



## Safeguarding Charity—Issue Brief

2025 AACCS NLC

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### BACKGROUND AND STATUS:

Courts have ruled that tax-exempt organizations are the recipients of federal financial assistance (FFA). Although reversed on appeal, Congress has the opportunity to prevent future cases by making it clear in law. 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 Concordia Preparatory School in *Buettner-Hartsoe v. Baltimore Lutheran High School*. The U.S. 4th Circuit Court of Appeals eventually ruled in favor of the high school, but others have attempted to sue under the same principle. Hillsdale College has also been sued under this theory. The district court struck down the tax-exempt argument, but the case is currently ongoing at the U.S. 6th Circuit Court of Appeals. 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 programs to avoid becoming recipients of FFA because of 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 religious views of issues that are out of step with culturally shifting opinions of human flourishing and happiness. Although the Trump administration has recognized the distinctives of the sexes in regulations such as Title IX, future presidents could undo those protections. For example, former President Biden’s proposed Title IX regulations directly conflicted with First Amendment protections for the free exercise of religion and with a school’s mission to teach the beauty and permanence of human sexual differences and fidelity to their reality.

Given the wide-ranging, devastating effects of contemporary sexual orientation or gender identity theory, Congress must act. Fortunately, Sen. James Lankford (OK) 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 that 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. 2896/S. 1428)

Introduced by Oklahoma Sen. James Lankford and Florida 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.

### **COSPONSORS, SAFEGUARDING CHARITY ACT**

#### **HOUSE COSPONSORS (H.R. 2896)**

Rep. Cline, Ben [R-VA-6]  
Rep. Mann, Tracey [R-KS-1]  
Rep. Miller, Mary E. [R-IL-15]  
Rep. Moore, Blake D. [R-UT-1]  
Rep. Nehls, Troy E. [R-TX-22]

#### **SENATE COSPONSORS (S. 1428)**

Sen. Budd, Ted [R-NC]\*  
Sen. Hawley, Josh [R-MO]\*  
Sen. Lee, Mike [R-UT]\*  
Sen. Schmitt, Eric [R-MO]

*\*Indicates an original cosponsor*