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**PROPOSED RULES GOVERNING THE STATUS OF
RELIGIOUS LIBERTY IN GOVERNMENT PROGRAMS**

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As president of the nation's largest Catholic civil rights organization, I am delighted to take this opportunity to register my support for President Donald Trump's proposed rules on the status of religious liberty in government programs. The rules, as announced on January 16, 2020, are necessitated by the draconian directives promulgated by President Obama on this issue. I will speak to the role the Catholic League has played in dealing with these onerous and patently unjust strictures, making clear why the proposed rules are welcome.

I would like to begin by seconding the statement issued on November 1, 2019 by the United States Conference of Catholic Bishops on the Trump administration's proposed rule changes affecting faith-based programs. "We commend the Administration for acting to change a 2016 regulation that threatened to shut out faith-based social service providers, namely adoption and foster care agencies that respect a child's right to a mother and a father. To restrict faith-based organizations' work by infringing on religious freedom—as the 2016 rule threatened to do—is unfair and serves no one, especially children in need of these services."

The bishops are right. The 2016 regulation, which was issued by the Obama administration, denied Catholic social service providers the right to reject same-sex parents from participating in adoption and foster care programs. To do so would be to subvert Catholic teachings on marriage, the family, and sexuality, allowing the state to encroach on the religious rights of Catholic providers.

The Catholic League applauded the administration of George W. Bush for initiating faith-based programs. We did so because the record of religious social service agencies is outstanding, and is indeed superior, to the good work done by secular institutions. That is why we were so dismayed by the Obama-era reforms: they took the faith out of faith-based programs.

On July 2, 2008, I responded to then-presidential candidate Barack Obama's first statement on faith-based programs. Obama was quoted in the *New York Times* as saying, "If you get a federal grant, you can't use that grant money to proselytize to the people you help and you can't discriminate against them—or against the people you hire—on the basis

of their religion." He added that "Federal dollars that go directly to churches, temples and mosques can only be used on secular programs."

That same day I branded Obama's initiative a "fraud." It would have meant that a nun in habit, for instance, could be accused of proselytizing young people simply because of her religious garb. It would also mean that it would be impossible to have a Catholic social service agency if it was denied the right to screen applicants on the basis of their religious affiliation. Similarly, what would be the point of having an Orthodox Jewish day care program if they had to hire non-Jews to tend to Orthodox Jewish children?

Here is the crux of the matter. Why is it considered discrimination for religious social service agencies to insist that their employees follow their doctrinal prerogatives, but it is not considered discrimination when the government tells them to cease and desist? The former is an example of the kinds of religious exercises that are central to the definition and identity of religious institutions; the latter is a discriminatory act that violates the First Amendment.

Things got worse once the Obama administration launched its newly designed Office of Faith-Based and Neighborhood Partnerships. On February 5, 2009, Joshua DuBois, the person chosen to head this initiative, said that his office would decide on a case-by-case basis whether a funding request would be granted. As I pointed out that day, this was a ruse. "The 1964 Civil Rights Act, in Section 702 (a), specifically allows an exemption for religious organizations in hiring. The legislators who passed this historic act knew that for the government to deny religious organizations that receive public monies the right to determine who should service their constituents would effectively neuter them. That position is as true today as it was then."

On January 12, 2010, *Washington Post* columnist William Wan reported that a group within the faith-based office was considering whether to ban the display of religious symbols in those religious institutions that receive federal funding. It is this kind of mindset that chilled the religious rights of the faithful. Here are some examples that I detailed on January 15, 2010.

"Last April, the Obama advance team told Georgetown University that the president would not speak there unless they put a drape over religious symbols. Last month, it was reported that a serious debate ensued in the White House whether to display a manger scene at Christmastime. Now they're wondering whether to tell Catholic charitable offices to put a sheet over their crucifixes. We know what they want, and that is good enough to call for the dismantling of all faith-based programs in this administration."

On June 24, 2011, the Obama administration welcomed an appeal by a few dozen left-wing organizations, some of which were no friend of religious liberty, requesting that faith-based programs be barred, by Executive Order, from only hiring people of their own faith. That was it. I called that day for Obama to shut down his faith-based programs. "The goal, obviously, is to convert these religious entities into full-blown secular organizations. It would be better not to let them hijack these programs in the name of assisting them, thus it makes sense to shut them down."

My last news release on this subject occurred on August 6, 2015. The Obama administration released reform proposals that enhanced government oversight of religious social service agencies. Clearly, they were designed to stifle, not expand, religious expression. Religious agencies were asked to report "explicitly religious activities that are *privately* funded (my italic)." This proposal was unprecedented: it gave the state a green light to encroach on the rights of religious institutions.

If this wasn't bad enough, the reform proposals also called for churches to form separate corporations detailing their receipt of federal funds. This scheme was designed to kill small churches. I stand by my conclusion: "The faith-based programs should be defunded and reconstituted by a president who is serious about religious matters."

Fortunately, we now have such a president. The proposals as outlined by the Trump administration are important: their implementation would put an end to the kinds of invidious discriminatory policies that marked the Obama administration; they would also safeguard the autonomy of religious institutions.

The Catholic League commends President Trump for his advocacy of religious liberty. The steps taken in these proposals go a long way to restore the First Amendment rights of all Americans, particularly people of faith.