

## Trump Administration Advances Religious Liberties

I was blessed over the weekend to attend the Values Voters Summit held every year in Washington, D.C. The Summit is a good place to hear from influential individuals who support religious liberty and oppose abortion. President Trump was the first sitting president to address this group and was very well received. His biggest applause line was, "In America we don't worship government, we worship God." The crowd was wildly enthusiastic for his appointment of Supreme Court Justice Neil Gorsuch, and his action over the past week to change Affordable Care Act Rules to allow non-profit and religious organizations to not include coverage for abortion, inducing birth control methods, in their health insurance coverage. You can hear a clear explanation of this issue at [The Briefing](#), Albert Mohler's podcast.

To frame this Presidential Executive Order, Attorney General Jeff Sessions issued a [broad memo](#) to the departments and agencies of the federal government to refrain from restricting the religious liberties of citizens and organizations. The memo is a compelling and encouraging document that lists twenty important principles for Religious Liberty to guide the federal government, and then gives the legal backing for the principles.

While much of the Attorney General's directive may seem obvious, it has been so long since we have seen a document like this from the federal government that I have listed the twenty principles below:

- 1) *The freedom of religion is an important, fundamental right, expressly protected by federal law.*
- 2) *The free exercise of religion includes the right to act or not to act in accordance with one's religious beliefs.*
- 3) *The freedom of religion extends to persons and organizations.*
- 4) *Americans do not give up their freedom of religion by participating in society or the economy, or interacting with government.*
- 5) *Government may not restrict or compel actions because of the belief they display.*
- 6) *Government may not exclude religious individuals or entities based on their religion.*
- 7) *Government may not target religious individuals or entities through discriminatory enforcement of neutral, generally applicable laws.*
- 8) *Government may not officially favor or disfavor particular religious groups.*
- 9) *Government may not interfere with the autonomy of a religious organization.*
- 10) *The Religious Freedom Restoration Act of 1993 ("RFRA") prohibits the federal government from substantially burdening any aspect of religious observance or practice, except in rare cases where the government has a compelling reason and there is not a less-restrictive option available.*
- 11) *RFRA's protection extends not just to individuals, but also to organizations, associations, and at least some for-profit corporations.*
- 12) *RFRA does not permit the federal government to second-guess the reasonableness of a sincerely held religious belief.*
- 13) *A governmental action substantially burdens an exercise of religion under RFRA if it bans an aspect of an adherent's religious observance or practice, compels an act inconsistent with*

*that observance or practice, or substantially pressures the adherent to modify such observance or practice.*

- 14) *Under RFRA, any government action that would substantially burden religious freedom is held to an exceptionally demanding standard.*
- 15) *RFRA applies even where a religious adherent seeks an exemption from a requirement to confer benefits on third parties.*
- 16) *Title VII of the Civil Rights Act prohibits covered employers from discriminating against individuals on the basis of their religion.*
- 17) *Title VII prohibits discrimination on the basis of religious observance or practice as well as belief, unless the employer cannot reasonably accommodate such observance or practice without undue hardship.*
- 18) *The Clinton Guidelines on Religious Exercise and Religious Expression in the Federal Workplace provide useful examples for private employers of reasonable accommodations for religious observance and practice in the workplace.*
- 19) *Religious employers are entitled to employ only persons whose beliefs and conduct are consistent with the employers' religious precepts.*
- 20) *Generally, the federal government may not condition federal grants or contracts on the religious organization altering its religious character, beliefs, or activities.*

The memo does not have the force of law and can be reversed by future Attorneys General, but it is still very important. The principles are firmly rooted in the first amendment's language, **"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."** If President Trump can nominate a few more Justices with the same judicial philosophy as Justice Gorsuch, these freedoms should be secure for at least several decades.

There are three important features of the First Amendment and Attorney General Sessions' memo that Christian teachers should be aware of:

**First, the freedom of religion clause is the very first right conferred on the American people** in the Bill of Rights. Being listed first does not confer any special legal status on these rights, but its place does remind us how central and fundamental the freedom of religion was to our founders. Many of the earliest immigrants to the country traveled here in search of religious freedom. It is so central to our identity as a new nation that attacks on this essential freedom threatens a serious blow to our national identity. Without robust religious freedom one wonders if there would be any compelling reason to continue as one nation.

**Second, the freedom of religion clause limits government, not citizens.** Almost all the 20 principles listed begin with the word government and describe something that the government is restricted from doing. Citizens are free to agree or disagree with the religious practices of others as long as we do not infringe on their practices. Attempts to label religiously based criticisms of practices such as gay marriage or attempting to biologically alter one's birth gender should never be ruled as illegal hate speech, but rather must be protected as an expression of our freedom of religion.

**Third, there is not much here to protect public school teachers in the course of their teacher duties.** This is because when we are serving as educators in the public schools, we are acting as an extension of the government. As such we have an important responsibility to protect the

religious freedoms of all our students – even to the point of limiting our own. However, teachers do not give up all their religious liberties when they become teachers. Walking the line between living out our faith and honoring our obligation to the state can be tricky at times. CEAI exists to help you navigate this walk. You can learn more about what your religious rights and responsibilities as a teacher at [CEAI.org](http://CEAI.org) where you can access the publication [A Teachers Guide to Religion in the Public Schools](#), watch a [3 minute video with CEAI Director of Legal Services LaRae Munk](#), or get a quick legal response to religious liberty questions at, [Ask an Attorney](#).

### **Odds and Ends from Around DC**

**Prayers for the President's Words** – There are few Christians – even supporters of the President – who would not say that at times the words of the President have caused us to cringe. This month Ministry to State has suggested this [prayer](#) based on Proverbs 16:10, "The lips of a king speak as an oracle, and his mouth should not betray justice."

**CEAI is interested in your thoughts.** Members are encouraged to enter comments below. Personal comments may be addressed to the author at [JMitchell@ceai.org](mailto:JMitchell@ceai.org). John Mitchell is the Washington, DC Area Director for the Christian Educators Association.

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