March 14, 2022

The Hon. Robert C. Scott  
The Hon. Virginia Foxx  
Committee on Education and Labor  
U. S. House of Representatives  
2176 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Scott and Ranking Member Foxx:

As leaders of faith-based service organizations, religious freedom advocates, and people of faith, we strongly implore you and the Committee to retain the Charitable Choice provisions when reauthorizing the Community Services Block Grant [CSBG]. The current language of H.R. 5129, the Community Services Block Grant Modernization Act of 2021, would replace the detailed Charitable Choice provisions with a bare sentence. This would be a negative change that creates a harmful precedent. We ask the Committee instead to reaffirm Charitable Choice in the CSBG program.

The Charitable Choice provisions (42 U.S. Code 9920) give faith-based organizations an equal opportunity to compete for CSBG funding and safeguard their religious character while also protecting beneficiary rights by prohibiting the use of CSBG grant funds for explicitly religious activities. The presence of this detailed language in the statute is a billboard announcing a welcome for faith-based organizations to compete for funding.

The provisions were added to the CSBG program in 1998 in a reauthorization bill co-sponsored by Republican Senators Dan Coats (IN) and Jim Jeffords (VT) and Democratic Senators Ted Kennedy (MA) and Christopher Dodd (CT). They sought to improve the effectiveness of CSBG spending by prohibiting local governments and Community Action Agencies [CAAs] from marginalizing faith-based organizations. Protecting participation in CSBG funding by faith-based providers and houses of worship ensures that the procurement process is competitive and that CAAs utilize the most effective and accountable service providers.

The Charitable Choice provisions extend to faith-based organizations no novel or unconstitutional rights.\(^1\) Its principles are codified in the Equal Treatment regulations that apply to Department of Health and Human Services funding programs (45 CFR 87), but only partially to CSBG. CSBG has its own regulations, similar but distinct. If Charitable Choice is taken out of the CSBG statute, CAAs would have no guarantee that they will be afforded the same rights and protections due to other faith-based organizations under the Equal Treatment regulations. It would be better to retain the CSBG statutory language and the accompanying regulations. Statutory language provides more certainty over time to

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1. Direct funding in federal programs, permitting participation of all providers without regard to religion but excluding religion from the funded services, was upheld in *Mitchell v. Helms*, 530 U.S. 793 (2000). Indirect funding, which permits inclusion of services that incorporate religious teaching and activities, was upheld in *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).
Community Action Agencies and to faith-based organizations interested in partnering with them in service.

Some in the CAA movement claim that the Charitable Choice language is dispensable because, despite its presence, few faith-based organizations receive CSBG funding.\(^2\) If participation is truly low, then the remedy is action by Congress and the Office of Community Services in HHS to remove the non-statutory barriers that inhibit more extensive partnerships, not to remove the protections that enable the participation of those few.

The addition of Charitable Choice in 1998 to the CSBG program was the second time that Congress and the Clinton administration added such language to a federal program (Charitable Choice was first added to the TANF program in 1996). These actions launched the faith-based or partnership initiative. The four succeeding administrations of both parties (Bush, Obama, Trump, and Biden) have worked with energy to ensure that federal social programs are maximally effective because they partner with the best non-government organizations, including faith-based organizations, with full protection for the religious freedom of the ultimate beneficiaries.

Senators Coats, Jeffords, Kennedy, and Dodd were right to add Charitable Choice to the CSBG program. Removing it will be detrimental to the participation of faith-based organizations, when it is their greater involvement that will most benefit the communities that CSBG funding is intended to serve. Removing it will create a terrible precedent by signaling that Congress is no longer as boldly committed to equal opportunity for service organizations of every faith or none.

Thank you for your consideration of this important matter.

Stanley Carlson-Thies, Senior Director, Institutional Religious Freedom Alliance

[University professors sign in their personal capacities only. Their employing universities take no position on this bill, and are listed only to help identify the individual signers.]

This letter is joined by

His Eminence Timothy Cardinal Dolan
Archbishop of New York
Chairman, U.S. Conference of Catholic Bishops Committee for Religious Liberty
Washington, D.C.

Rev. Dr. Galen Carey
Vice President of Government Relations, National Association of Evangelicals
Columbia, MD

Rabbi Abba Cohen  
Vice President for Government Affairs and Washington Director, Agudath Israel of America  
Washington, D.C.

Melissa Reid  
Director of Government Affairs, Seventh-day Adventist Church - North American Division  
Columbia, MD

Rev. Dr. Jo Anne Lyon  
General Superintendent Emerita, The Wesleyan Church  
Fishers, IN

Yaakov Menken  
Managing Director, Coalition for Jewish Values  
Baltimore, MD

David Nammo  
Executive Director & CEO, Christian Legal Society  
Springfield, VA

Shirley V. Hoogstra  
President, CCCU - Council for Christian Colleges & Universities  
Washington, D.C.

Jamison Coppola  
Government Relations Director, American Association of Christian Schools  
Washington, D.C.

P. George Tryfiates  
Director for Government Affairs, Association of Christian Schools International  
Washington, D.C.

Dean Brode Nelson  
Chairman, Frederick Douglass Foundation  
Washington, D.C.

Jedd Medefind  
President, Christian Alliance for Orphans  
Falls Church, VA

Richard Ramos  
Executive Director, Latino Coalition for Community Leadership  
Santa Barbara, CA
Ronald L. Sider  
Founder, Christians for Social Action  
Lansdale, PA

Gary W. Blackard  
President & CEO, Adult & Teen Challenge USA  
Ozark, MO

Douglas Laycock  
Professor of Law, University of Virginia  
Charlottesville, VA

Robert Osburn, Ph.D.  
Senior Fellow, Wilberforce International Institute  
Roseville, MN

Joseph M Knippenberg  
Professor of Politics, Oglethorpe University  
Brookhaven, GA

Ryan T. Anderson  
President, The Ethics and Public Policy Center  
Washington, D.C.

Charles Leslie Glenn Jr.  
Professor emeritus of Educational Policy, Boston University  
Boston, MA

James W. Skillen  
President (retired), Center for Public Justice  
Birmingham, AL

Robert C. Andringa, Ph.D.  
President Emeritus, CCCU  
Washington, D.C.

Jesse Covington  
Professor of Political Science, Westmont College  
Santa Barbara, CA

Marc Andreas  
Professor, Kuyper College  
Grand Rapids, MI
Michelle C. Kirtley  
Fellow, Center for Public Justice  
Chapel Hill, NC

Bruce Rowell  
Chief Clinical Officer, Lawndale Christian Health Center  
Chicago, IL

Rev. Girien R. Salazar  
Minister, Ciudad de Esperanza  
Farmers Branch, TX

Mario Alfaro  
Program Director, The Center for Public Justice  
Alexandria, VA

William (Chip) Weiant  
Board Member, Ohio Governor’s Office of Faith-Based & Community Initiatives  
Columbus, OH

Mr. Roger Metcalf  
Chairman Board of Trustee, Oklahoma Wesleyan University  
Gresham, OK

Dr. Jules Glanzer  
President Emeritus, Tabor College  
Wichita, KS

Minhaj Hasan  
Board Member, Al-Huda Inc  
College Park, MD

Jonathan Ray  
Executive Director, Pittsburgh Urban Christian School  
Pittsburgh, PA

Michael Kozlarek  
City Director, The Navigators  
San Diego, CA

Rev. Nichol Porter  
Eastminster Presbyterian Church  
Pittsburgh, PA
Rick Kempton
Superintendent/Head of School, Annapolis Area Christian School
Severn, MD

Jay Van Groningen
Board Member, Great Lakes Urban Restoration
Holland, MI

Allen Baldwin
Elder, Carriage Lane Presbyterian Church
Peachtree City, GA

Muriel Franz
Treasure Coast Presbyterian Church
Stuart, FL

William C. Beckman
Citizen, Archdiocese of Denver
Littleton, CO

Joyce Campbell
Concerned community member, Christian Reformed Church
Greenbelt, MD

Marion Van Soelen
Retired School Administrator, Western Christian High School
Hull, IA

Rev. Kenny Shaw Jr.
Pastor, South Park Community Church
Fairplay, CO

Randall Kroll
Executive Consultant, Platinum Group
Minneapolis, MN

Bill & LaVerne Blickley
whereverGodwills.org
Grand Rapids, MI

Harvey Jansen, CPA
Jansen & Company
Tucson, AZ
Deanna Stacy  
Former Associate Director, HHS Center for Faith-Based and Community Initiatives  
Alexandria, VA

Ashley Weiss  
Staff, Youth with A Mission  
Lakeside, MT

Jerry S. Herbert  
Elder, Washington Community Fellowship  
Washington, D.C.

David A. Blandino, M.D.  
Eastminster Presbyterian Church  
Pittsburgh, PA

Karyl Savageau  
Capitol Hill Pregnancy Center  
Washington, D.C.

Richard Baker  
Attorney, Mauck &Baker, LLC  
Chicago, IL

Kristin List  
Member, Washington Community Fellowship  
Washington, D.C.

Clarke Cochran  
Deacon, St. Peter Catholic Church  
Charlotte, NC

Carol Veldman Rudie  
Board member, Association for Public Justice  
Minneapolis, MN

Andrew Ryskamp  
Christian Reformed Church in North America  
Grand Rapids, MI

Perry Recker  
Librarian emeritus and Ruling Elder  
Eastminster Presbyterian Church  
Pittsburgh, PA