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Religious Freedom Continues to be Challenged

As chaos and conflict of the House of Representatives discussions on impeachment unfolded and events in the Middle East and China captured national attention, education and religious liberty issues continue to percolate at the Federal level.

Federal Education Budget: The President signed a continuing resolution, [HR 4378](#), on September 27, just in time to keep the government open going into the new fiscal year. The bill keeps Federal agencies, including the Department of Education, open and spending money at current levels only until November 21 of this year. This could give House and Senate negotiators time to [resolve the differences between the House and Senate versions of the education budget](#), which are significant. However, even the Republican-controlled Senate version of the education budget only provides an additional \$20 million dollars for charter school support, indicating that without a huge last minute lobbying effort the administration will not receive the [\\$5 billion they want to create Education Freedom Scholarships to help families send their children to charter schools](#).

In the Supreme Court: A [trio of cases that touch on LGBTQ issues and employment](#) were among the first cases to be heard by the court this session. While these cases involve the Civil Rights Act of 1964 and private employers, The decisions in these cases, expected in June, will impact the lives of Christian teachers

The first two cases involve gay men who allege that they were fired by their employers for being gay. The third involves an employee of a funeral home that had a legally permissible sex-specific dress code. The employee was planning to start dressing according to the dress code opposite his biological gender and was fired because the owner of the home felt this cross-dressing would be disconcerting to customers. All three cases allege that the firings violated Title VII of

the Civil Rights Act of 1964 which prohibits discrimination in employment based on sex, race, color, national origin and religion. The argument by the fired individuals is that the word “sex,” which in 1964 was understood by all to mean biological gender, should be reinterpreted to mean sexual orientation, thus protecting lesbians, gays and transgender individuals from being fired based on their sexual preferences.

The hope of the LGBTQ community is that the Court will reinterpret the long-held meaning of the law, offering them protections that Congress has been unwilling to advance. Justice Scalia noted,

“... Congress has been asked repeatedly in the years since 1964 to address this question. The Equality Act is before Congress right now. Congress has declined or failed to act on these requests. And if the court takes this up and interprets this 1964 statute to prohibit discrimination based on sexual orientation, we will be acting exactly like the legislature. We might as well just take the Equality Act and issue that as our opinion and say, as Judge Posner said, that the courts need to intervene on questions like this when the legislative branch simply will not do so.”

Questions and comments from the Justices in [the oral argument](#) indicate that the four most liberal Justices are likely to stick together in an effort to extend the Title VII employment protections to LGBTQ individuals. Comments by four of the other five Justices indicate their opposition to reinterpreting the law. It is unclear where Justice Gorsuch might come down. He said,

“At some level, sexual orientation is surely in – in play here. But isn’t sex also in play here because of the change in the first variable [sexual orientation] in what linguistic formulation would one—would one say that sex, biological gender, has nothing to do with what happened in this case?”

It is difficult to know where Gorsuch was heading in these thoughts. But it does seem that he is thinking that for a man to be attracted to other men is discriminating against gay men based on their gender because it is acceptable for a woman to be attracted to men.

If the Court rules in favor of reinterpreting the Civil Rights Act to cover LGBTQ individuals, it will be a short step to doing the same thing with the language of Title IX of the Education Amendments of 1972 which prohibited discrimination based on gender in any federally funded education program or activity. This would place the Federal Government and the courts solidly behind requiring that every school receiving Federal funds accommodate and affirm the proclaimed gender identities of students.

Despite uncertainties while awaiting these rulings, what is certain is that Christian teachers do not want to discriminate in their delivery of services to children based on gender or gender identity issues. However, many Christian teachers do have concerns with being required as a condition of employment to affirm sexual lifestyles or gender confusion that they believe are sinful and harmful.

Democrat Candidates Speak out on LGBTQ Rights and Religious Liberty: In case you missed the over four-hour long CNN Equality Town Hall, Albert Mohler, President of the Southern Baptist Theological Seminary, summarized the discussion on LGBTQ rights from the top nine Democrat Presidential candidates. His [October 14 podcast, *The Briefing*](#), focuses on how all nine candidates argued that religious institutions should be prohibited from living out their beliefs on gay marriage and gender identity. Candidates even advocated taking away the religious tax exemption from churches that adhere to traditional views of human sexuality. Mohler said that all the candidates seemed to agree with Beto O'Rourke, who said:

"There can be no reward, no benefit, no tax break for anyone or any institution, any organization in America that denies the full human rights and the full civil rights of every single one of us."

It would be disconcerting if a Presidential candidate with such extreme beliefs on gender and gender identity were to be elected. But we can be certain that many Christian churches would be blessed by the Lord to continue to teach and practice truth regardless of their tax status. We should be in prayer that the testimony of our churches and our own personal testimony is not suppressed by our government—a government founded upon a firm belief in religious liberty.

Please share your thoughts on this column that you would like other readers to see by entering them in the form below. Personal comments can be sent to JMitchell@ceai.org. John Mitchell is the Washington, D.C. Area Director for Christian Educators Association International.

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