No. 23-4363

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUNIL KUMAR, PH. D., ET AL.,

Plaintiffs-Appellants,

v.

DR. JOLENE KOESTER, ET AL.,

Defendants-Appellees.

On Appeal from the
United States District Court for the Central District of California
Case No. 2:22-cv-07550, Hon. R. Gary Klausner

BRIEF OF AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE AS *AMICUS CURIAE* IN SUPPORT OF NEITHER SIDE

KALLI A. JOSLIN
BRADLEY GIRARD
Americans United for Separation
of Church and State
1310 L Street NW, Suite 200
Washington, DC 20005
(202) 466-3234

Counsel for Amicus Curiae

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INTEREST OF *AMICUS CURIAE*[1]

Americans United for Separation of Church and State is a national, nonpartisan organization that for over seventy-five years has brought together people—of all faiths and the nonreligious—who share a deep commitment to religious freedom as a shield to protect but never a sword to harm others. Americans United represents more than 380,000 members and supporters nationwide. Since its founding in 1947, Americans United has participated in numerous church-state cases decided by federal and state courts throughout the country. Consistent with our support for the separation of church and state, Americans United has long fought to uphold the First Amendment guarantees that prohibit the government from favoring, disfavoring, or punishing anyone based on their religious beliefs.

[1] No counsel for a party authored this brief in whole or in part, and no person other than *amicus*, its members, or its counsel made a monetary contribution intended to fund the brief's preparation or submission. All parties have consented to the filing of the brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

The federal Establishment Clause requires state and federal governments to act neutrally with respect to religion. As the Supreme Court has repeatedly affirmed, this neutrality principle was embodied in the Establishment Clause to combat the historical abuses that led to the Clause's adoption, and it remains a guiding star in the Clause's interpretation and application today.

Thus government may not favor or disfavor any religion, or disparage or denigrate any religion. But when government has nonreligious reasons—ones that are not rooted in hostility to a religion—for proscribing a practice, the government may do so notwithstanding that the practice may be (rightly or wrongly) believed to be associated with a particular religion.

And government must not take positions on questions of religious doctrine, including by attempting to define what religious terms mean as understood by particular faiths. But that does not preclude governmental bodies from using in legislation terms that have both religious and nonreligious significance.

Amicus takes no position on how this case should be decided. We present these principles and the associated history to assist the Court in its analysis.

ARGUMENT

I. The Establishment Clause requires the government to act neutrally toward religion and prohibits government from preferring or disfavoring any faith.

The Supreme Court has long interpreted the Establishment Clause by "reference to historical practices and understandings," especially those "of the Founding Fathers." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535-36 (2022) (quoting *Town of Greece v. Galloway*, 572 U.S. 565, 576-77 (2014)). And an unbroken line of cases analyzing the history of our Founding demonstrates that governmental neutrality toward religion is a "central Establishment Clause value." *McCreary Cnty. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005); *see also Reynolds v. United States*, 98 U.S. 145, 163-64 (1878); *Everson v. Bd. of Educ.*, 330 U.S. 1, 18 (1947); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 222-23 (1963).

A. Before the American Revolution, England was the site of intense religious "turmoil, civil strife, and persecutions." *Everson*, 330 U.S. at 8. Individuals were "fined, cast in jail, cruelly tortured, and killed" for offenses such as "speaking disrespectfully of the views of ministers of government-established churches, nonattendance at those churches, expressions of non-belief in their doctrines, and failure to pay taxes and tithes to support them." *Id.* at 9; *see also Communist Party of U.S. v. Subversive Activities Control Bd.*, 367 U.S. 1, 149 (1961) (Black, J., dissenting) (noting that members of

minority religious groups "were sometimes imprisoned, mutilated, degraded by humiliating pillories, exiled and even killed for their views"). These persecutions motivated members of minority religions to flee to the American colonies, "filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose." *Engel v. Vitale*, 370 U.S. 421, 434 (1962).

Unfortunately, religious discrimination persisted in the colonies. Most colonies maintained an official state church and punished religious dissidents, including Catholics, Jews, Quakers, and Baptists. *See* Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1422-25 (1990). In some colonies, "[p]unishments were prescribed for . . . entertaining heretical opinions." *Reynolds*, 98 U.S. at 162-63.

B. "It was in large part to get completely away from this sort of systematic religious persecution that the Founders brought into being our Nation, our Constitution, and our Bill of Rights with its prohibition against any governmental establishment of religion." *Engel*, 370 U.S. at 433. Two of the Founders, Thomas Jefferson and James Madison, played "leading roles" in this regard. *Everson*, 330 U.S. at 13 (citing *Reynolds*, 98 U.S. at 164).

Jefferson's Virginia Act for Religious Freedom was a significant precursor to the Religion Clauses. It stated in relevant part that "no man

. . . shall otherwise suffer on account of his religious opinions or belief" because "our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry." A Bill for Establishing Religious Freedom, H.B. 82, 1779 Gen. Assemb. (Va. 1786), Nat'l Archives, https://bit.ly/3HueJOU. Advocating for the passage of Jefferson's bill, Madison wrote that protections of religious freedom were necessary, because otherwise, "the majority may trespass on the rights of the minority." James Madison, Memorial and Remonstrance Against Religious Assessments (ca. June 20, 1785), Nat'l Archives, https://bit.ly/3u75qBn. Madison objected to any government preference for religion, stating that such preferences "degrade[] from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority." *Id.*

When Jefferson and Madison later drafted the Bill of Rights, "the provisions of the First Amendment . . . had the same objective and were intended to provide the same protection against governmental intrusion on religious liberty as the Virginia statute." *Everson*, 330 U.S. at 13 (citing *Reynolds*, 98 U.S. at 164). "The very language of the Establishment Clause represented a significant departure from early drafts that merely prohibited a single national religion[;] the final language instead 'extended [the] prohibition to state support for "religion" in general.'" *McCreary*, 545 U.S. at 878 (quoting *Lee v. Weisman*, 505 U.S. 577, 614-15 (1992) (Souter, J.,

concurring)). "The Establishment Clause thus stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate." *Engel*, 370 U.S. at 431-32.

Through the Constitution, the Founders thus undertook to quell the "hatred, disrespect[,] and even contempt" that historically has resulted "whenever government ha[s] allied itself with one particular form of religion." *Id.* at 431. The "words of the First Amendment reflected in the minds of early Americans a vivid mental picture of conditions and practices which they fervently wished to stamp out in order to preserve liberty for themselves and for their posterity." *Everson*, 330 U.S. at 8. "This freedom to worship was indispensable in a country whose people came from the four quarters of the earth and brought with them a diversity of religious opinion." *Schempp*, 374 U.S. at 214.

C. Nearly 150 years of subsequent jurisprudence has reflected the Founders' understanding that the First Amendment requires governmental neutrality toward religion and prohibits government from preferring or promoting any faith or disfavoring or denigrating any other. In *Reynolds v. United States*, the Court reflected on Jefferson's role as "an acknowledged leader" of religious freedom and treated his 1802 letter to the Danbury Baptist Association as nearly an "authoritative declaration of the scope and

effect of the amendment thus secured." 98 U.S. at 164. That letter expressed that "religion is a matter which lies solely between man and his God" and that "the legislative powers of the government reach actions only, and not opinions." *Id.* at 164 (quoting Thomas Jefferson, Letter to the Danbury Baptist Association (Jan. 1, 1802), Libr. of Cong., https://bit.ly/3S9zRif).

Over time, "the views of Madison and Jefferson . . . came to be incorporated not only in the Federal Constitution but likewise in those of most of our States." *Schempp*, 374 U.S. at 214. In *Everson*, the Court reviewed the writings of Jefferson and Madison and concluded that the Establishment Clause "requires the state to be a neutral in its relations with groups of religious believers and non-believers." 330 U.S. at 18. Put differently, the Establishment Clause squarely prohibits both federal and state governments from "pass[ing] laws which aid one religion, aid all religions, or prefer one religion over another." *Id.* at 15.[2]

Later, in *School District of Abington Township v. Schempp*, the Court once again looked to "the teachings of [European and colonial] history" and the views of leading Founders for guidance on the Establishment Clause's meaning. 374 U.S. at 214-22. At the heart of that meaning, the Court

[2] The Court quoted this language approvingly in *Torcaso v. Watkins*, 367 U.S. 488, 492-93 (1961), which was subsequently cited with approval in *Kennedy*, 597 U.S. at 536.

concluded, is the principle that "[i]n the relationship between man and religion, the State [must be] firmly committed to a position of neutrality." *Id.* at 226. The Court struck down two state policies that required that public schools begin each day with readings from the Bible, explaining that the readings were "religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion." *Id.* at 225. That breach of neutrality, while then just "a trickling stream[,] may all too soon become a raging torrent[,] and, in the words of Madison, 'it is proper to take alarm at the first experiment on our liberties.'" *Id.* (quoting Madison, Memorial and Remonstrance Against Religious Assessments).

More recently, in *McCreary County v. ACLU of Kentucky*, the Court again carefully analyzed European and early American history, together with the writings of leading Founders, in affirming that "[a] sense of the past . . . points to governmental neutrality as an objective of the Establishment Clause" and as a "touchstone for our analysis." 545 U.S. at 860, 876. The Court added that "the principle of neutrality has provided a good sense of direction: the government may not favor one religion over another, or religion over irreligion, religious choice being the prerogative of individuals under the Free Exercise Clause." *Id.* at 875-76; *see also Larson v. Valente*, 456 U.S. 228, 244 (1982) ("The clearest command of the

Establishment Clause is that one religious denomination cannot be officially preferred over another.").

In *McCreary*, the Court addressed a challenge to the posting of the Ten Commandments at county courthouses. The Court looked to the context in which the Commandments were posted and held that "the Counties meant to emphasize and celebrate the Commandments' religious message," only slightly secularizing subsequent displays to avoid litigation. *Id.* at 869-73. This was unconstitutional because it appeared that "the Counties were simply reaching for any way to keep a religious document on the walls of courthouses constitutionally required to embody religious neutrality." *Id.* at 873.

To be sure, "an appeal to neutrality alone cannot possibly lay every issue to rest." *Id.* at 876. For example, the Establishment Clause prohibits governmental bodies from providing direct funding for the religious activities of religious institutions, even if such funding is neutrally allocated among secular and religious entities. *See Everson*, 330 U.S. at 16; *Mitchell v. Helms*, 530 U.S. 793, 839-40, 857 (2000) (controlling concurrence in the judgment by O'Connor, J.[3]). And the Establishment Clause bars the coercive

[3] This Court held in *Community House, Inc. v. City of Boise*, 490 F.3d 1041, 1058 (9th Cir. 2007), that Justice O'Connor's opinion in *Mitchell* is controlling.

presentation of proselytizing speeches at public-school events, even if the speakers are selected based on neutral criteria. *See Lassonde v. Pleasanton Unified Sch. Dist.*, 320 F.3d 979, 981, 984-85 (9th Cir. 2003).

Still, "invoking neutrality is a prudent way of keeping sight of something the Framers of the First Amendment thought important." *McCreary*, 545 U.S. at 876. Though "[w]e are centuries away" from the precolonial and colonial history that led to the adoption of the Establishment Clause, "the divisiveness of religion in current public life is inescapable. This is no time to deny the prudence of understanding the Establishment Clause to require the Government to stay neutral on religious belief." *Id.* at 881.

Accordingly, in *Town of Greece v. Galloway*, where the Court held that historical practices supported allowing municipal councils to open their meetings with prayer, the Court emphasized that the prayer practices must not "proselytize or advance" any one religion or "disparage" or "denigrate" any other. 530 U.S. at 583, 585 (quoting *Marsh v. Chambers*, 463 U.S. 783, 794-95 (1983)). Nor may a town's process for selecting people to give the prayers "reflect an aversion or bias on the part of town leaders against minority faiths." *Id.* at 585.

D. Below, Defendant-Appellee argued that the Establishment Clause was intended only "to address 'tangible and coercive government actions.'" 1-ER-11 (quoting Def.s' Trial Br. at 18, ECF No. 115). But demonstrating

coercion is not necessary to show an Establishment Clause violation. *See Schempp*, 374 U.S. at 223 ("[A] violation of the Free Exercise Clause is predicated on coercion while the Establishment Clause violation need not be so attended."); *Engel*, 370 U.S. at 431 ("When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain. But the purposes underlying the Establishment Clause go much further than that."); *Comm. for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 786 (1973) ("The absence of any element of coercion, however, is irrelevant to questions arising under the Establishment Clause."). Notably, the Free Exercise Clause also bars religious coercion, *see, e.g.*, *Schempp*, 374 U.S. at 223, so reading the Establishment Clause to bar only coercion would make it duplicative of the Free Exercise Clause. *See Lee*, 505 U.S. at 621 (Souter, J., concurring); *Cnty. of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 628 (1989) (O'Connor, J., concurring in part and concurring in the judgment).

Thus in *Engel*, in concluding that a school-prayer practice violated the Establishment Clause, the Court did not focus on coercion, but rather on the fact that government officials composed a state prayer that students were encouraged to recite in public schools. 370 U.S. at 425. It did not

matter to the Court that students were permitted to opt out of praying. *See id.* at 430. The composition and dissemination of an official public-school prayer, regardless of whether its recitation was compulsory or completely voluntary, was an Establishment Clause violation. *See id.* Similarly, in holding unconstitutional a state law prohibiting teaching of evolution in *Epperson v. Arkansas*, 393 U.S. 97, 106 (1968), the Court did not rely on coercion, but rather on the principle "that the First Amendment does not permit the State to require that teaching and learning must be tailored to the principles or prohibitions of any religious sect or dogma."

E. *Kennedy v. Bremerton School District* is the latest of the many Supreme Court cases that have looked to history in interpreting the Establishment Clause. *See* 597 U.S. at 535-36 (collecting cases). Rather than erasing all prior Establishment Clause decisions, *Kennedy* only concluded that two methods of interpretation—the three-prong test first articulated in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), and the related endorsement test that followed—had been abandoned. 597 U.S. at 534-35. But other decisions evaluating the relevant history and emphasizing the Founders' emphasis on governmental neutrality remain unaffected. *See id.* at 536 (citing other cases, including *Schempp* and *Torcaso*).[4]

[4] While the Court in *Kennedy* cited Justice Gorsuch's concurrence in *Shurtleff v. City of Boston* in passing as an example of a discussion of

Even if a court wanted to read *Kennedy* more broadly, only the Supreme Court can overrule its own precedents. *See Agostini v. Felton*, 521 U.S. 203, 237 (1997). This is true even where precedent may have been undermined by another decision. *Id.*; *see also Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484 (1989) ("If a precedent of [the Supreme] Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to [the Supreme] Court the prerogative of overruling its own decisions."). This Court should therefore continue to look to the numerous Establishment Clause decisions that relied on the Clause's history, including those identified above, for both binding precedent and sound guidance on applying the Clause's neutrality and other principles to facts that the Founders could not possibly have anticipated. *See, e.g.*, *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 302-10 (2000) (holding that a public-school policy that promoted student-selected, student-given prayers at school football games violated the Establishment Clause in part because the policy was not neutral toward religion).

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hallmarks of religious establishment, it did not embrace Justice Gorsuch's opinion as the definitive list of such hallmarks. *See Kennedy*, 597 U.S. at 537 n.5 (citing *Shurtleff*, 596 U.S. 243, 284-88 (2022) (Gorsuch, J., concurring)).

II. A nondiscrimination policy can restrict religiously motivated discrimination, but it cannot single out a particular religion for disfavored treatment.

What are the considerations in applying the Establishment Clause's neutrality principle to a scenario where a nondiscrimination policy allegedly discriminates against a particular religion?

First, the government may constitutionally bar a discriminatory practice notwithstanding that the practice is actually—or rightly or wrongly believed to be—associated with a particular religion. That is because "[t]he 'Establishment' Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions." *McGowan v. Maryland*, 366 U.S. 420, 442 (1961).

For example, the fact that certain religions disapprove of LBGTQ+ people does not render the government powerless to bar discrimination against LBGTQ+ people. Indeed, even if the only people who wanted to discriminate against LBGTQ+ people were members of one particular religious group, the government could still ban discrimination against LGBTQ+ people. After all, the government has a compelling interest in banning discrimination. *See, e.g.*, *Roberts v. U.S. Jaycees*, 468 U.S. 609, 624 (1984); *303 Creative LLC v. Elenis*, 600 U.S. 570, 590 (2023). And that states have "expanded their laws to prohibit more forms of discrimination"

throughout history is "entirely 'unexceptional.'" *303 Creative*, 600 U.S. at 591 (quoting *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm'n*, 584 U.S. 617, 632 (2018)).

To hold otherwise would hamstring governments' ability to operate. We are, after all, "a cosmopolitan nation made up of people of almost every conceivable religious preference." *Braunfeld v. Brown*, 366 U.S. 599, 606 (1961). So if the Establishment Clause prohibited the government from banning any discrimination, or prohibiting any conduct, that aligned with a particular religious belief, it is hard to imagine what law would *not* implicate the Establishment Clause.

Instead of asking if a challenged policy touches on religion in any way, courts must endeavor to understand the fuller context of the policy. *Compare Epperson*, 393 U.S. at 107 (striking down Arkansas law prohibiting teaching of evolution where there was "no doubt that Arkansas has sought to prevent its teachers from discussing the theory of evolution because it is contrary to the belief of some that the Book of Genesis must be the exclusive source of doctrine as to the origin of man" and "[n]o suggestion has been made that Arkansas' law may be justified by considerations of state policy other than the religious views of some of its citizens"), *with McGowan*, 366 U.S. at 444-53 (upholding Sunday-closing law despite its religious origins, because of secular reasons for and benefits of maintaining

the law in the modern day). Context is essential to this analysis because "the Establishment Clause . . . extends beyond facial discrimination." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534 (1993).[5] "The question of governmental neutrality is not concluded by the observation that [a statute] on its face makes no discrimination between religions, for the Establishment Clause forbids subtle departures from neutrality, 'religious gerrymanders,' as well as obvious abuses." *Gillette v. United States*, 401 U.S. 437, 452 (1971) (quoting *Walz v. Tax Comm'n*, 397 U.S. 664, 696 (1970) (Harlan, J., concurring in the judgment)). Relevant factors include "the historical background of the decision under challenge, the specific series of events leading to the enactment or official policy in question, and the legislative or administrative history, including contemporaneous statements made by members of the decisionmaking body." *Lukumi*, 508 U.S. at 540 (opinion of Kennedy, J., joined by Stevens, J.), *quoted with approval in Masterpiece Cakeshop*, 584 U.S. at 639.

[5] Facial discrimination, including "truly derogatory language" toward religion in a government policy, would undoubtedly violate the Establishment Clause's neutrality principle. *Cal. Parents for Equalization of Educ. Materials v. Torlakson*, 370 F. Supp. 3d 1057, 1082 (N.D. Cal. 2019) (citing *Brown v. Woodland Jt. Unified Sch. Dist.*, 27 F.3d 1373, 1378 (9th Cir. 1994)), *aff'd*, 973 F.3d 1010 (9th Cir. 2020).

III. Government must not define what religious terms mean as understood by particular faiths, but it may use terms that have both religious and nonreligious significance.

What are the considerations in applying the Establishment Clause to an allegation that a governmental body has improperly taken a position on a religious issue in using a term that may have religious significance?

To be sure, governmental bodies must not define what religious terms mean as understood by particular faiths. For government may not constitutionally decide "matters of church government" or "those of faith and doctrine." *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94, 116 (1952); *see also Watson v. Jones*, 80 U.S. 679, 727 (1871). That prohibition is the source of the "ecclesiastical abstention" doctrine, which requires "that courts decide disputes involving religious organizations 'without resolving underlying controversies over religious doctrine.'" *Puri v. Khalsa*, 844 F.3d 1152, 1164 (9th Cir. 2017) (quoting *Maktab Tarighe Oveyssi Shah Maghsoudi, Inc. v. Kianfar*, 179 F.3d 1244, 1248 (9th Cir. 1999)).

The district court correctly observed that "the Establishment Clause does not permit the government to take official positions on religious doctrines." 1-ER-13 (citing *Commack Self-Service Kosher Meats, Inc. v. Weiss*, 294 F.3d 415, 432 (2d Cir. 2002), *cert. denied*, 537 U.S. 1187 (2003)). *Commack* struck down New York State's laws prohibiting fraud in the sale

of kosher foods. 294 F.3d at 432. The issue in *Commack* was not that New York law had defined the word "kosher"—as the Second Circuit pointed out, the state had "a valid interest in preventing fraud in the sale of any foods, including kosher foods." *Id.* at 431 (quoting *Ran-Dav's Cnty. Kosher, Inc. v. State*, 608 A.2d 1353, 1366 (N.J. 1992)). Rather, the statute in question was unconstitutional because it "require[d] the Department to refer to 'orthodox Hebrew religious requirements'" in its interpretation of the law. *Id.* at 419. But the state could have "prevent[ed] fraud in the sale of kosher food in a less restrictive and neutral manner by simply requiring that any vendor engaged in the sale of kosher food state the basis on which the food is labeled kosher." *Id.* at 431 (quoting *Barghout v. Bureau of Kosher Meat & Food Control*, 66 F.3d 1337, 1346 n. 15 (4th Cir. 1995)).

While the government cannot take positions on religious matters, no Establishment Clause principle prohibits governmental enactments and policies from using terms that have both religious and nonreligious significance. *See Lukumi*, 508 U.S. at 534 (holding that use of words "sacrifice" and "ritual" in law was "not conclusive" in neutrality analysis because, even though those words have "strong religious connotations," their "current use admits also of secular meanings"). Indeed, the government may define terms that are generally or even exclusively religious, so long as the government does not attempt to interpret religious

doctrines. If the government were not allowed to use neutral definitions for religious terms, it would not be able to regulate religious organizations on an equal footing with secular organizations.

For example, although the government cannot decide who a church chooses to hold out as its minister, *see Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 188-89 (2012), it can define who qualifies as a minister for tax exemptions, *see, e.g.*, *Gardner v. C.I.R.*, 845 F.3d 971, 979 (9th Cir. 2017). Likewise, a court cannot decide who is a nun in good standing with a religious order. *See McCarthy v. Fuller*, 714 F.3d 971, 976 (7th Cir. 2013). But it can consider whether an organization's activities qualify it for an exemption for religious organizations or activities under the tax code. *See Living Faith, Inc. v. C.I.R.*, 950 F.2d 365, 376 (7th Cir. 1991).

In all, however the Court ultimately decides *this* case, it should make clear that the relevant prohibition against government is not on using terms that may be utilized by or have importance to some religions, but in taking a position as to what the terms mean to or signify for a particular faith.

CONCLUSION

If this Court reaches the merits of Appellants' Establishment Clause claims, it should evaluate those claims based on the principles outlined here.

Respectfully submitted,

/s/ *Bradley Girard*

KALLI A. JOSLIN
BRADLEY GIRARD
Americans United for Separation of Church and State
1310 L Street NW, Suite 200
Washington, D.C. 20005
(202) 466-3234

Counsel for Amici Curiae

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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I certify that on March 21, 2024, this brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

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