



Recent Developments From Capitol Hill, the Courts, and Beyond!

Jake Lapp, VP Member Accountability

*"You are the light of the world. . . .
Let your light shine before others, that they
may see your good deeds and glorify your
Father in heaven."*

Matthew 5:14-16



Enhancing Trust in Christ-Centered Ministries

ECFA enhances trust in the integrity and accountability of churches and ministries so they can more effectively reach the world for Christ.

Learn more – [ECFA.org/Standards](https://ecfa.org/Standards)

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Overview of Today's Session

- **Capitol Hill**
- **The Courts**
- **Beyond!**



Capitol Hill



Biden Administration

- **President's agenda limited by very tight margins in Congress.**
- **Increased reliance on Executive Orders**
 - Many reversing Trump-era policies
 - Regulations for COVID-19 vaccinations or testing for large businesses, since halted by the Supreme Court
- **Pressure is on before November 2022 mid-term elections.**



“Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals”

<https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/15/executive-order-on-advancing-equality-for-lesbian-gay-bisexual-transgender-queer-and-intersex-individuals/>



Foster Care

Section 5(b)

(b) The Secretary of HHS shall direct the Assistant Secretary for Family Support to establish an initiative to partner with State child welfare agencies to help address and eliminate disparities in the child welfare system experienced by LGBTQI+ children, parents, and caregivers, including: the over-representation of LGBTQI+ youth in the child welfare system, including over-representation in congregate placements; disproportionately high rates of abuse, and placements in unsupportive or hostile environments faced by LGBTQI+ youth in foster care; disproportionately high rates of homelessness faced by LGBTQI+ youth who exit foster care; and discrimination faced by LGBTQI+ parents, kin, and foster and adoptive families. The initiative, as appropriate and consistent with applicable law, shall also take actions to:

- (i) seek funding opportunities for programs and services that improve outcomes for LGBTQI+ children in the child welfare system;
- (ii) provide increased training and technical assistance to State child welfare agencies and child welfare personnel on promising practices to support LGBTQI+ youth in foster care and LGBTQI+ parents and caregivers;
- (iii) develop sample policies for supporting LGBTQI+ children, parents, and caregivers in the child welfare system;



Foster Care (cont.)

- (iv) promote equity and inclusion for LGBTQI+ foster and adoptive parents in their interactions with the child welfare system;
 - (v) evaluate the rate of child removals from LGBTQI+ families of origin, in particular families that include LGBTQI+ women of color, and develop proposals to address any disproportionate rates of child removals faced by such families;
 - (vi) assess and improve the responsible collection and use of data on sexual orientation and gender identity in the child welfare system to measure and address inequities faced by LGBTQI+ children, parents, and caregivers, while safeguarding the privacy, safety, and civil rights of LGBTQI+ youth; and
 - (vii) advance policies that help to prevent the placement of LGBTQI+ youth in foster and congregate care environments that will be hostile to their gender identity or sexual orientation.
- (c) The Attorney General shall establish a clearinghouse within the Office of Juvenile Justice and Delinquency Prevention to provide effective training, technical assistance, and other resources for jurisdictions seeking to better serve LGBTQI+ youth using a continuum-of-care framework. The clearinghouse shall include juvenile justice and delinquency prevention programs addressing the needs, including mental health needs, of LGBTQI+ youth.

Homelessness

Sec. 9. Preventing and Ending LGBTQI+ Homelessness and Housing Instability. (a) The Secretary of Housing and Urban Development (HUD) shall establish a Working Group on LGBTQI+ Homelessness and Housing Equity, which shall lead an initiative that aims to prevent and address homelessness and housing instability among LGBTQI+ individuals, including youth, and households. As part of that initiative, the Secretary of HUD shall, as appropriate and consistent with applicable law:

- (i) identify and address barriers to housing faced by LGBTQI+ individuals, including youth, and families that place them at high risk of housing instability and homelessness;
- (ii) provide guidance and technical assistance to HUD contractors, grantees, and programs on effectively and respectfully serving LGBTQI+ individuals, including youth, and families;
- (iii) develop and provide guidance, sample policies, technical assistance, and training to Continuums of Care, established pursuant to HUD's Continuum of Care Program; homeless service providers; and housing providers to improve services and outcomes for LGBTQI+ individuals, including youth, and families who are experiencing or are at risk of homelessness, and to ensure compliance with the Fair Housing Act, 42 U.S.C. 3601 et seq., and HUD's 2012 and 2016 Equal Access Rules; and



Homelessness (cont.)

- (iv) seek funding opportunities, including through the Youth Homelessness Demonstration Program, for culturally appropriate services that address barriers to housing for LGBTQI+ individuals, including youth, and families, and the high rates of LGBTQI+ youth homelessness.
- (b) The Secretary of HHS, through the Assistant Secretary for Family Support, shall, as appropriate and consistent with applicable law:
 - (i) use agency guidance, training, and technical assistance to implement non-discrimination protections on the basis of sexual orientation and gender identity in programs established pursuant to the Runaway and Homeless Youth Act (Public Law 110-378), and ensure that such programs address LGBTQI+ youth homelessness; and
 - (ii) coordinate with youth advisory boards funded through the Runaway and Homeless Youth Training and Technical Assistance Center and the National Runaway Safeline to seek input from LGBTQI+ youth who have experienced homelessness on improving federally funded services and programs.



“Combating Discrimination on the Basis of Gender Identity or Sexual Orientation” (January 2021)

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation>



Congress in 2021

- **American Rescue Plan (March 2021)**
 - Partisan \$1.9 trillion package
 - Stimulus payments, unemployment benefits, expansion of the child tax credit, state and local aid, vaccine funding, and more
- **Paycheck Protection Program Extension Act (March 2021)**
 - Bipartisan effort
 - Extended the PPP application deadline to May 31, 2021 and SBA's application processing time to June 30, 2021



Congress in 2021

- **Infrastructure Investment and Jobs Act (November 2021)**

- Bipartisan \$1.2 trillion dollar spending for “hard” infrastructure, including roads and bridges, broadband, and more
- Early termination of the Employee Retention Credit
 - Only available in Q4 2021 for recovery startup businesses
 - Learn more about the ERC here –

<https://capincrouse.com/employee-retention-credit-resources>



Congress in 2022

- Expiration of enhanced charitable giving incentives
 - Universal charitable deduction for non-itemizers
 - Increased percentage limits for individual and corporate gifts for itemizers
- Continued focus on response to pandemic, inflation, supply chain issues



Congress in 2022

- **More debate over “Build Back Better”**
 - Nearly \$2 trillion in “soft” infrastructure
 - Stalled in the Senate but Democratic leadership still committed to moving this forward
 - President Biden open to breaking down the bigger bill and passing as much as possible before mid-terms
 - Final details remain uncertain
- **Other Democratic priorities: federal minimum wage, research and development bill, election reform**



Inflation Reduction Act

- Inflation Reduction Act (HR 5376 - now Public Law 117-169) enacted a number of environmental, health care, and tax priorities of the Biden administration.
- The anticipated new money will go primarily into energy security, efforts to combat climate change, and an extension of Affordable Care Act insurance exchange subsidies — as well as \$300 billion in deficit reduction.
- Inflation Reduction Act sadly did not address other key tax matters, such as the extension of the successful Universal Charitable Deduction.



In the Background...

- **Universal Giving Pademic Response and Recovery Act
(S. 618, H.R. 1704)**
 - Encouraged by bipartisan support
 - Act would Reinstate the Universal Charitable Deduction
 - Greatly expand the deduction to \$4,000/\$8,000



Also in the Background...

- **Accelerating Charitable Efforts (ACE) Act**

- Introduced as S.1981 by Senators King (I-Maine) and Grassley (R-Iowa) to reform donor-advised funds (DAFs)
- Sen. King – DAFs currently hold more than \$140 billion and wants “reasonable timeframes” for distribution of funds to charities
- Sen. Grassley – “Charitable dollars ought to be doing the good they were intended for, not sitting stagnant to provide tax advantages for some and management fees for others.”



Also in the Background...

- **The ACE Act would replace current DAFs with a choice of**
 - Qualified DAFs – allowing donors an immediate income tax deduction if funds are distributed to charities or advisory privileges released within 15 years, OR
 - Non-Qualified DAFs – 50-year payout DAF that allows an income tax deduction when funds are distributed
 - Special rules for Qualified Community Foundation DAFs
 - Other reforms: complex asset donations valued at immediate cash, public support test rules modified, new rules for private foundations



Also in the Background...

- **Secular Coalition agenda priorities**

- Do No Harm Act
- Every Child Deserves a Family Act
- Repealing Religious Freedom Restoration Act
- Nonprofit Transparency Act (draft legislation requiring all nonprofits to file Form 990)

- **What to Watch for in Mid-Term Elections**



How Can We Engage?

- 1 Timothy 2:2 – PRAY for all those in authority.
- Get to know the Members of Congress representing districts where your ministries operate, helping them understand what you do in your communities.
- Submit comments and provide feedback as appropriate.
- Ensure your organization is clear on applicable lobbying definitions and restrictions under the IRS Code and the Lobbying Disclosure Act.
- Watch ECFA news for updates.



The Courts



U.S. Supreme Court in 2022



Ketanji Brown Jackson

Court Decisions in 2022

- ***Dobbs v. Jackson Women's Health Organization***

- Appeal from U.S. Fifth Circuit Court of Appeals
- Are all pre-viability prohibitions on elective abortions unconstitutional?

- ***Carson v. Makin***

- Appeal from U.S. First Circuit Court of Appeals
- Is it unconstitutional for a state to prohibit students from participating in an otherwise generally available student-aid program from choosing to use their aid to attend schools that provide religious, or “sectarian” instruction?



Church Tax Exemption Denied Review in 2022

- ***Trustees of the New Life in Christ Church v. City of Fredericksburg, VA***
(cert denied Jan. 2022)

- City refused a church's tax exemption based on its interpretation of whether the ministers qualified as such under their denominational beliefs.
- SCOTUS denied review.
- Justice Gorsuch dissenting: "The First Amendment does not permit bureaucrats or judges to 'subject' religious beliefs 'to verification.'...Bureaucratic efforts to 'subject' religious beliefs to 'verification' have no place in a free country."



Denied Petitions

- **Two important state cases regarding ministries' religious hiring rights both denied by the Supreme Court:**

- From Washington – Seattle's Union Gospel Mission v. Woods
(denied March 21, 2022)
- From Massachusetts – Gordon College v. DeWeese-Boyd
(denied February 28, 2022)



Coming to the Courts

- *YU Pride Alliance v. Yeshiva University*
- *Gregory Tucker v. Faith Bible Chapel*



IRS Updates



IRS Issues Making the News

- **IRS Defends Charity Approval Process but Signals Changes**
- **IRS Discovers Disclosure of Confidential 990-T Findings**
- **Scrutiny of Church Status**



Beyond!



Current State of Giving

- Increase of .8% in cash donations/giving across the last year
- Annualized increase of 2.3% in cash donations/giving through the pandemic
- Foundations are reporting major increases in giving
- No clear signs of donations decreasing



Dealing With Impact Of Inflation

- Allowing continual remote work
- Encouraging virtual rather than travel
- Proactive maintenance projects
- Staff retention
 - Increased fringe benefits
 - Bonus'
 - Increased pay



Cryptocurrency Donations

“I want to support your ministry. Can I donate Bitcoin?”...

- **Only 5% of ministries ready to receive cryptocurrency donations**

(“New Frontiers in Nonprofit Fundraising Survey,” ECFA 2021).

- **Tax law implications**

- IRS considers donations of virtual currencies as non-cash gifts.
- By donating a cryptocurrency asset (rather than selling it and then making a gift in dollars), donors can avoid capital gains tax, get a charitable deduction, and maximize their gift for the nonprofit

- **ECFA** – [Webinar Recording](#) and [YouTube](#)

- **CapinCrouse** – [Article](#)



ECFA Accountability Process

- **Governance Theme**

- The importance of an active informed governing body cannot be overemphasized. Left unchecked, even minor board neglect can eventually intrude upon the accountability and effectiveness of the ministry.

- **ECFA has several different Accountability processes for members**

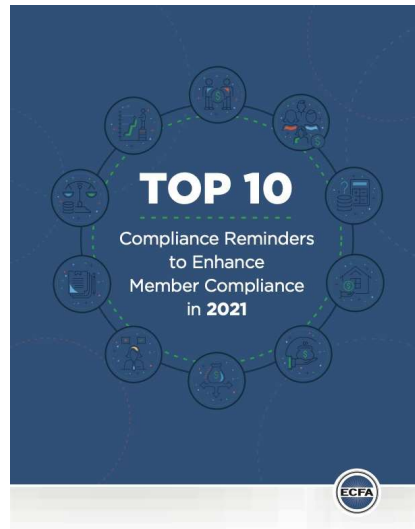
- Renewal
- Renewal+
- Standards Check-In
- Compliance Reviews



Self-Assessment – Am I in Compliance?



Self-Assessment – Am I in Compliance?



Governing Board Responsibilities 10 Essential Duties

ECFA's *Seven Standards of Responsible Stewardship*™ place great emphasis on strong, effective governance. The importance of an active, informed governing body cannot be overemphasized. Left unchecked, even minor board neglect can eventually intrude upon the accountability and effectiveness of the ministry.

Included in ECFA standards are many broad responsibilities of a governing board such as being well informed and committed to board service, assuring financial vibrancy of the ministry and charting the long-range strategy of the organization in partnership with the top leader.

Also included in the standards are very specific actions that must be routinely performed by the governing board. This checklist is designed to help your organization's governing board plan and perform these routine requirements.

- ☐ #1: Conduct at least two board meetings per year, ensuring that majority of board members present are "independent."
- ☐ #2: Maintain proper minutes of board meetings and executive committee meetings
- ☐ #3: Perform annual review of top leader performance
- ☐ #4: Annually document designation and approval of minister's housing allowance

Integrity Tune-Up

ECFA's *Seven Standards of Responsible Stewardship*™, drawn from Scripture, are fundamental to operating with integrity. Accountability to God is vital, but people form their impressions of both people and organizations by looking at the outward appearances.

Governance, compliance with laws and stewardship of charitable gifts, all areas covered in ECFA standards, can either enhance or erode trust in a church or ministry. The items below were gathered by ECFA's team of CPAs and other professionals and are based on their review of ECFA membership applications, membership renewals and Standards Checklists.

Use this Integrity Tune-Up to assess how strong your organization is in these areas, and to help your organization enhance trust with donors, key relationships, ministry partners and the watching world.

Strong Governance

- ☐ Do you approve top leader compensation? Annually approve top leader compensation package, even if amount does not change. Document approval in meeting minutes. [Click here for steps on approving comp. that is over \\$150,000.](#) ☐ YES ☐ NO
- ☐ Do you approve related-party transactions? Adopt conflict of interest policy covering board members and key staff to address related-party transactions, ensuring the transaction is in the best interest of the ministry. [Find a sample policy here.](#) ☐ YES ☐ NO
- ☐ Do you maintain appropriate board/committee meeting minutes? Document in meeting minutes the actions taken by the board, including enough detail to support actions. Any committees used should also maintain minutes and provide those minutes to board for necessary action. [See sample minutes here.](#) ☐ YES ☐ NO
- ☐ Do you approve CPA engagement and meet with CPA in executive session? Obtain board approval of engagement or retention of independent CPA and document approval in meeting minutes. [Learn about strong financial oversight here.](#) ☐ YES ☐ NO

Charitable Gift Stewardship Year-End Reminders

Creating an environment of sound stewardship of charitable gifts will not only assist a church or ministry in complying with laws but will also increase trust with donors. ECFA's *Seven Standards of Responsible Stewardship*™ address the stewardship responsibilities for number organizations.

Year-end provides an opportunity to encourage generosity among your donors and help them maximize the tax benefits of their generosity. This checklist is designed to help your organization complete its year-end responsibilities in an appropriate and timely manner.

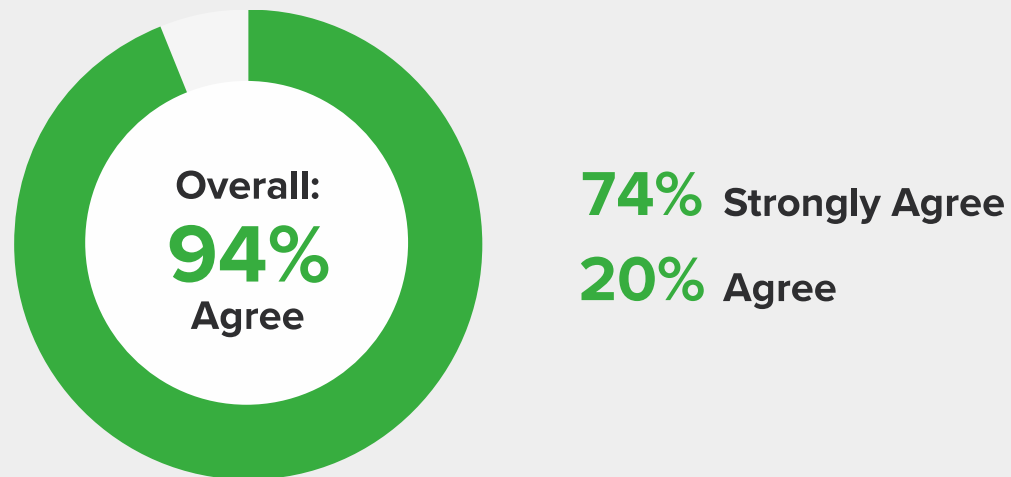
- ☐ **Receipt the right kinds of gifts.** Tax law requires a gift acknowledgment be issued for all single gifts of \$250 or more, cash and non-cash. All gifts of currency (bills or coins), regardless of amount, require a receipt. Volunteer time, services or use of property should not be accepted. Gifts from Donor Advised Funds and IRAs can be acknowledged by a letter or thank you but should not be accepted the same way as gifts of cash. Consider informing volunteers that unreimbursed out-of-pocket expenses related to their volunteer service may be deductible.
- ☐ **Include the right information on receipts.** Proper gift acknowledgments will be in writing, dated, and include the ministry name, giver name, date of the donation, amount of cash donated or a description of the donated property. A statement explaining whether goods or services were provided in exchange for the contribution must also be included. Year-end giving statements do not have to be dated and boring to be compliant with tax law! Use them creatively to communicate stories of impact the giving had on the ministry.
- ☐ **Receipt the right person at the right time.** Charitable deductions claimed on a tax return without a gift receipt may be disallowed by the IRS. Gift receipts must be issued to donors by the earlier of the due date of their federal tax return, plus any extension, or by the date the return is filed. It is generally only appropriate to issue a gift receipt to the person/entity named on the check/bank draft or the credit card holder, or the person/entity transferring ownership of a non-cash gift (except in cases when a person is acting as an agent for others).



Leadership Integrity and Trust

Survey Stated: To what extent do you agree with the following statement?

"Moral failure of Christian ministry leaders (i.e., the CEO, senior pastor, or equivalent) have a negative impact on donor trust."



Leader Care and Accountability

- Does your ministry board have a written plan to specify biblical character standards in lifestyle and leadership for your top leader? **62% do.**
- Has your ministry board implemented a written plan to support “soul care” for your top leader? **21% do.**
- Do one or more board representatives invest time in periodic conversations with your ministry’s top leader to address soul care and/or character accountability? **63% do.**

Can we learn from your experience? Email President@ECFA.org.



ECFA Resources

Free Download at
[ECFA.org/taxbooks](https://ecfa.org/taxbooks)



ECFA Resources

**Over 900 sample policies, procedures and resources
in our Knowledge Center**



Governance



**Financial
Management**



**Legal
Compliance**



**Gift
Administration**



Leadership

[ECFA.org/KnowledgeCenter](https://ecfa.org/KnowledgeCenter)

ECFA Resources

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