

Position Paper on Endorsements

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We wish to affirm strongly the ban on political endorsements by churches (and other non-profits), and by clergy in their professional capacities. Anything that would allow political endorsements emanating from the pulpit and/or in regular communications of a church, poses grave risks to America's religious communities. The current statutory ban on intervention in any political campaign on behalf of any candidate for public office is supported by a broad array of national denominations¹ and has served to protect houses of worship in America from government regulation and from divisive partisan politics dividing the church communities.

A number of important concerns underlie our objections to lifting the ban and for these reasons, we hope that Congress will instead consider some other ways of addressing current problems, without the negative impact of lifting the ban, some of which have been discussed and analyzed in our deliberations of the Panel of Religious Sector Representatives of the Commission on Accountability and Policy for Religious Organizations.

¹ The Coalition to Preserve Religious Liberty strongly opposes any lifting of the ban of political endorsements by houses of worship or clergy functioning in their professional capacity in relation to a house of worship or denomination. Among the CPRL member organizations are:

1. Baptist Joint Committee
 2. Central Conference of American Rabbis
 3. Church of the Brethren
 4. Episcopal Church
 5. Evangelical Lutheran Church
 6. Friends Committee on National Legislation
 7. Jewish Council on Public Affairs
 8. Lutheran Office for Governmental Affairs
 9. Mennonite Central Committee
 10. Methodist Federation for Social Action
 11. Rabbinical Assembly
 12. Reconstructionist Rabbinical Association
 13. Seventh Day Adventist Church
 14. Southern Christian Leadership Conference
 15. Union for Reform Judaism
 16. USA Buddhist Association
 17. Unitarian Universalists
 18. United Church of Christ
 19. United Methodist Church
- plus 5 other national Jewish organizations

1. The past several years have been a challenging time for many religious organizations and other 501(c)(3) organizations. Tensions have threatened to divide denominations; individual churches, synagogues, mosques, and temples; as well as religious organizations and their local affiliates on core issues of fundamental principle, such as the role of women and of the LGBT community (among an array of other theological and liturgical tensions). As well, tensions exist over the social justice positions that our houses of worship and our denominations take. (This is a bit less true with other “cause” 501(c)(3)s, since membership organizations attract members who join precisely because they share its positions, while our houses of worship tend to attract more diverse constituencies). The last thing America or our churches, denominations, and charities need is to divide our communities along political lines, which will significantly exacerbate these concerns. The prospect of “Romney” churches and “Obama” churches, of “Republican” denominations and “Democratic” denominations, and of “charities” divided along partisan lines unrelated to their core mission, would be a terrible loss to the commonwealth of our nation and to the spirit of comity, tolerance and unity so needed in our houses of worship and the charitable sector.
2. As damaging as lifting the ban would be, this action would also open a Pandora’s Box of other harmful changes. The same logic that underlies the argument for lifting the ban (free exercise of religion, freedom of speech), would apply to lifting existing restrictions on lobbying, as well as the ban on candidates electioneering in congregations.
3. Lifting the ban would open up yet another disastrous Pandora’s Box -- of politicized money entering our congregations. Imagine conservative billionaires or liberal billionaires, offering a denomination millions of dollars if they instruct their churches/clergy to support the candidate that the donor prefers or if they promised to use a set number of their regular communications and speeches -- written, broadcast, and/or on-line -- to push a candidacy? Imagine donors offering individual churches money— whether to underwrite the costs of expended partisan activity or, if that is barred, as a reward for the church’s engaging in partisan political communications that furthered their agenda. And consider what a temptation this will be for political donors who now, uniquely through this process, will get a tax deduction for what are, at their core, political donations. This will gravely damage electoral finance efforts, will gravely damage the integrity of our houses of worship, and equally impact negatively charitable organizations.
4. America’s houses of worship currently enjoy a wide range of exemptions and special protections from government rules, regulations, audits, and control because we eschew activities in which the government has a significant interest in regulation. Partisan political activity falls directly into the category of activities begging for government regulation. If the churches become centers of partisan political electioneering, this would certainly attract government regulation, oversight and audits that will compromise the autonomy of our houses of worship.
5. If the hope of envisioned changes to the current rules is to reduce the uncertainties and confusion of the current IRS regime, there are numerous improvements that can be made

without lifting the ban. Indeed lifting the ban will have the opposite effect. If the rules allow for the churches to use their funding for such activities, it will certainly subject church expenditures not only to IRS but to FEC regulations. And if it tries to ban the use of direct church funds, the new regulations will lay themselves open to endless protests and litigation.

During the Panel deliberations, some suggested that the ban could be lifted in a way that permits communications that do not involve direct or additional expenditures of funds. If the rules would approve only communications that involve no direct costs or no additional costs to what the church would otherwise have spent in its communications, this new regime would face their own endless definition controversies e.g. over how to calculate: overhead costs, dual use costs (such as when they spend money that results in expanded communications and including more political communications) – the kind of things that, under current regs, are counted as political expenses. So if a pastor spends on average half a day a week preparing a sermon (nearly a month a year) and chooses to engage in partisan endorsements or opposition in each sermon – is that no cost? If a video is posted on-line as part of a series of on-line videos but now 6 in a row tout candidates (the total half hour video costs would be the same whether the content is political or not) is that an actual partisan political expenditure? On the one hand, he or she would have been giving a sermon anyway. On the other, no sensible interpretation of “what costs what” can ignore the enormous value imparted to candidacies of such sermon or video activities. Such approaches will not clean up the lack of clarity in the IRS regulations, but merely shift the confusion to new rules, with no history of interpretation, which will lead churches into trouble with the IRS or Federal Election Commission and will result in costly litigation.

Finally, the perception expressed in our discussions that most African American or Evangelical churches want this change is not reflected by the data or anecdotal experience. There is no indication that the majority of pastors or churches or their members favor this (see Pew 2008 poll: <http://www.pewforum.org/2008/08/21/more-americans-question-religions-role-in-politics/>). Further, many of those who do engage in endorsements do so because they have not been fully briefed on the implications of the law. When the rules are explained, when they understand the wide range of activity that they can do legitimately – most particularly the freedom to address the key moral issues raised in a campaign, their right to support or oppose who they want in an individual capacity outside the church, or in some cases, even run for office themselves – they are often quite comfortable living with the rules. They cannot, however, use church resources nor suggest the endorsement of the church for such partisan activity. The vast number of Black and Evangelical pastors abide by the current rules. However, it should be noted that any pastor or church can decide it wishes to engage in partisan political activity (this is protected by the First Amendment); they just can't do it in the context of a 501(c)(3) institution that enjoys tax exemptions and that can receive tax-deductible gifts.