

U.S. Policy Priorities for Catholic Education

Since the beginning of President Barack Obama’s administration, the mission and religious freedom of Catholic education has been under serious threat from federal policies, regulations, legislation, and court rulings. Catholic families and educators look to the White House, Congress, and federal courts to provide much-needed relief for Catholic education and to restore a firm commitment to the Free Exercise Clause, Establishment Clause, and free speech protections of the First Amendment.

In 2009, the Equal Employment Opportunity Commission tried to bully Belmont Abbey College, a faithfully Catholic institution recognized in The Cardinal Newman Society’s Newman Guide, into violating its deeply held religious and moral convictions by providing employees insurance coverage for contraceptives. The college stood firm, but the EEOC’s position led to the Obama administration’s dictatorial contraceptive mandate under the Affordable Care Act, which launched a persecution of religious employers until the Supreme Court’s *Hobby Lobby* (2014) and *Little Sisters of the Poor* (2020) rulings upholding religious freedom.

President Donald Trump’s first term provided a period of relief to Catholic education, but threats have multiplied over the last four years under the Biden administration, both from the Administration and from allied organizations that oppose Catholic moral beliefs on life, marriage, and sexuality:

- distorting the clear language of Title IX to force schools and colleges to let males into female restrooms, locker rooms, and sports teams;
- grossly exaggerating the scope of the U.S. Supreme Court’s *Bostock* (2020) ruling to redefine sex discrimination across all civil rights laws to include “sexual orientation” and “gender identity,” despite the ruling’s clear limitation to hiring and firing decisions;

- attempting to force even Catholic schools and colleges to cover abortion, IVF, hormone treatments, bodily mutilation, and more in both student and employee health insurance plans;
- pressing for DEI (diversity, equity, and inclusion) policies through accreditation for schools and colleges;
- fighting to remove or work around religious exemptions from Title IX and other federal laws; and
- opposing courts' application of the "ministerial exception" to Catholic school and college employees.

In addition, **the mission and religious freedom of Catholic education is threatened** by certain legislative efforts in Congress, federal court rulings inconsistent with the U.S. Supreme Court, state and local laws and regulations, and private actions that discriminate against Catholics. These include:

- States and localities are passing laws that mandate gender ideology and pro-LGBT policies but lack religious protections.
- In November, voters approved a huge expansion of legal abortion in seven states. Many states are likely to increase demands for abortion coverage in employee benefits.
- The fight in federal courts to protect faith-based employment policies in Catholic and other religious education is heating up, especially for school staff and college faculty, since the *Bostock* ruling.
- Athletic associations like the NCAA appear close to yielding to gender ideology's demands that member colleges admit men to women's sports.
- One consequence of the growing social and moral divide in America is hostility from "woke" corporations—in banking, insurance, technology, medical care, etc.—toward Catholic morals and religious activity. This limits services for Catholic education and the hiring of Catholic school and college graduates.
- Faithful Catholic education is targeted by the news media and on social media, as we saw last spring after Harrison Butker's address at Benedictine College.

Catholic families and the Catholic bishops should be especially concerned about the protection of faithful Catholic education, but **anyone concerned for the common good of Americans should also want to protect Catholic education**. Many of the difficulties

faced by Catholic education today are threats to religious freedom, the bedrock of American democracy codified in the First Amendment to the U.S. Constitution. The decline in religious practice and American society's increasing hostility toward religion of all forms is deeply concerning and is changing the social fabric of our nation.

Moreover, Catholic education has consistently outperformed public schools in its personal and intellectual formation of students, a valuable contribution to the United States. Sustaining Catholic education—and both religious and secular private education in general—ought to be a priority for a nation that embraces freedom and self-determination.

Freedom of Speech

The freedom of Catholic Americans to voice their opinions and beliefs in the public square—including Catholic education leaders arguing for their rights and security—has been curtailed by social media platforms, the news media, politicians, and activists with the support and encouragement of the Biden administration. Faithful Catholics who support sexual morality, marriage and family, and the lives of preborn babies are threatened with “cancellation” and bullied into silence.

Beyond religious freedom, **Catholic educators have natural and First Amendment rights to free expression.** They should have unfettered opportunities to teach in the classroom and proclaim their foundational beliefs in the public square. The mission of Catholic education entails not only fidelity to Catholic teachings but also a commitment to evangelization and to professing and persuading students of Catholic doctrine. Tyranny that suppresses free speech and dictates ideological positions to promote gender ideology, abortion, contraception, and other practices in violation of the Catholic faith directly threatens Catholic education.

Sexuality and Gender

In *Obergefell v. Hodges* (2015), the U.S. Supreme Court ruled that same-sex couples have a Constitutional right to civil marriage. The ruling has been used as justification for declaring Catholic beliefs about marriage and sexuality to be discriminatory, leading to calls for restrictions on religious freedom, removal of religious exemptions in civil rights laws, and open discrimination against Catholics and Catholic education.

In 2020, the Supreme Court ruled in *Bostock v. Clayton County, Georgia*, that, “An employer who fires an individual merely for being gay or transgender violates Title VII,” the federal law banning employment discrimination. The Court failed to distinguish homosexual or transgender inclinations or identification from expression and conduct—

a distinction that is central to Catholic teaching. Although this was a blow to Catholic education, the ruling was explicitly limited to hiring and firing practices and did not consider other employment and civil rights applications.

Without sanction by Congress or the Supreme Court, **the Biden administration has sought by dictatorial mandate to redefine the meaning of “sex” across all federal laws banning discrimination**, even when applied to Catholic education. *Bostock* did nothing to redefine “sex discrimination” in education. The purpose of Title IX, which prohibits sex discrimination in education, was clearly to protect girls in athletics, restrooms, locker rooms, admissions, etc., and it allowed for many practices separating males from females. To force a new definition of “sex” on schools and colleges, and especially to attempt to find ways to bully Catholic educators into compliance, is clearly beyond the Biden administration’s proper scope of authority.

Religious Freedom

The U.S. Supreme Court has issued several important rulings protecting the religious freedom of Catholic education. In particular, *Our Lady of Guadalupe v. Morrissey-Berru* (2020) broadens the definition of the “ministerial exception,” a First Amendment protection against federal courts interfering in religious organizations’ employment decisions. The Court ruled, “The independence of religious institutions in the matters of ‘faith and doctrine’ is closely linked to independence in what the Court has termed ‘matters of church government.’ For this reason, courts are bound to stay out of employment disputes involving those holding certain important positions with church and other religious organizations.” The case concerned a Catholic school teacher, but the exception has since been applied to school leaders and counselors.

Lower federal courts, however, have repeatedly ignored or undermined Supreme Court precedent and have allowed cases against religious education to go forward, even when judicial review itself clearly violates the Free Exercise Clause of the First Amendment. Increasingly courts are hostile to Catholic moral principles and fail to understand the necessity of holding to those principles in a Catholic school or college—both because the institution is Catholic and because Catholic educators are committed to teaching moral principles by their own witness.

School Choice

For many decades, Catholic families have been among the leading voices pleading for equal access to public funds for education and the right to freely choose Catholic schools without penalty. Many states have had great success with school choice options,

including tax credits, vouchers, and savings accounts. These are promising for Catholic education, as long as there are no “strings” allowing the government to impose undue regulation on Catholic education or mandates that would compromise a school’s religious and moral beliefs. Still, there is widespread opposition to school choice and hostility toward Catholic education, which helped opponents defeat three states’ school choice measures in the November election.

In consideration of these concerns, The Cardinal Newman Society proposes the following actions by the new Trump administration, in partnership with Congress and the federal judiciary, to protect and promote faithful Catholic education for the good of Catholic families and the public welfare:

Protect religious freedom and civil rights

1. **Fight to preserve the Religious Freedom Restoration Act (1993)** and oppose any attempt by Congress to restrict, repeal, or exempt any law from RFRA’s protections for religious believers and organizations, including Catholic education.
2. **Rescind the Biden administration’s Title IX final rule (2024; 89 FR 33474)**, which defines sex discrimination in education to include “sexual orientation” and “gender identity” under Title IX of the Civil Rights Act of 1964.
3. **Revoke Executive Order 13988 (“Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation”)**, and any other “dear colleague” letter, administrative rule, executive order, or regulation that instructs agencies to include “sexual orientation” and “gender identity” in the definition of sex discrimination when interpreting federal civil rights laws.
4. Issue a new executive order to **prohibit the interpretation of “sex” or “gender” to include sexual orientation or gender identity** under federal civil rights laws, especially Title IX (regarding education) of the Civil Rights Act of 1964, and define

the terms “sex,” “male,” and “female” according to biological reality. The only exception should be Title VII with regard to hiring and firing, as mandated by the Supreme Court’s *Bostock* (2020) ruling—however, interpretations of *Bostock* that apply to employment decisions beyond hiring and firing are not warranted by the Court’s opinion and should be rejected.

5. Support legislation to amend federal civil rights laws to clarify that **sex discrimination does not include “sexual orientation” or “gender identity”** and that the religious employer exemptions in Title VII (regarding employment) and Title IX (regarding education) of the Civil Rights Act of 1964 protect religious employers from claims of discrimination on the basis of “sexual orientation” and “gender identity.” Define the terms “sex,” “male,” and “female” according to biological reality.
6. Issue an executive order and support legislation to **prevent discriminatory action by the government against religious believers and religious organizations**—including Catholic families and Catholic education—on the basis of a religious belief or moral conviction about abortion, contraception, gender, *in vitro* fertilization, marriage, sexual orientation, or sexual relations.
7. **Oppose legislation redefining sex discrimination to include sexual orientation and gender identity** across federal civil rights laws (including Titles II, III, IV, VI, VII, and IX of the Civil Rights Act of 1964) to impact education, federally funded programs, housing, public accommodations, and more. Such changes would go far beyond the Supreme Court’s *Bostock* (2020) ruling, which only interpreted Title VII with regard to employment policy. These changes could also effectively nullify the religious exemptions in Title VII and Title IX, by allowing federal complaints under other sections that have no religious exemption.

8. Issue an executive order and support legislation to **exclude “gender dysphoria” as a protected disability** for purposes of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.
9. Support legislation to reinstate the Defense of Marriage Act (1996) and **end federal recognition of same-sex marriage**.
10. **Revoke Executive Order 14020 (2021) and abolish the Gender Policy Council**, which promotes abortion, contraception, and gender ideology in education and society.
11. Support legislation to **confirm that tax-exempt status is not federal financial assistance** subject to restrictions on federal aid.
12. Support legislation directing courts to apply strict scrutiny to **limit the federal government’s interference in parental decisions about the upbringing of a child**.
13. **Appoint federal judges with clear records of conformity with the First Amendment**, ministerial exception, Religious Freedom Restoration Act, and natural law principles of conscience and religious freedom.
14. **Appoint commissioners to the Equal Employment Opportunity Commission who respect religious freedom** and will not misinterpret sex discrimination to include “sexual orientation” and “gender ideology.”
15. **Appoint commissioners to the National Labor Relations Board who respect religious freedom** and will uphold the U.S. Supreme Court’s ruling in *NLRB v. Catholic Bishop of Chicago* (1979), which forbade the NLRB from interfering in labor organizing at religious schools and colleges as a violation of the First Amendment.

End mandates that violate Catholic beliefs

16. **Oppose and reverse dictatorial mandates for health insurance coverage for non-essential, harmful, and immoral services** including abortion, contraception, “gender-transition” hormones and surgery, *in vitro* fertilization, and sterilization.
17. **Rescind and replace the Biden administration’s 2024 final rule (89 FR 37522) regulation implementing Section 1557 of the Affordable Care Act**, which interprets sex discrimination to include “sexual orientation” and “gender identity” and thereby mandates coverage for “gender-affirming care,” which may include “gender-transition” hormones and surgery.
18. Support legislation to amend Section 1557 of the Affordable Care Act, **ensuring that religious believers and organizations—including Catholic education—can opt out of health insurance coverage for services that violate deeply held religious and moral beliefs**, such as abortion, contraception, “gender-transition” hormones and surgery, *in vitro* fertilization, and sterilization.
19. Support legislation to amend Section 1557 of the Affordable Care Act, **clarifying that sex discrimination does not include “sexual orientation,” “gender identity,”** and the law does not mandate accommodations and insurance coverage for abortion, contraception, “gender-transition” hormones and surgery, *in vitro* fertilization, or sterilization.
20. Defend the Weldon Amendment in federal appropriations for Health and Human Services and **insist that the Department of Health and Human Services enforce the Weldon Amendment**, by withholding funds from any state (such as California) that mandates abortion coverage in health plans, including those funded by Catholic education despite religious and moral objections.

21. **Rescind and replace the Biden administration’s 2024 weak conscience protection rule (89 FR 2078)** and restore key elements of the 2019 rule (84 FR 23170) that ensured the rights of health insurance providers to deny coverage for morally reprehensible medical services, including abortion, contraception, “gender-transition” hormones and surgery, *in vitro* fertilization, and sterilization.
22. **Oppose policies and legislation that interfere with states’ constitutionally reserved powers** to restrict, ban, or limit insurance coverage of abortion, contraception, “gender-transition” hormones and surgery, *in vitro* fertilization, and sterilization.

Expand educational freedom and opportunity

23. **Eliminate the U.S. Department of Education**, which has presided over the decline of American education since 1976, and convert federal funds to block grants allowing flexibility and school choice programs in the states.
24. **End the U.S. Department of Education’s interference with teacher training programs** and with accreditation for schools of education.
25. **End the U.S. Department of Education’s interference with education standards and testing**, and instead promote state-level and local innovation.
26. Support legislation to **incentivize states to adopt school choice policies and funding**—such as education savings accounts, tax credits, and vouchers—to help children attend the school or homeschool of their parent’s choice, including Catholic education.

27. Support legislation establishing universal savings plans to **increase savings limits and allow spending for elementary and secondary education expenses, including homeschooling**, in addition to higher education. Ensure that families have equal access to funds for Catholic education.
28. Support legislation **increasing tax credits for elementary and secondary education expenses, including homeschooling**, in addition to higher education. Ensure that families have equal access to funds for Catholic education.
29. Support legislation to **increase the federal child tax credit** and increase the age limit to 17, helping families pay for child expenses including education.
30. Support legislation amending the Higher Education Act to **de-link accreditation from Title IV funds and end federal approval of accrediting agencies**.
31. Support legislation amending the Higher Education Act to **allow a private right of action against an accreditor by a college** that is unjustly discriminated against in the course of accreditation.
32. Support legislation amending the Higher Education Act to **exempt religious education from accreditation standards and criteria** that would compromise an institution's religious beliefs and governance.
33. Support legislation to amend the Higher Education Act to **ensure that Title IV funds (student loans) are not considered federal support** to educational institutions with regard to enforcement of Title IX.
34. **End the U.S. Department of Education's policy of approving or denying advance rulings for religious institutions** that claim a religious exemption to Title IX of the Civil Rights of 1964, instead leaving the determination to particular events and

circumstances as needed to uphold the institution's religious mission. Delete the archived list of institutions that the Obama administration published in 2016 to "shame" religious colleges claiming the exemption.

35. While advancing the Trump administration's stated interest in protecting free speech and academic freedom on college and university campuses, **do not penalize or interfere with the mission of religious (including Catholic) education, which requires fidelity to religious beliefs and moral principles.**
36. **Oppose attempts to limit aid or penalize Title IV borrowers who major in fields with lower average salaries.** While the liberal arts have been corrupted at most U.S. colleges, they are the bedrock of Catholic education and American culture and should be rescued from radical ideology, not crushed by a career-focused and centrally controlled Education Department.

Protect Catholic education in the District of Columbia

37. **Restore the "Armstrong Amendment" (1989) to the District of Columbia Code**, ensuring that Catholic schools and colleges cannot be forced to officially endorse, fund, or provide other benefits to advocates of homosexual identity and conduct.
38. Support legislation to amend the District of Columbia Human Rights Act to **remove "sexual orientation" and "gender identity or expression" from its "protected characteristics."**
39. Support legislation to amend the District of Columbia Human Rights Act to **add a robust exemption for religious organizations**, including Catholic schools and colleges. Currently, the law only protects religious employers that hire co-religionists.

40. **Repeal the D.C. Reproductive Health Non-Discrimination Act (2015)**, which expanded the District’s definition of discrimination to include an employee’s “reproductive health” decisions, including family planning and abortion, without an exemption for religious employers, including Catholic education.
41. Support legislation to **establish education savings accounts, tax credits, and vouchers for children** in the District of Columbia and in military families to attend the school or homeschool of their parent’s choice, including Catholic education.
42. Support legislation to **expand the D.C. Opportunity Scholarship Program**, supporting families’ choices of religious education and homeschooling in the District of Columbia.