



**Transcript of Oral Testimony Offered by Rachel Laser,
President and CEO,
Americans United for Separation of Church and State**

Before the U.S. House Committee on Education and Labor

**Hearing on “Do No Harm: Examining the Misapplication
of the Religious Freedom Restoration Act”**

June 25, 2019

Good morning Chairman Scott, Ranking Member Foxx and Committee members. Thank you for the opportunity to testify on this critical issue.

Last winter, I met Aimee Maddonna. Aimee, her husband and their three kids want to open their home to children in foster care.

Aimee was thrilled when, after going through an intensive screening process, Miracle Hill Ministries said her family was just what they were looking for.

But then they had one more question – what church do you attend? They asked because Miracle Hill only accepts evangelical Protestants.

Aimee couldn't pass their test because she's Catholic. Neither could Beth Lesser, who was turned away because she's Jewish. Nor could Eden Rogers and Brandy Welch, a same-sex Unitarian couple – also rejected.

Despite accepting \$600,000 in federal and state taxpayer money last year alone, Miracle Hill imposes a religious litmus test on potential parents and volunteers.

This discriminatory policy denies children in the foster care system the love and families they deserve.

Miracle Hill says religious freedom allows them to engage in this blatant religious discrimination. The Trump administration agrees and has used RFRA to exempt Miracle Hill from complying with a federal non-discrimination law.

But this isn't what RFRA was intended to do. RFRA was enacted in 1993 in response to the Supreme Court's *Employment Division v. Smith* opinion. Faith groups, legal experts and civil liberties advocates, including Americans United, came together across political divides to preserve religious freedom protections, especially for religious minorities.

Allowing RFRA to be used to harm others also violates the Establishment Clause of the First Amendment. The government can't make you pay the cost of my religious exercise, because that's preferring my faith to yours.

Unfortunately, the Trump administration is ignoring the intent and constitutional limitations on RFRA. It's weaponizing RFRA to undermine civil rights protections, deny people access to health care and government services, and even deny children loving homes. This harms LGBTQ people, women, the nonreligious and religious minorities the most.

RFRA, a statute designed as a shield to protect religious freedom, is now being used as a sword to cause harm.

The Trump administration has cited RFRA to create harmful religious exemptions – and more are coming. For example:

- In addition to the South Carolina foster care waiver, employers are now allowed to deny their employees insurance coverage for birth control, which is promised by the ACA, and
- A Labor Department directive expands the ability of federal contractors to cite religion to discriminate in hiring.

Efforts to use religion to undermine civil rights are nothing new. In 1968, the Supreme Court rejected arguments that a restaurant owner could refuse to serve black patrons because it was "the will of God." Federal appeals courts, as recently as the 1990s, rejected Christian schools' claims that religious freedom allowed them to give married men larger salaries and benefits than women.

Today, we must continue to reject efforts to use religion to justify discrimination.

Congress can help.

First, it should conduct oversight hearings on the administration's misuse of RFRA. Second, Congress should pass the Do No Harm Act, a simple yet critical bill designed to restore RFRA to its original intent. It will preserve the law's power to protect religious freedom, while clarifying it may not be used to harm others.

Under the Do No Harm Act, RFRA would still provide protections, like ensuring Sikh service members can wear articles of faith while in uniform. RFRA couldn't be used, however, to allow a government-funded homeless shelter to turn away a transgender person or to allow a homeowners association to exclude non-Christians.

Our country is strongest when we are all free to believe or not as we see fit, and to practice our faith – without hurting others. Like Aimee Maddonna said: "If you don't protect the rights of everybody, it sets a precedent that will eventually touch on you."