



Safeguarding Charity—Issue Brief

BACKGROUND AND STATUS:

Several courts have recently ruled that tax-exempt organizations are the recipients of federal financial assistance (FFA). Consequently, tax-exempt organizations could be automatically subject to burdensome regulations and obligations not originally agreed to. Multiple tax-exempt schools have been sued with plaintiffs claiming that the school failed to fulfill its supposed Title IX obligations. The first case, *E.H. v. Valley Christian Academy*, settled out of court. However, a district court ruled against Baltimore Lutheran High School in *Buettner-Hartsoe v. Baltimore Lutheran High School*. That case is now at the 4th Circuit Court of Appeals. Hillsdale college has also been sued under this theory. A district court ruled in a fourth case, *Doe v. Horne*, that a tax-exempt status does not qualify as FFA.

Although the courts have been divided, this issue has major implications for our schools. Most of our schools purposefully forgo FFA because of the burdensome regulations, vastly increasing costs of compliance, and the one-size-fits-all nature of federal regulations. Also, our distinctly religious approach to education means our schools often have a religious view of issues that are out of step with culturally shifting opinions of human flourishing and happiness. The Biden administration’s proposed Title IX regulations directly conflict with First Amendment protections for the free exercise of religion and would conflict with a school’s mission to teach the beauty and permanence of human sexual differences and fidelity.

Given the wide-ranging, devastating effects of contemporary sexual orientation or gender identity theory, Congress must act. Fortunately, Sen. Marco Rubio (FL) and Rep. Greg Steube (FL) have introduced the Safeguarding Charity Act, a bill that would codify that a tax-exempt status is not FFA. This bill should easily be bipartisan because it protects organizations from volunteer fire companies to churches. No Democrats have cosponsored this bill to date, but supporters are hopeful courageous and forward-thinking Democrats will see this bill as an opportunity for bipartisan support for charitable organizations across the ideological and political divides.

There are four main areas: unfair, burdensome, potentially catastrophic, and wrong as a matter of law.

LEGISLATIVE ASK OF CONGRESS

Congress should pass legislation that protects nonprofit organizations. **We urge Congress to defend the vital work of tax-exempt organizations by passing the Safeguarding Charity Act.**

SAFEGUARDING CHARITY ACT (H.R. 7027/S. 3604)

Introduced by Florida Sen. Marco Rubio and Rep. Greg Steube, this bill safeguards charities by defining what the tax-exempt status is not—FFA. This bill codifies the long legal, regulatory, and congressional understanding that tax-exempt organizations are not automatically recipients of FFA. As introduced, the bill reads:

In the case of any organization described in subsection (c) or (d) of section 501 of the Internal Revenue Code of 1986 or any organization described in section 401(a) of such Code, for purposes of any Federal law, rule, or regulation, unless explicitly provided otherwise, the term ‘Federal financial assistance,’ or any other term referring to assistance provided by the Federal Government, shall not include any exemption from Federal income tax.

continued

COSPONSORS, SAFEGUARDING CHARITY ACT

HOUSE COSPONSORS (H.R. 7027)

Rep. Bishop, Dan [R-NC-8]
Rep. Cline, Ben [R-VA-6]*
Rep. Diaz-Balart, Mario [R-FL-26]
Rep. Duncan, Jeff [R-SC-3]*
Rep. Lamborn, Doug [R-CO-5]*
Rep. Miller, Mary E. [R-IL-15]
Rep. Moolenaar, John R. [R-MI-2]
Rep. Nehls, Troy E. [R-TX-22]*
Rep. Ogles, Andrew [R-TN-5]*
Rep. Rutherford, John H. [R-FL-5]
Rep. Weber, Randy K., Sr. [R-TX-14]*

SENATE COSPONSORS (S. 3604)

Sen. Blackburn, Marsha [R-TN]*
Sen. Braun, Mike [R-IN]*
Sen. Cruz, Ted [R-TX]*
Sen. Hawley, Josh [R-MO]*
Sen. Lankford, James [R-OK]*
Sen. Lee, Mike [R-UT]*
Sen. Schmitt, Eric [R-MO]*
Sen. Vance, J. D. [R-OH]*

*Indicates an original cosponsor