworkers, one of whom filed a grievance. Groff received additional discipline, after which he resigned.

Groff sued for religious discrimination under Title VII, disparate treatment, and failure to accommodate. The lower courts found that, while USPS failed to provide Groff with a reasonable accommodation because the shift swaps USPS offered Groff did not eliminate the conflict between his religious practice and his work obligations, the accommodation Groff sought would cause an undue hardship on USPS.

The Supreme Court found in favor of Groff. In a unanimous decision, the Court held that under Title VII an employer that denies an employee a religious accommodation "must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." In doing so, the Court explained that the interpretation of "undue hardship" by lower courts after *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977) to mean "any cost or effort that is 'more than ... *de minimis*'" is "a mistake." Revisiting that interpretation, the Court rejected the "de minimis cost" standard and adopted instead a "substantial increased costs" standard consistent with the spirit and language of Title VII.

Practice Pointer:

This Title VII right to religious accommodations applies to

- *All employers of 15 or more employees*
- *All employers secular and religious*
- *All employers government and nongovernment*
- *But the First Amendment affords no constitutional right in a non-government workplace*

5. On university campuses

Univ. at Buffalo Young Americans for Freedom v. Univ. at Buffalo Student Ass'n, No. 25-140 (2d Cir.)

Issue: Does a Supreme Court's decision in *CLS v Martinez*, 561 U.S. 661 (2010), justify a public university student association's denial of recognition and otherwise-available funding to a student political group, despite free speech and free association claims?

University at Buffalo officials and the student association derecognized the student group, Young Americans for Freedom (YAF), and barred it from receiving the same benefits as other student groups because it is a chapter of a national organization, Young America's Foundation. YAF at UB has actively promoted debates on important cultural, political, and moral topics on campus, hosting events and speakers. After hosting Lt. Col. (Ret.) Allen West to discuss racial and cultural disparities and Michael Knowles to discuss gender ideology and related cultural issues, the student association revised the policies that govern club recognition, prohibiting some clubs (including YAF), but not others, from being chapters of national organizations. This means YAF cannot receive funding from student fees like other clubs, and it cannot reserve space or invite speakers like other clubs, thereby creating a hostile environment for students and chilled the speech of conservative clubs like YAF, violating the freedom to speak and associate. YAF sued, but the U.S. District Court for the Western District of New York found in favor of the university. YAF appealed to the Second Circuit Court of Appeals, where the case is currently pending.

6. At public (government) school

a. *FCA v. San Jose Unified Sch. Dist.*, 82 F.4th 664 (9th Cir. 2023)

For years, high school students in San Jose, California, had formed student groups associated with the Fellowship of Christian Athletes met without incident until April 2019, when a member of the faculty posted various traditional religious beliefs that FCA holds on his classroom whiteboard with the disparaging comment that he was "deeply saddened that a club on Pioneer [High School]'s campus asks its members to affirm these statements." The teacher's statement was incorrect because FCA requires only its leaders, not its members, to agree with its religious beliefs. The teacher refused to take the message down even after discovering that students in his class participate in FCA. Shortly afterward, district officials unilaterally announced that the district was revoking its recognition of student FCA groups.

Despite multiple letters to district administrators explaining that the district's failure to recognize student FCA groups violates the Equal Access Act (EAA), the district continued to deny recognition to FCA groups into the next school year. After discussions with the district failed, FCA filed a complaint in federal court against the school district and certain individual officials asking the court to order the district to allow FCA equal access to meet on campus just like other student clubs. As FCA explained, its request is eminently reasonable: all FCA asks is that those students who lead its ministry, from directing Bible studies and leading worship to determining the direction of the club's ministry, to agree with the very beliefs that animate the club's mission and ministry. San Jose Unified School

District recognized numerous noncurricular groups, including Key Club, Big Sister/Little Sister, and Frisbee Club, but refused to grant the same recognition and rights to student FCA groups.

The defendants filed a motion to dismiss, arguing in part that the defendants could not be held personally liable under qualified immunity. A federal judge disagreed and ruled FCA could proceed with its claims of discrimination against the district superintendent, a high school principal, and a teacher in their personal capacities.

FCA then filed a motion for a preliminary injunction to restore recognition to the student FCA groups, which the court denied. FCA then appealed to the Ninth Circuit, including a motion for an injunction pending appeal. After oral argument before a three-judge panel, the Ninth Circuit ruled that FCA students must be treated fairly and equally and that the district could not discriminate against their religious leadership standards under the First Amendment to the U.S. Constitution and the Equal Access Act.

After the Ninth Circuit ruled in favor of FCA and required the district to recognize the FCA student groups, the district requested a rehearing. The Ninth Circuit granted the request, heard oral argument, and voted to issue a preliminary injunction ruling ordering the school district to immediately recognize student chapters affiliated with FCA as official “Associated Student Body” approved clubs.

The en banc panel found that the school district had violated the Free Exercise Clause of the First Amendment when it revoked its recognition of FCA as an approved student club and holding that FCA was entitled to a preliminary injunction based on the likelihood of prevailing on its claims under the Free Exercise and Free Speech Clauses and the Equal Access Act of 1984.

b. *FCA v D.C. Public Sch.*, No. 1:24-cv-01332-DLF (D. D.C.)

In 2022, an FCA huddle returned to campus at Jackson-Reed High School in D.C. after a brief pause during the pandemic. Two weeks later, however, a part-time freshman baseball coach told local FCA staff that, because of FCA’s beliefs, there was “no place for a group like FCA in a public school.” He filed a complaint with D.C. Public Schools (DCPS) accusing Jackson-Reed of violating the District of Columbia Human Rights Act by allowing FCA on campus.

Because of the coach’s complaint, DCPS immediately stripped the Jackson-Reed FCA huddle of official recognition, stopped it from meeting, removed it from the list of student clubs, deleted its club website, and launched a formal investigation into FCA. During the investigation, FCA representatives explained to DCPS that any student is welcome to participate in FCA huddles; all FCA asks is that its student leaders—those who lead prayer, Bible study, and religious teaching—agree with its religious beliefs. Despite these facts, DCPS kicked FCA off campus at Jackson-Reed, and offered to let it back on campus only if it assured that anyone could lead FCA, “regardless of . . . religious affiliation, or personal belief.”

After losing official recognition, FCA unsuccessfully appealed the decision to DCPS, pointing out that DCPS could not exclude FCA from campus because it asks

its leaders to agree with its beliefs. In fact, Jackson-Reed already recognized many student groups formed around particular beliefs and characteristics—including the Asian Student Union, which is “for students of Asian heritage,” and the Wise Club, which offers a “separate space for young women.” DCPS itself even runs entire schools that condition admission on race and sex. Thus, DCPS’s selective targeting of FCA over its religious leadership requirements clearly violates the law.

FCA filed a federal lawsuit against DCPS, pointing to *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist.*, 82 F.4th 664 (9th Cir. 2023), and asking the D.C. court for a preliminary injunction allowing FCA to return to campus. The court granted the preliminary injunction as FCA is likely to prevail on its claims that DCPS violated its RFRA and free exercise rights by excluding FCA because of its purity standards of conduct for leaders.

DCPS then amended its policy to permit FCA to have leadership qualifications and filed a motion to dismiss the case, claiming mootness (under the new policy) and that its two defendant administrators are entitled to qualified immunity.

B. Free to instruct and protect next generation – parenting rights

1. *Mahmoud v. Taylor*, No. 24-297 (U.S. Supreme Court)

Parents in Maryland sued the Montgomery County Board of Education (board) for forcing pre-K and elementary-aged children to read controversial books that promote a one-sided transgender ideology, encourage gender transitioning, and focus excessively on romance—with no parental notification or opportunity to opt out. Parents from a variety of faiths—including Islam, Judaism, and Christianity—are simply asking to be notified when controversial books emphasizing gender transition or transgender romance will be read to their children and to be given an opportunity to opt out.

Because parents have the right to direct the religious upbringing of their children—an authority parents do not surrender at the schoolhouse door—the board cannot refuse parents who want to opt their children out of instruction that violates their religious beliefs on sensitive matters. That violates the board’s own policies, Maryland law, and the U.S. Constitution. The Supreme Court has held that children are not wards of the state, and that parents have the right to make key decisions about the education of their children on such critical matters concerning family life and human sexuality.

After the Fourth Circuit Court of Appeals ruled that the parents with children enrolled at Montgomery County Public Schools have no right to be notified or opt their kids out of storybooks that push one-sided ideology regarding gender and human sexuality, the parents appealed the ruling to the Supreme Court. In a 6-3 ruling, the Court ruled that the parents are entitled to an injunction as they are likely to prevail on their claim of a Free Exercise Clause violation. “[T]he Board’s introduction of the ‘LGBTQ+-inclusive’ storybooks—combined with its decision to withhold notice to parents and to forbid opt outs—substantially interferes with the religious development of their children and imposes the kind of burden on religious exercise that [*Wisconsin v. Yoder* 406 U. S. 205

(1972)] found unacceptable.”⁴ The Court determined that board cannot prove that its system of “no opt-outs” is necessary to maintain the learning environment or workability because it allows other opt-outs from other curricula.

2. United States v. Skrametti, No. 23-477 (U.S. Supreme Court)

Tennessee Senate Bill 1 prohibits all medical treatments intended to allow “a minor to identify with, or live as, a purported identity inconsistent with the minor's sex” or to treat “purported discomfort or distress from a discordance between the minor's sex and asserted identity.” The ACLU and other groups sued Tennessee on behalf of transgender youth and their families to block the state’s ban on gender-affirming care arguing that the law violates the Equal Protection Clause of the Fourteenth Amendment by discriminating against transgender youth and infringes on parental rights to direct their children's medical care. The plaintiffs argue that Tennessee’s law discriminates based on both sex and transgender status, which should trigger a heightened standard of review under the Equal Protection Clause, and that the law fails to meet the heightened scrutiny standard because it's not narrowly tailored to achieve an important government interest. Tennessee argues the law is not discriminatory and protects minors from potentially harmful and irreversible medical procedures. Tennessee also argues that the state has a legitimate interest in protecting minors from the risks associated with gender-affirming care. The U.S. Supreme Court oral arguments on December 4, 2024.

Practice Pointer:

Parenting Rights

- *Will refusing to use pronouns or allow sex changes be considered child abuse or be a disqualifier from eligibility to serve as foster parents?*

C. Free to serve the world in Jesus’ name (social services)

1. Hiring only co-religionists

a. *Union Gospel Mission of Yakima v. Ferguson*, No. 24-7246 (9th Cir.)

The Constitution gives religious organizations the freedom to hire employees who are aligned with and live out their religious beliefs. The Union Gospel Mission of Yakima (YUGM) spreads the gospel of Jesus Christ through its homeless shelter, addiction-recovery programs, outreach efforts, meal services, and health clinics. It serves everyone regardless of background or belief, but it furthers its religious purpose by employing only likeminded believers who agree with and live out the mission’s Christian beliefs and practices, including the mission’s beliefs on biblical marriage and sexuality.

Washington has a state law that limits YUGM’s freedom to hire like-minded individuals who share and live out its religious beliefs. YUGM brought a pre-enforcement challenge to the law because it had open positions it wished to fill with individuals who shared the mission’s religious beliefs. The Washington Supreme Court interpreted that state law to prohibit religious organizations like YUGM from

⁴ Slip op., at 3.

only hiring individuals who share and live out its religious beliefs. On appeal, the Ninth Circuit Court of Appeals ruled YUGM can challenge the law, after which a federal district court granted a preliminary injunction, telling state officials they cannot enforce the law against the mission because it likely violates the Free Exercise Clause. The district court held that the mission “is likely to succeed on the merits of its Free Exercise claim” because Washington’s law “likely is not neutral or generally applicable” and the law “places stricter limits on religious activities than it does [on] secular activities[.]”

The court further wrote that, “if [YUGM] ‘is forced to hire those who do not [share its religious views], or those who do not adhere to those views, it may eventually be extinguished from public life.’ This ‘hamper[ing]’ of [the mission’s] ability to hire staff consistent with its religious beliefs likely ‘constitut[es] an enduring harm that will irreparably risk [the mission’s] continued existence[.]’”

b. *Bethany Christian Serv. v. Corbin*, 1:24-cv-00922-JMB-PJG (W.D. MI)

For more than 50 years, the United States government has provided safe harbor for international refugees escaping violence or cultural and religious persecution in their countries. Since 1981, Bethany has provided refugee-resettlement services in Michigan and by 1984 was the largest unaccompanied refugee minor service provider in Michigan.

In late 2023, state of Michigan officials in its Office of Global Michigan (OGM) took issue with Bethany’s practice of requiring its employees to affirm the organization’s statement of faith. In 2024, the OGM denied refugee-resettlement services contracts because of Bethany’s religious employment practices, even though federal law has long supported this civil right.

After repeated, unsuccessful efforts to discuss the situation with the OGM, Bethany sued the state of Michigan for discriminating against the organization because of its religious hiring practices. Bethany is asking the federal court to intervene and enjoin the OGM from ending the existing contracts pending a final resolution of its religious discrimination claims. The lawsuit states the government’s actions violate Bethany’s right to the free exercise of religion guaranteed by the First Amendment of the United States Constitution and the Civil Rights Act of 1871. By denying funding for Bethany’s refugee-resettlement services, Michigan officials are blocking critical social services to vulnerable children and families, and jeopardizing jobs at Bethany.

Federal law is clear, and the courts have repeatedly affirmed that faith-based 501(c)(3) nonprofit organizations can hire staff and select leaders who share the organization’s faith mission. Federal law affirms that Muslim nonprofits can hire Muslims; Jewish nonprofits can hire people of Jewish faith; and Christian nonprofits can hire Christians.

Bethany also filed for a preliminary injunction, asking the court to order the state to preserve the status quo regarding Bethany Christian’s provision of refugee-related services in Michigan under the contracts in effect on September 9, 2024, and to not transition services to other providers from Bethany Christian pending final judgment by the district court. On the eve of the court hearing, the state of Michigan agreed to an injunction, restoring temporarily most of the grants Bethany had already won.

The state has twice filed a motion to dismiss the lawsuit—first on the original complaint and then on Bethany’s amended complaint—claiming Bethany has not stated a First Amendment claim against it upon which relief can be granted. The judge has twice now agreed that Bethany has multiple legally viable arguments under the First Amendment that the state of Michigan violated its constitutional rights.

BCS has moved for extension of the injunction; evidentiary hearing set for November 13.

2. Hiring only Christians willing to abide by standards of Christian conduct

McMahon v. World Vision, No. 24-3259 (9th Cir.)

Ms. McMahon applied for a position with World Vision, a large Christian international relief and development nonprofit. As part of the interview process, Ms. McMahon affirmed World Vision’s statement of faith and her ability to abide by its code of conduct, the latter reflecting the organization’s view of traditional marriage. After World Vision offered her the position, McMahon revealed that she was in a same-sex “marriage.” World Vision then withdrew the job offer because, during the interview, Ms. McMahon had misrepresented her willingness to abide by standard of conduct regarding biblical marriage. McMahon quickly filed suit, alleging violations of Title VII and Washington’s employment nondiscrimination law. She doesn’t dispute that World Vision sincerely holds its beliefs on marriage and that she would not have been comfortable expressing these beliefs on World Vision’s behalf to callers. The trial judge granted McMahon partial summary judgment, rejecting World Vision’s defenses under the ministerial exception, Title VII’s religious exemption, and the First Amendment protections for religious exercise, speech, and association.

Because the First Amendment’s Free Exercise of Religion Clause bars application to a religious nonprofit employer of federal and state laws against employment discrimination based on sex and sexual orientation (Title VII and Washington’s state counterpart) where application would substantially burden the employer’s indisputably sincere religious belief and conduct standard on sexual activity outside a marriage between a man and a woman. World Vision appealed the decision to the Ninth Circuit. CLS filed our amici brief (with 14 multi-faith amici organizations) August 28, 2024. Unanimously reversed in favor of World Vision on August 5, 2025, holding that job in question qualified for the ministerial exception (not reaching the Title VII issue).

3. Access to federal courts as protection from state

a. *First Women’s Choice v. Platkin*, No. 24-781 (cert. granted)

The New Jersey AG's office issued a significant number of investigative subpoenas to crisis pregnancy centers in 2023. It had issued a "Consumer Alert" in 2022, accusing crisis pregnancy centers of deceptive practices and claimed it was exercising its broad investigative authority in issuing subpoenas to uncover fraud. The subpoenas are not self-executing; they must be enforced by state court. Yet the AG's office did not immediately seek enforcement. First Choice filed in federal court in December 2023, alleging the subpoena is overbroad and asserting other constitutional challenges. The court found the dispute not ripe, holding that plaintiffs must wait until the AG files an enforcement action in state court. The Third Circuit dismissed the center's appeal as moot.

Then the state initiated enforcement proceedings in the NJ Superior Court, and First Choice asked the state judge to quash the subpoena. After a hearing, their motion was denied, and they were ordered to respond to the subpoena within 30 days. The state judge held as not yet ripe the center's constitutional argument against being forced to disclose donors. First Choice renewed its motion for a TRO in federal court. The AG again moved to dismiss on grounds of ripeness, abstention and federalism. The district court again found it not ripe: "Plaintiff's constitutional injury remains strictly hypothetical and not actual or imminent" until there is an actual finding of a violation of a court order. The Third Circuit affirmed just two days after oral argument. First Choice filed a cert. petition, which was granted. CLS Sr. Counsel Lori Kepner filed an amici brief on behalf of two NJ crisis pregnancy centers that the Center is defending (see b, below) against the same bullying by the same NJ AG; our brief described how the latter's investigatory tactics substantially burden the Free Exercise and other rights of our client centers and the hundreds like them nationwide.⁵

b. Gateway and Bridge of Hope Mobile Pregnancy Centers

CLS represents both Gateway Pregnancy Center and Bridge of Hope Pregnancy Center, two more pregnancy centers on which the NJ AG has similarly served a broad subpoena.

The ripeness doctrine cannot be construed so narrowly that there is effectively no opportunity to address constitutional concerns in federal court. Failure to find ripeness will result in further abuses like those represented by the situation Gateway and Bridge of Hope find themselves in, where the AG can also, without any consequence, target and subject a tiny religious ministry that does not claim to offer any medical services and that has never had any complaints against it to a burdensome and unconstitutional process to harass and silence it. This makes the process the punishment. The religious organization must wait until it has already expended all its resources defending against such harassment before even being able to raise the constitutional concerns in federal court, possibly never being able to do so. The result is that their First Amendment rights would be effectively denied.

Based on the *First Choice* case, the federal court would likely see no injury to Gateway and Bridge of Hope because those subpoenas are not self-executing under NJ law. That

⁵ Rep. Chris Smith (R-NJ) has introduced a bill (HR 2226) that would give a right to sue to any CPC victimized by AG discrimination against it because it offers alternatives to abortions.

is why CLS has advised the centers to ignore it unless and until the state tries to enforce them. Based on this most recent circuit decision, even enforcement would not be enough, unless and until there is an imminent contempt finding. Therefore, this *First Choice* case may prove determinative for our clients.

4. Federal regulation of federal grant awards

In January 2024, the administration published two proposed rules related to nondiscrimination in foreign assistance. Religious relief and development groups have the legal right to have statements of faith and conduct that are applicable to their employees. Yet the Department of State proposed to disqualify from department funding for foreign aid any religious grantee who exercised those hiring rights in implementing those grants. These proposed rules would have had the effect of forbidding faith-based organizations from exercising their religious hiring rights with grant funds. After reviewing comments from interested parties, the department withdrew the proposed rules.

Practice Pointer:

Applying for/Accepting Grants

- *Before applying for and/or accepting government grants or contracts, read the regulations and their “Mandatory Standard Provisions.”*

D. Free to gather for worship without government intimidation or interference

ICE revocation of “sensitive areas” protection for HOWs⁶

Practice Pointers:

Denying Request for Entrance

- *Demand search or arrest warrant signed by judge*
- *Post sign at front door asking law enforcement to keep sanctuary free of ICE enforcement activity unless it has arrest warrant for violent undocumented immigrant.*

II. Challenges To These Priorities

A. All these priorities depend on hiring and leadership criteria

1. Authorities discussed above

2. Do No Harm Act (HR 1954; S. 894)

The Do No Harm Act is a proposed piece of legislation that would limit the use of the Religious Freedom Restoration Act of 1993, 42 U.S.C. §§ 2000-bb et seq. (RFRA), in cases involving discrimination, child labor and abuse, wages and collective bargaining, access to health care, public accommodations, and social services provided through

⁶ Department of Homeland Security Directive, January 20, 2025.

government contracts. Proponents of the bill claim its purpose is to address the increasing use of religious freedom to undermine civil rights protections.

This bill would prohibit the application of RFRA to specified federal laws or the implementation of such laws. Currently, RFRA prohibits the government from substantially burdening a person's exercise of religion even if the burden results from a rule of general applicability, except in furtherance of a compelling governmental interest when using the least restrictive means.

Under the Do No Harm Act, RFRA would be inapplicable to laws that (1) protect against discrimination or require the promotion of equal opportunity (e.g., the Civil Rights Act of 1964); (2) require employers to provide wages, other compensation, or benefits, including leave; (3) protect collective activity in the workplace; (4) protect against child labor, abuse, or exploitation; or (5) provide for access to, information about, referrals for, provision of, or coverage for any health care item or service.

The bill would prevent RFRA from being used to deny (1) goods or services the government has agreed to provide to a beneficiary of or participant in a program or activity funded by a government contract, grant, agreement, or other award; or (2) a person's full and equal enjoyment of a government-provided good, service, benefit, facility, privilege, advantage, or accommodation.

Also, the bill would require that, for a person to assert a RFRA claim or defense in a judicial proceeding, the government must be a party to the proceeding (which most circuits already require).

3. How to Protect Clients' Rights to Have Creed and Conduct Standards

- a. Allowed for both employees and leaders of student campus ministries and associations
- b. Your ministry consists of fallible, redeemed sinners from whom your future leaders may come, and your goals and projects will emanate; they are the face, hands, and feet of your ministry. How do you protect your right to choose them well?

Practice Pointers:

Protecting Rights to Creed and Conduct Standards

- *Know what you believe (Are abortion, divorce, sexual sin disqualifying? Why not greed, indifference, neglect of parents, profanity, temper?)*
- *Document it, e.g., white paper underlying HR policy; articles of incorporation and/or bylaws; tax exemption letter; Form 990; employee handbook*
- *Have your board's fingerprints all over it, including its recorded adoption, approval, or ratification*
- *Ensure your management team (especially the HR director) can uniformly explain:*
 - *why non-Christian folks cannot do fundraising or bookkeeping (spiritual, not functional)*
 - *why personal conduct outside work matters to your ministry, regardless of position*

- *why some sins are not cause for termination (all forgiven upon repentance; some have repercussions for witness and qualifications)*
- *Publicly advertise it – in student organization constitution or early in recruitment and interview process. In job announcement; on Web page (< 3 clicks); in position descriptions and social media ads (may get screened from platforms)*
- *Apply consistently in every case of open, ongoing, and unrepentant sin, not just homosexuality or abortion*

B. Land use regulations

The government may try to prevent expansion of soup kitchen, domestic abuse shelter, and the like; however, there are land use regulations that protect against this.

1. Religious Land Use and Institutionalized Persons Act – state, county, and municipal

Congress passed the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., to strengthen the right of incarcerated individuals to assert their religious principles and to help religious institutions avoid state regulations of their property through zoning restrictions and landmarking laws. RLUIPA protects religious institutions and individuals from discrimination in land use regulations and within institutions. It ensures that land use regulations are not implemented in a way that burdens the exercise of religion and that religious assemblies are treated no less favorably than non-religious assemblies.

RLUIPA prohibits zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest. This prohibition applies in any situation where (1) the state or local government entity imposing the substantial burden receives federal funding; (2) the substantial burden affects, or removal of the substantial burden would affect, interstate commerce; or (3) the substantial burden arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses.

In addition, RLUIPA prohibits zoning and landmarking laws that (1) treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions; (2) discriminate against any assemblies or institutions on the basis of religion or religious denomination; (3) totally exclude religious assemblies from a jurisdiction; or (4) unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

2. Religious Freedom Restoration Act (RFRA)

a. Federal

Congress passed RFRA to ensure that interests in religious freedom are protected. The bill was introduced by Congressmen Chris Cox (R-CA) and Chuck Shumer (D-NY) on March 11, 1993, with a companion bill introduced in the Senate by Senators Orrin Hatch (R-UT) and Edward Kennedy (D-MA) on the same day. A unanimous U.S. House and a nearly unanimous U.S. Senate—three senators voted against passage—passed the bill, and President Clinton signed it into law.

Congress passed RFRA in response to the U.S. Supreme Court's decision in *Employment Div. v. Smith*, 494 U.S. 872 (1990), which held that "neutral laws of general applicability" that burden the free exercise of religion do not violate the First Amendment. RFRA prohibits the government from substantially burdening a person's exercise of religion, even if the burden results from a rule of general applicability. RFRA requires strict scrutiny be applied to any law that burdens religious freedom, providing that such a law may only be justified if it is the least restrictive means of pursuing a compelling government interest.

b. State

City of Boerne v. Flores, 521 U.S. 507 (1997)

While RFRA initially applied to both state and federal laws, in 1997, Supreme Court overturned part of RFRA in *Flores*. The Roman Catholic Archdiocese of San Antonio wanted to enlarge a church in Boerne, Texas, but a Boerne ordinance protected the building as a historic landmark and did not permit it to be torn down. The church sued, citing RFRA. The Supreme Court struck down RFRA with respect to its applicability to states (but not federally), stating that Congress had stepped beyond its power of enforcement provided in the Fourteenth Amendment.

In response, the following 30 states have passed a state RFRA: Alabama, Arizona, Arkansas, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, and Wyoming.

3. State constitutions' religious freedom guaranties

Nine states have RFRA-like provisions (that require strict scrutiny) in their state constitutions: Alaska, Maine, Massachusetts, Michigan, Minnesota,⁷ North Carolina, Ohio, Washington,⁸ and Wisconsin.

C. Other means of government burdening of religious freedom – revoking tax exempt status

1. *Bob Jones Univ. v. U.S.*, 461 U.S. 574 (1983)

This case centered on whether the IRS could deny tax-exempt status to private religious schools with racially discriminatory admissions policies. The court ruled 8-1 in favor of the IRS, stating that institutions practicing racial discrimination in admissions did not qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code because such practices violated established public policy. This decision affirmed the IRS's authority to deny tax exemptions to institutions that engage in activities deemed contrary to fundamental public policy.

2. Weaponizing Tax Exemption

a. HR 6408 (118th Cong.) – passed House 4/15/24

⁷ *State v. Hershberger*, 462 N.W.2d 393 (Minn. 1990).

⁸ *First Covenant Church of Seattle v. City of Seattle*, 840 P.2d 174 (Wash. 1992).

This bill suspends the tax-exempt status of terrorist supporting organizations. The bill defines “terrorist supporting organization” as any organization *that the IRS Commissioner* designates as having provided (during the three-year period prior to its designation) material support or resources to a terrorist organization in excess of a *de minimis* amount. Such support is already a federal crime. 18 U.S. Code § 2339B.

The Department of the Treasury must provide notice to such organizations of the impending designation and an opportunity to cure. Treasury must rescind a designation that it determines was erroneous or if the organization did not receive notice of designation.

The bill provides for administrative review by the Internal Revenue Service Independent Office of Appeals of any dispute regarding a designation of an organization as a terrorist supporting organization. The U.S. district courts shall have exclusive jurisdiction to review any such designation.

b. Compare HR 2896; S. 1428 – Safeguarding Charities Act

A bill in Congress that aims to clarify that tax exemptions for certain nonprofit organizations do not constitute “federal financial assistance.” The bill specifically clarifies that for any federal law, rule, or regulation, tax exemptions for organizations under sections 501(c), 501(d), and 401(a) of the Internal Revenue Code will not be classified as federal financial assistance unless explicitly stated otherwise. This clarification aims to protect these organizations from potential overreach by the federal government and burdensome regulations.

3. *Buettner-Hartsoe v. Baltimore Lutheran High Sch. Ass’n*, 96 F.4th 707 (4th Cir. 2024)

Issue: whether the school’s tax-exempt status, under 26 U.S.C. § 501(c)(3), constituted “federal financial assistance” that would trigger Title IX’s application.

The case arose from a lawsuit by former students of Baltimore Lutheran High School alleging sexual harassment and discrimination in violation of Title IX. The plaintiffs claimed that the school’s tax-exempt status constituted federal financial assistance, thus making it subject to Title IX. The school moved to dismiss the claim, arguing that it did not receive federal financial assistance and was therefore not subject to Title IX.

The Fourth Circuit reversed a lower court’s decision, ruling that a private school’s tax-exempt status under section 501(c)(3) does not qualify as “federal financial assistance” triggering Title IX compliance. The court, in its decision, focused on the definition of “federal financial assistance,” emphasizing that Title IX is triggered when an entity receives federal financial aid. It distinguished tax-exempt status, which is a benefit in the form of a reduced tax burden, from the direct transfer of funds. The court reasoned that tax exemption is not a direct transfer of federal money to the school, but rather a reduction in the amount of taxes the school is required to pay. The court held that while tax-exempt status is a benefit, it doesn’t involve the direct transfer of funds from the federal government, which is what Title IX requires. This decision clarifies that a school’s tax-exempt status alone does not subject it to Title IX regulations.

Practice Pointers:

Taxation

- *Tax exemption arguably protected by Free Exercise Clause; tax deduction not*

D. Other means of government burdening of religious freedom – withholding permission or professional license

1. License to Engage in Social Service (foster care, adoption)

Fulton v. City of Philadelphia, 593 U.S. 522 (2021)

Catholic Social Services provides fostering services in Philadelphia. When a local newspaper reported that CSS would not provide screening for same-sex married couples, the City of Philadelphia ended its contracts with CSS, despite no reports that any same-sex couple had requested such services from CSS. If approached by a same-sex couple, CSS would refer them to another agency, a common practice among fostering agencies. The city's nonrenewal of the CSS contract burdened CSS's religious exercise by forcing it either to curtail its mission or to certify same-sex couples as foster parents, in violation of its stated religious beliefs.

The lower federal courts, in holding that the City of Philadelphia could refuse to contract with Catholic Social Services, relied heavily on *Employment Division v. Smith*, finding that the city's nondiscrimination policy did not violate the Free Exercise Clause because it was "neutral" and "generally applicable."

The Supreme Court reversed, unanimously holding in favor of CSS but stopping short of overruling *Employment Division v. Smith*, finding instead that the city's nondiscrimination policy was not generally applicable under *Smith* because the city maintained full discretion to give exemptions to its contractors. The Court held that the city's nondiscrimination requirement wasn't generally applicable because it allowed for exceptions at the Commissioner's sole discretion, impacting CSS's religious freedom. This reservation of authority to grant exemptions triggered strict scrutiny under the Free Exercise Clause, and the city's interest in its nondiscrimination policies could not satisfy strict scrutiny. Notably, the Court rejected the City's argument that it should not consider this reservation because the City had never granted an exception under this policy, finding instead that the reservation itself was sufficient.

2. License to practice professional counseling

Chiles v. Salazar ("conversion therapy" counseling; *see* I.A.2., *supra*)

E. Government withholding benefits if you exercise hiring rights (indirect burden: unconstitutional financial conditions, etc.)

1. Free Exercise

a. *Carson v. Makin*, 596 U.S. 767 (2022)

Carson v. Makin challenged Maine’s tuition assistance program, which excluded religious schools from receiving funds, specifically whether Maine’s exclusion of religious schools from the program violated the Free Exercise Clause. The Supreme Court ruled that Maine’s exclusion of religious schools from its tuition assistance program did violate the Free Exercise Clause. The case arose from a Maine law providing tuition assistance for qualifying children who went to any private school but only to those students attending “nonsectarian” schools, a sectarian school being one that is run by a religious entity and promotes education through the lens of faith. The families who brought the case had chosen to send their children to religious-based schools and did not qualify for tuition help.

The Court held that Maine could not deny public funding to religious schools simply because they were religious, even if the state provided funds to other non-religious schools. This case addressed whether the state could discriminate against religious schools in its tuition assistance program, and the Court ruled against the state's discrimination. The Court reasoned that Maine could not discriminate against religious schools in a generally available program, as this constituted an infringement on their right to exercise their religion. The Court said, in the majority opinion, that the free exercise of religion clause in the First Amendment prevents “indirect coercion or penalties on the free exercise of religion” as well as “outright penalties.” The Court relied on *Espinoza* and *Trinity Lutheran*, saying those cases established that a “neutral benefit program in which public funds flow to religious organizations through the independent choices of private benefit recipients does not offend the Establishment Clause.”

b. *Espinoza v. State of Montana*, 591 U.S. 464 (2020)

Montana started a scholarship program to assist parents with private school tuition and provided tax credits for donations. The state prohibited religious school students from receiving any of these scholarships. Parents challenged this restriction, arguing that the state was discriminating against religious schools and violating the Free Exercise Clause. In a 5-4 decision, the Supreme Court ruled that discriminating against schools based on their religious status violates the First Amendment. The Court said the no-aid provision violated the Free Exercise Clause, as it “bars religious schools from public benefits solely because of the religious character of the schools” and “also bars parents who wish to send their children to a religious school from those same benefits, again solely because of the religious character of the school.” As Court’s decision explains, the U.S. Constitution “condemns discrimination against religious schools and the families whose children attend them. They are members of the community too, and their exclusion from [programs like Montana’s] scholarship program . . . is odious to our Constitution and cannot stand.”

c. *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017)

Trinity Lutheran Church operates a licensed preschool and daycare. The Missouri Department of Natural Resources offers state grants to help nonprofit entities and schools buy rubber playground surfaces made from recycled tires. When Trinity Lutheran applied for the grant, the department rejected the application because the

department had a strict policy of denying grants to any applicant owned by a church. Trinity Lutheran sued, alleging, among other claims, that the department's failure to approve the church's application violates the Free Exercise Clause.

The exclusion of churches from an otherwise neutral and secular aid program violates the First Amendment's guarantee of free exercise of religion. The Court held that the Free Exercise Clause of the First Amendment protected the freedom to practice religion and subjects laws that burden religious practice to strict scrutiny. The Court found the department's policy of denying grants to churches requires Trinity Lutheran to renounce its religious character to participate in an otherwise generally available public benefit program for which it qualifies. The department's policy of denying religious organizations from its Playground Scrap Tire Surface Material Grants program, therefore, violated the Free Exercise Clause because it discriminated against otherwise eligible organizations based solely on their religious character. Such a condition imposes a penalty on the free exercise of religion that must be subjected to strict scrutiny, and the department has failed to meet this standard.

d. *Youth 71Five Ministries v. Williams*, No. 24-4101 (9th Cir.) (Does government violate the Free Exercise rights of a religious ministry when government discontinues and disqualifies the ministry from receiving a public grant for working with youth at risk because the ministry requires its employees and volunteers to share the same religious faith?) CLS filed an amici brief September 25 in Support of Motion for Reconsideration En Banc.

2. Free Speech

a. *Rosenberger v. Rector and Visitors of the Univ. of Virginia*, 515 U.S. 819 (1995)

The Supreme Court held that the University of Virginia violated Rosenberger's free speech rights when it denied him funding for his Christian student magazine while providing funding to other student publications. The Court held that the university's policy of withholding funds from religious publications, based on their viewpoint, when providing funding for other student activities, constituted viewpoint discrimination.

The government may not discriminate against a given point of view in a *limited public forum*, a government-created space wherein speech might occur according to the government's guidelines. The Court held that when a public school or university spends its own money to disseminate its *own message*, it may control the content and perspective, yet "it does not follow . . . that viewpoint-based restrictions are proper when the University does not, itself, speak or subsidize transmittal of a message it favors, but instead expends funds to encourage a diversity of viewpoints from private speakers." UVA student organizations are not university agents subject to university control and are not a university responsibility. Because UVA pays third-party printing costs for private speakers communicating their own messages, it may not "silence the expression of selected viewpoints."

b. *St. Isidore of Seville Catholic Virtual Sch. v. Drummond*, 145 S. Ct. 1134 (2025)

The U.S. Supreme Court split evenly 4-4 (Justice Barrett recused herself) in a per curium decision over whether a state can exclude a religious school from qualifying to be a taxpayer-funded charter school. In *St. Isidore's*, the Oklahoma Supreme Court had ruled the school could not be so permitted, even though the state charter school board had found St. Isidore's qualified and had issued it a contract. Because the Supreme Court split, that means the lower state court decision stands. Such a split decision, however, carries no weight as precedent. Moreover, the Supreme Court issued no opinion, so there is no reasoning nor any idea of how each justice voted.

Bottom line: the issue of religious school participation as a charter school remains undecided.

c. *Bethany Christian Services v. Corbin* (see I.C.1.b., *supra*)

F. Government withholding equal access to campus

1. *FCA v. San Jose Unified Sch. Dist.* (see I.A.6.a., *supra*)

Violations of free exercise of religion and free speech plus Equal Access Act

2. *CLS v. Martinez*, 561 US 661 (2010)

At a minimum, it arguably applies nowhere; at best, it should be expressly overturned

3. *YAF v. Univ. at Buffalo Student Assoc.* (see I.A.5., *supra*)

Political, not religious, school group

4. *FCA v. DCPS* (see I.A.6.b., *supra*)

Ignorance or mistake is not a defense against liability for school gatekeeper/decision maker

5. Compare: nongovernment schools can discriminate against student groups with creed or conduct standards for leadership, e.g. Vanderbilt University

F. Government Makes the Process the Punishment

1. Standing: *First Choice* (see I.C.3.a., *supra*); *Ferguson* (see I.C.1.a., *supra*); *Bethany Christian Serv.* (see I.C.1.b., *supra*)

injury;

redressability;⁹

Pullman/Younger abstention.

2. Recovering Attorney Fees

⁹ Redressability “requires an analysis of whether the court has the power to right or to prevent the claimed injury.” *Gonzales v. Gorsuch*, 688 F.2d 1263, 1267 (9th Cir. 1982). Is this a veiled attempt to appeal a state supreme court decision (which only the Supreme Court has jurisdiction to do)?

Lackey v Stinnie, 145 S. Ct. 659 (2025)

The issue before the Court was when a plaintiff “prevail” under § 1988 awarding attorneys’ fees to plaintiffs for state deprivation of federal civil rights. The Court sided with the government in a decision that allows the government to violate constitutional rights, force its victims to sue, and then avoid having to reimburse the victims just because the government folds up its tent before the end of the case, all after having wreaked havoc on its victims for months or years. The Court held that a plaintiff “prevails under the statute [§ 1988 awarding attorneys’ fees] when a court conclusively resolves a claim by granting enduring judicial relief on the merits that materially alters the legal relationship between the parties.” Obtaining a preliminary injunction is not enough to be entitled to attorneys’ fees after plaintiffs obtain the requested relief. No final judgement, no attorneys’ fees.

3. Individual Liability of Government Actor

Landor v. Louisiana Dep’t of Corrections, 82 F.4th 337 (5th Cir. 2023), cert. granted

Issue: Whether the Religious Land Use and Institutionalized Persons Act (RLUIPA) authorizes damages suits against state officers in their individual capacities

In 2020, Louisiana state prison guards handcuffed a Rastafarian prisoner, held him down, and then shaved his lifelong growth of hair even though the inmate (Landor) had religious beliefs and prior accommodations. The Fifth Circuit condemned the guards’ actions but followed circuit precedent saying that damages are not available to Landor. The en banc court denied review, but 15 of the 17 active judges (in concurrences and dissents) noted that *Tanzin v. Tanvir*, 592 U.S. 43 (2020), had or might have undercut the circuit precedent and that the U.S. Supreme Court should address the question. A win in this case would add a layer of accountability to state actors who violate the rights of those in their custody, likely causing them to seek a second opinion before proceeding with any questionable actions.

III. Selected Take Aways For Attorneys (including those less familiar with religious freedom law or practice)

A. For all

The six tips regarding employee or leader selection (II A, *supra*)

Join group letters and other collaborations to protect tax exemption from weaponization

B. For churches and houses of worship

To protect your church’s right to enforce hiring standards of belief and conduct for your non-collared staff, “train and ordain” and include in staff meetings

Be clear on your beliefs about private confessions and state law mandating reporting of suspected child abuse

Know limits of ICE in seizing parishioners at church

C. For church-run or independent religious schools

To protect the right to enforce hiring standards of belief and conduct for your teachers and staff, carefully, prayerfully, and honestly document in job description and public posting how each is to inculcate – directly and indirectly – faith in students

D. For campus ministry (K-graduate school)

Consult CLS on equal access law (our first issue and national expertise)

Know that equal access – including with conduct and belief standards for student leaders – is the law and is not optional or discretionary with school principal (Equal Access Act,¹⁰ *Widmar v. Vincent*,¹¹ *Bd. of Educ. v. Mergens*,¹² *Good News Club v. Milford Central Sch. Dist.*,¹³ *FCA v. San Jose Unified Sch. Dist.*¹⁴)

Warn school decision-makers/gatekeepers they risk individual liability if they default to banning

E. For other parachurch ministries

Read fine print on government grants, as those federal restrictions flow down to grantee if one or more dollars of federal block grant are commingled in state-administered grant program. Especially note “Mandatory Standard Provisions” and references to executive orders.

Consider RLUIPA if local government obstructs land use

¹⁰ 20 U.S.C. §§ 4071-4074 (1984).

¹¹ 454 U.S. 263 (1981).

¹² 496 U.S. 226 (1990).

¹³ 533 U.S. 98 (2001).

¹⁴ 82 F.4th 664 (9th Cir. 2023).