



1310 L Street NW,  
Suite 200  
Washington, DC 20005

www.au.org  
(202) 466-3234

August 30, 2018

**By U.S. Mail and Email**

The Honorable Donald F. McGahn, II  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Justin R. Clark  
Director of the Office of Public Liaison  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Federal Advisory Committee Management Secretariat  
General Services Administration  
1800 F Street, NW  
Second Floor  
Washington, DC 20405  
cms@gsa.gov

Johnnie Moore, spokesperson  
Evangelical Advisory Board  
c/o The Kairos Company  
500 North Central Avenue, Suite 325  
Glendale, CA 91203  
Johnnie@theKcompany.co

Re: *FACA violations by the President's Evangelical Advisory Board*

Dear Mr. McGahn, Mr. Clark, Management Secretariat, and Mr. Moore:

Since taking office, President Trump has frequently met with, and received advice and recommendations from, the President's Evangelical Advisory Board (sometimes called the "Evangelical Executive Advisory Board" or the "Faith Advisory Board").<sup>1</sup> We write to inform you that the Advisory Board is subject to, but has failed to comply with, the Federal Advisory Committee Act, 5 U.S.C. app. 2. It is clear that the President's Evangelical Advisory Board is doing substantive work

---

<sup>1</sup> See, e.g., Emily McFarlan Miller, *White House honors evangelicals 'for all the good work they do,'* RELIGION NEWS SERVICE (Aug. 28, 2018), <https://tinyurl.com/y76vkegd>; Elizabeth Dias, *President Trump's Evangelical Advisors Seek to Tamp Down Vatican Criticism,* TIME (Aug. 7, 2017), <https://tinyurl.com/y7aovs5q>; Samuel Smith, *Nearly 100 Evangelical Leaders Met With White House Staff for 'Listening Sessions' Last Week,* THE CHRISTIAN POST (July 31, 2017), <https://tinyurl.com/y9va3sao>; Samuel Smith, *Evangelical Advisory Board Pressured Trump Admin to Not Deport Iraqi Christians,* THE CHRISTIAN POST (July 20, 2017), <https://tinyurl.com/ycokqb33>.

with the Trump Administration behind closed doors—without any sunlight for the public to understand how and why decisions are being made. We respectfully request that the Advisory Board cease meeting and providing advice to the President unless and until it fully complies with FACA, and that you produce to us certain documents relating to the Advisory Board.

FACA applies to “any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof . . . which is . . . established or utilized by the President . . . in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government.”<sup>2</sup> The Evangelical Advisory Board’s activities are well within FACA’s scope.

The Advisory Board has provided formal advice and made recommendations to President Trump. The Advisory Board “pays regular visits to the White House, which can start with policy briefings from West Wing staff and agency officials and end with impromptu visits to the Oval Office.”<sup>3</sup> The Advisory Board has a “pretty significant” hand in “directing or affecting” administration policy.<sup>4</sup>

On August 27, 2018, for example, before an evening White House dinner honoring evangelical leaders, the Advisory Board met with White House officials to discuss issues “such as religious freedom, immigration reform, criminal justice and prison reform and judicial nominations.”<sup>5</sup> Similarly, on July 10, 2017, the Advisory Board met with various White House staff members and advised the White House on matters related to “health care, taxes, religious liberty, and judicial appointments.”<sup>6</sup> Sarah Huckabee Sanders, then the White House Deputy Press Secretary, referred to the attendees of the meeting as President Trump’s “Faith Advisory Board,” adding that “they meet from time to time to speak about issues that are important to that community.”<sup>7</sup> President Trump’s ban on transgender people serving in the military, though a surprise to many administration officials, can be traced back to advice given at that meeting.<sup>8</sup> In addition, at least two people who have regularly attended Advisory Board meetings, Johnnie Moore and Paula White, provided input on the substance of the President’s executive order establishing the White House Faith and Opportunity Initiative and discussed that order with the press before the President issued it.<sup>9</sup>

According to Johnnie Moore, the spokesman for the Advisory Board:

There is a long list of progress we have made with this administration because we took our seat at the table. We’ve provided consequential feedback on policy and personnel

---

<sup>2</sup> 5 U.S.C. app. 2 § 3(2); *see also* *Nw. Forest Res. Council v. Espy*, 846 F. Supp. 1009, 1012–13 (D.D.C. 1994); *Food Chemical News, Inc. v. Davis*, 378 F. Supp. 1048, 1050–51 (D.D.C. 1974).

<sup>3</sup> Noah Weiland, *Evangelicals, Having Backed Trump, Find White House ‘Front Door Is Open,’* N.Y. TIMES (Feb. 7, 2018), <https://tinyurl.com/ydhpk327>.

<sup>4</sup> *Johnnie Moore on President Trump’s Evangelical Advisory Board*, C-SPAN 1:32 (Sept. 1, 2017), <https://tinyurl.com/yaf95pqh>.

<sup>5</sup> Miller, *White House honors*, *supra* note 1.

<sup>6</sup> *See* Emily McFarlan Miller, *Trump’s Evangelical Advisers Discussed Transgender Ban at White House Meeting*, RELIGION NEWS SERVICE (July 27, 2017), <https://tinyurl.com/y7ncctqu>.

<sup>7</sup> *See* Adelle M. Banks, *Conservative evangelicals revel in their ‘unprecedented’ presidential access*, RELIGION NEWS SERVICE (July 19, 2017), <https://tinyurl.com/y9736n4n>.

<sup>8</sup> Miller, *Trump’s Evangelical Advisers*, *supra* note 6.

<sup>9</sup> *See* Adelle M. Banks et al., *Trump to sign executive order creating new White House faith-based initiative*, NAT’L CATHOLIC REPORTER (May 3, 2018), <https://tinyurl.com/yb8vrl3e>.

decisions particularly affecting religious liberty, judges, the right to life and foreign policy. We are also actively at work on issues like criminal justice reform, and when we've disagreed, we've had every opportunity to express our point of view.<sup>10</sup>

Congress adopted FACA in 1972 to “ensure that advice by the various advisory committees formed over the years is objective and accessible to the public.”<sup>11</sup> The public has a right to know whether and how special-interest groups are influencing federal policy decisions that affect all Americans. FACA combats “the great danger[.]” that special-interest groups might use their influence “to promote their private concerns.”<sup>12</sup> Yet despite the significant power and influence that it clearly wields in the White House, the Advisory Board lacks transparency and has not been following FACA’s mandatory procedures.

Under FACA, all meetings of a presidential advisory committee must be open to the public, and timely notice of each meeting must be published in the Federal Register.<sup>13</sup> Interested people must be permitted to attend meetings, appear before the committee, or file statements with the committee.<sup>14</sup> Detailed minutes of each committee meeting must be kept.<sup>15</sup> All records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, and other documents that were made available to the committee, or prepared for or by the committee, must be made available to the public.<sup>16</sup>

The Advisory Board has not complied with any of these requirements. None of the Advisory Board’s meetings thus far have been open to the public. No notice has been posted in the Federal Register. And the documents prepared for or created during those meetings have not been made available to the public.

In addition, under FACA no advisory committee may meet or take action until an advisory-committee charter has been filed.<sup>17</sup> To our knowledge, no such charter has been filed for the Advisory Board. The Advisory Board must therefore cease holding any meetings until the requisite charter has been filed. Once meetings may occur, the Advisory Board must abide by all other FACA requirements, including but not limited to having a federal officer or employee attend every meeting and preapprove the meeting’s agenda.<sup>18</sup>

Please respond to this letter within thirty days to inform us of how you plan to proceed to meet FACA’s requirements.

---

<sup>10</sup> See Johnnie Moore, *Evangelical Trump Adviser: Why I Won't Bail on the White House*, RELIGION NEWS SERVICE (Aug. 24, 2017), <https://tinyurl.com/y95ba46u>.

<sup>11</sup> See U.S. General Services Administration, *Federal Advisory Committee Act (FACA) Management Overview*, <https://tinyurl.com/yaosour>.

<sup>12</sup> See *Food Chemical News*, 378 F. Supp. at 1051.

<sup>13</sup> 5 U.S.C. app. 2 § 10.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> 5 U.S.C. app. 2 § 9.

<sup>18</sup> 5 U.S.C. app. 2 §§ 10(e)–(f).

## Request for Documents

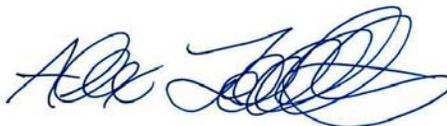
Under 5 U.S.C. app. 2 § 11(a), Americans United for Separation of Church and State respectfully requests copies of transcripts of all past meetings of the Evangelical Advisory Board. Under 5 U.S.C. app. 2 § 10(b), Americans United further requests copies of all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, and other documents that have been made available to or prepared for or by the Advisory Board.

If the materials are available electronically, please provide them by e-mail to *luchenitser@au.org*. For documents that are too large to send by e-mail or that are available only in hard copy, please send them to the following address:

Alex J. Luchenitser  
Associate Legal Director  
Americans United for Separation of Church and State  
1310 L Street NW, Suite 200  
Washington, DC 20005

Thank you for your prompt attention to this request. If you have any questions, please contact Alex J. Luchenitser at (202) 466-3234 or *luchenitser@au.org*.

Sincerely,



Alex J. Luchenitser  
Associate Legal Director