

FREEDOM FROM RELIGION *foundation*

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October 30, 2024

The Honorable Danny Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Re: Enforce the Johnson Amendment

Dear Commissioner Werfel:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to urge the Internal Revenue Service to enforce the Johnson Amendment and the requirements it imposes on nonprofit organizations. As you may recall, FFRF is a national nonprofit organization with 40,000 members across the country. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

FFRF is a registered 501(c)(3) and it takes this designation, along with the accompanying benefits and responsibilities, very seriously. For years, FFRF has reported churches to the IRS for making a mockery of their 501(c)(3) status by reaping all of the benefits while openly engaging in politics, endorsing political candidates, and intervening in elections. We aren't aware of any meaningful action that the IRS has taken to address our complaints, or the many complaints we know have been submitted from other organizations and individuals.

Enforcing the Johnson Amendment is essential to maintaining the integrity of tax regulations, but the IRS's failure to consistently enforce the law has given churches and other religious nonprofit organizations the go-ahead to freely violate the law without consequence. During this election season, we have seen an escalation of churches and other 501(c)(3) organizations endorsing or opposing candidates and inappropriately involving themselves in political campaigns. We've reported most of these violations to the IRS, but it appears that we have done so in vain.

In September, we reported the Billy Graham Evangelistic Association for its 2024 election guide that was meant to encourage readers to vote for Donald Trump in the upcoming presidential election.¹ The cover page of the election guide said, "SOCIALISM VS. FREEDOM" with corresponding photos of Kamala Harris and Donald Trump. The guide evidenced a clear bias and preference for Donald Trump and Republicans in the upcoming elections and was distributed by the Association for the purpose of intervening in these elections.

¹ <https://ffrf.org/news/releases/ffrf-urges-irs-to-revoke-billy-graham-evangelistic-associations-tax-exempt-status/>.

In October, we urged the IRS to investigate Lakepointe Church in Texas after its pastor, Josh Howerton, directed congregants on “How to Vote Like Jesus.”² Howerton has publicly claimed that he wasn’t endorsing a candidate but his sermon made it clear that he opposed the “unrighteous” Harris-Walz ticket and therefore believed Jesus would have cast his ballot for the “flawed” Trump-Vance campaign to win the election. We also asked the IRS to look into Lance Wallnau Ministries, Inc. and a group called Ziklag, after ProPublica reported that the nonprofit groups had invited JD Vance to campaign at one of their “Courage Tour” events.³

Violations of the Johnson Amendment have only been ramping up as we get closer to election day, and they’ve been committed by churches supporting either major party candidate in the presidential election.

Multiple churches have allowed Kamala Harris to address their congregations while clearly endorsing her for president. Last week, we informed the IRS that New Birth Missionary Baptist Church invited Vice President Kamala Harris to speak at a worship service at the church. During her visit, Pastor Jamal Bryant urged his congregants to go out and vote after “likening [Harris] to the biblical Esther who became queen of Persia and rescued her people from a murderous plot to annihilate them.” The Los Angeles Times reported that Pastor Jamal Bryant called Harris “an American hero, the voice of the future” and “our fearless leader.”⁴ He also used his sermon to welcome the idea of America electing a woman for the first time as president declaring, “it takes a real man to support a real woman.”

On the same day, Harris also campaigned at Divine Faith Ministries International in Jonesboro, GA, where she “summoned Black churchgoers to turn out at the polls.”⁵ Congregants were reportedly taken directly from the service to early polling places. Just this week, Harris spoke at the Church of Christian Compassion in Philadelphia where she “encouraged the Philadelphia church to lean on faith in the days leading up to the election, and urged worshippers to use their feet to get to the polls.”⁶

On October 27, Hank Kunneman, pastor of Omaha’s Lord of Hosts church, offered his hundreds of cheering congregants a vitriolic sermon comparing Democrats to ancient Egyptians who he said were communist, socialist, and “known for killing their babies,” and told them God has offered up a “candidate like Moses who can deliver you.”⁷ “God is looking as you go to the voting booth,” he said ominously.

Predictably, this widespread church intervention in the election has led to churches and pastors fighting over politics. Evangelist Donnie Swaggart, son of Jimmy Swaggart, recently rebuked Bishop John Drew Sheard, the presiding bishop of the Church of God in Christ, Inc., for

² <https://ffrf.org/news/releases/ffrf-asks-irs-to-revoke-tax-free-privileges-of-josh-howertons-texas-church/>.

³ <https://ffrf.org/news/releases/ffrf-urges-irs-to-take-action-over-politicking-ministry-event-featuring-jd-vance/>.

⁴ <https://lat.ms/3AnGRDn>.

⁵ <https://bit.ly/3Yr6ACX>.

⁶ <https://www.cbsnews.com/philadelphia/news/kamala-harris-philadelphia-campaign-rally/>.

⁷ <https://www.seattletimes.com/nation-world/in-tight-presidential-race-omaha-is-basking-in-its-political-relevance/>.

endorsing Vice President Kamala Harris for president.⁸ He criticized the “black church” for voting for Democrats, who he described as “the party that is anti-God.”⁹ This prompted backlash from many pastors and created more division and acrimony during an already heated election season.

This disturbing trend of churches freely endorsing candidates without consequence not only undermines the integrity of our electoral process but also poses a significant risk to the principle of equality under the law. When certain organizations, particularly those who are already given special exemptions from normal 501(c)(3) reporting requirements, are allowed to engage in rampant illegal election intervention, it creates an uneven playing field, putting pressure on those organizations that wish to comply with tax regulations and not get involved in electoral politics. Furthermore, it raises concerns among the public regarding the impartiality of the IRS in enforcing tax laws.

As you may recall, FFRF sued the IRS in 2012 to compel it to enforce its own regulations barring tax-exempt 501(c)(3) nonprofits from engaging in partisan political activity. FFRF agreed to voluntary dismissal of the case against the IRS because we were satisfied at the time that the IRS did not have a policy specific to churches of non-enforcement of its anti-electioneering provisions. Despite our best efforts, the IRS is still failing to adequately enforce the Johnson Amendment and to ensure that 501(c)(3) organizations are following these important IRS guidelines.

Taking action against nonprofits that violate the Johnson Amendment is crucial for upholding the law, ensuring the integrity of elections, deterring future violations, promoting fairness, and maintaining public trust. When the IRS takes action against violators, it sets a precedent that discourages other organizations from engaging in similar activities. Knowing that there are consequences for breaking the law can help prevent future violations.

Allowing some nonprofits to violate the Johnson Amendment without consequence creates an uneven playing field and sends a message to compliant nonprofits and the public at large that the law doesn’t matter. Enforcing the law ensures that all organizations operate under the same rules, promoting fairness in the nonprofit landscape. Additionally, visible enforcement actions help build public confidence in the IRS and the nonprofit sector as a whole. When the public sees that the IRS is committed to enforcing the law, it enhances trust in both government and charitable organizations.

Despite protest from those who wish to use uniquely untraceable tax exempted money to endorse candidates or see the Johnson Amendment overturned in court,¹⁰ most citizens would like the IRS to enforce the law. More than three-quarters of U.S. adults (77%) agree that churches and other houses of worship should not endorse one candidate over another in elections.¹¹ This view is expressed by majorities across the religious and political spectrums, and by most people who

⁸ <https://www.christianpost.com/news/donnie-swaggart-rebukes-black-church-for-endorsing-kamala-harris.html>.

⁹ *Id.*

¹⁰ <https://www.friendlyatheist.com/p/evangelical-broadcasters-sue-irs>.

¹¹ <https://www.pewresearch.org/religion/2022/10/27/religion-in-public-life/>.

say the U.S. should be a “Christian nation,” as well as by most people who say it should not be a Christian nation. Pew Research polling indicates that 62% of White evangelical Protestants and 63% of Black Protestants say churches should avoid endorsing political candidates, as do 70% of Republicans and 84% of Democrats.¹²

We respectfully request that the IRS take proactive steps to investigate and enforce compliance with the Johnson Amendment and its anti-electioneering provisions. This should include reviewing organizations that have been reported for engaging in illegal electioneering activities and implementing real consequences to address violations. Transparency in your enforcement actions will bolster public confidence in the IRS and its commitment to upholding the law.

Thank you for your attention to this critical matter. We look forward to your response and to seeing tangible action taken to ensure that all tax-exempt organizations adhere to the standards set forth in the Johnson Amendment.

Sincerely,



Christopher Line
Legal Counsel
Freedom From Religion Foundation

cc: Commissioner Edward Killen, Tax Exempt and Government Entities Division

¹² *Id.*