STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
RAÚL R. LABRADOR

ATTORNEY GENERAL OPINION 26-1

TO: The Honorable Phil McGrane
Idaho Secretary of State
700 W. Jefferson, #E205
Boise, ID 83702

You have requested an opinion from the Attorney General regarding the interplay of Idaho's Free Exercise of Religion Protected Act (FERPA) and the Idaho Sunshine Law as applied to churches that engage in political activity. Your request raises important questions of Idaho law in the public interest and therefore this opinion is published as an official opinion of the Idaho Office of the Attorney General.

QUESTION PRESENTED

How does Idaho's Free Exercise of Religion Protected Act (FERPA), Chapter 4, Title 73, Idaho Code, impact a church's obligations under the Election Campaign Contributions and Expenditures Act (otherwise known as the Sunshine Law), chapter 66, title 67, Idaho Code?

BRIEF ANSWER

If a church qualifies as a nonbusiness entity and spends more than $1,000 in support of or in opposition to a ballot initiative as an exercise of that church's religious beliefs, the application of FERPA would prohibit the State, including the Secretary of State, the Attorney General, county clerks, and county prosecuting attorneys, from enforcing Idaho Code § 67-6606(1)(b) by requiring the church to disclose its donors' identities. However, if a church becomes a political committee because it accepted contributions (as defined in Idaho Code § 67-6602(3)) in support of or in opposition to a candidate or ballot initiative and spends more than $1,000 in support of or in opposition to a ballot initiative, the church must comply with all of the reporting requirements for a political committee.

EXECUTIVE SUMMARY

Idaho's Sunshine Law requires most churches—which generally qualify as "nonbusiness entities"—to report certain information to the Secretary of State once they spend more than $1,000 in a calendar year supporting or opposing a candidate or ballot measure. That report must identify

EXECUTIVE OFFICE
P.O. BOX 83720, BOISE, IDAHO 83720-0010
TELEPHONE: (208) 334-2400, FAX: (208) 854-8071
LOCATED AT 700 W. JEFFERSON STREET, SUITE 210

anyone who gave the church more than $500 in either of the prior two calendar years. *See* Idaho Code § 67-6606(1). Failing to comply can lead to civil fines and, for a knowing and willful violation, criminal penalties.

A church is treated differently—as a "political committee" rather than a nonbusiness entity—if, in addition to spending more than $1,000 on a candidate or ballot measure, it also accepts contributions given specifically to support or oppose that candidate or measure. *See* Idaho Code §§ 67-6602(3), 6602(14). Political committees are subject to separate and different reporting requirements. *See generally* Idaho Code §§ 67-6602, 6604, 6607.

Idaho's FERPA statute limits how far the State can go in enforcing these requirements against religious exercise. It prohibits the State from substantially burdening a person's free exercise of religion unless doing so is essential to a compelling governmental interest and is the least restrictive means of furthering that interest. *See* Idaho Code § 73-402.

Applying these standards together: when a church, as a nonbusiness entity, spends money supporting or opposing a ballot measure as an exercise of its religious beliefs, and disclosing its donors' identities would substantially burden that exercise, FERPA will, in many situations, bar the State from requiring the church to disclose its general donors to the Secretary of State. That is because the State can further its compelling interests in preventing corruption and ensuring election transparency through a less restrictive means—requiring the church to identify itself as the entity behind the spending, rather than requiring it to name its donors.

BACKGROUND

Idaho's Sunshine Law, codified at chapter 66, title 67, Idaho Code, is a citizen initiative that was initially passed in 1974. Its purpose is "[t]o promote public confidence in government; and [t]o promote openness in government and to promote transparency by those giving financial support to election campaigns and those promoting or opposing legislation or attempting to influence executive or administrative actions for compensation." Idaho Code § 67-6601. Its provisions are to be liberally construed to serve those purposes, and if there is a "conflict between the provisions of [the Sunshine Law] and any other act, the provisions of [the Sunshine Law] shall govern." Idaho Code § 67-6630.

Among other things, the Sunshine Law provides disclosure and reporting requirements for political committees and nonbusiness entities requiring them to disclose the identities of contributors and donors, along with a list of expenditures made in support of or in opposition to political candidates or ballot measures. The specific reporting and disclosure requirements differ depending on whether the entity is a political committee or a nonbusiness entity.

Idaho's FERPA, codified at chapter 4, title 73, Idaho Code, was passed in the year 2000. It provides that the free exercise of religion "is a fundamental right" and that the government "shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability." Idaho Code § 73-402. It also states that the government may substantially burden a person's exercise of religion only if it is "essential to further a compelling governmental interest" and is the "least restrictive means of furthering that compelling governmental interest." *Id.* FERPA applies "to all state laws … and the implementation of those laws … whether statutory or otherwise, and whether enacted or adopted before, on or after the effective date" of the act. Idaho Code § 73-403.

While I am unaware of the Sunshine Law previously being applied to the activities of churches, several churches recently raised the issue of how the Sunshine Law would apply to their activities in opposing a recently certified ballot initiative. Specifically, the Reproductive Freedom and Privacy Act ballot initiative ("Abortion Initiative") was recently certified to appear on the ballot for the November 3, 2026 general election. If passed, this Abortion Initiative would fundamentally change Idaho's laws relating to abortion by, among other things, creating a very expansive right to abortion and prohibiting the State from enforcing its current laws protecting the lives of unborn children. Several churches expressed their intention to oppose the ballot initiative based on their sincerely held religious beliefs in the sanctity of human life, beginning at conception, and came to your office seeking guidance on whether the Sunshine Law would force them to disclose the identity of all their donors. Some churches[1] expressed concerns that the requirements contained in Idaho Code § 67-6606 for a nonbusiness entity to disclose "the name and address of each person whose fees, dues, payments or other consideration paid to such nonbusiness entity" exceeds $500 in either of the prior two calendar years substantially burdens the churches' exercise of religion. You have, in turn, sought an Attorney General's opinion on how to reconcile the potential conflict between FERPA and the Sunshine Law.

ANALYSIS

1. The Idaho Sunshine Law's Reporting Requirements for Nonbusiness Entities and Political Committees.

To answer your question, it is first important to differentiate between the different entities defined by the Sunshine Law along with their different reporting obligations.

a. Nonbusiness Entity

The Sunshine Law defines a "nonbusiness entity" as follows:

> Nonbusiness entity means any group of two (2) or more individuals, a corporation, association, firm, partnership, committee, club or other organization that:
>
> (a) Does not have as its principal purpose the conduct of business activities for profit; and

[1] While the concerns coming to the Secretary of State are coming from Christian Churches, and thus this opinion will refer generally to churches, the analysis is the same regardless of whether it is a Christian church, Jewish synagogue, Muslim mosque, or other religious denomination.

> (b) Received during the preceding or current calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

Idaho Code § 67-6602(12).

A church is generally considered a nonbusiness entity because it is a group of two or more individuals, a corporation, or an association that does not principally conduct business and more than ten percent of its total receipts in any given year are from gifts. As a nonbusiness entity, the Sunshine Law requires the church to comply with the following two primary reporting and disclosure requirements:

1. Within 30 days of spending $1,000 or more in a calendar year in support of or opposition to one or more candidates or measures, file a statement which includes, among other things, the name and address of the nonbusiness entity, its principal officers or directors, and any persons who donated or gave the nonbusiness entity more than $500 in either of the prior two calendar years or promised to give more than $500 during the current year. Idaho Code § 67-6606(1).

2. If the church makes independent expenditures, as defined in Idaho Code § 67-6602(9), exceeding $100 in support of or in opposition to any one candidate, political committee, or measure, submit a statement containing, among other things, information relating to whom the expenditure was made, the purpose of the expenditure including the identity of the candidate or measure, and whether the expenditure was made in support of or in opposition to the candidate or measure. Idaho Code § 67-6611(3).

b. Political Committees

A "Political Committee" is defined, in pertinent part, as: "Any person who receives contributions and makes expenditures in an amount exceeding one thousand dollars ($1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Idaho Code § 67-6602(14). A "contribution" is:

> any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, ***in support of or in opposition to any candidate, political committee or measure***.

Idaho Code § 67-6602(3) (emphasis added).

A church is considered a political committee, rather than a nonbusiness entity, if it receives "contributions" *and* makes expenditures in an amount exceeding $1,000 in a calendar year in support of or in opposition to a candidate or measure.

To illustrate the difference between a nonbusiness entity and a political committee using one possible example, assume a church wishes to run a radio advertisement in opposition to a ballot initiative. The radio ad costs more than $1,000. The church uses its general funds to pay for the radio ad, which general funds are derived from general gifts to the church, and the church does not receive "contributions" (as that term is defined). The church is a nonbusiness entity, not a political committee.

Now assume that same church is running the same radio ad that will cost in excess of $1,000, but does not use its general funds derived from general gifts to pay for the ad. Instead, the church received donated funds from its congregation specifically to run the radio ad in opposition to the ballot initiative, and the church then uses those contributions to pay for the radio ad. In that case, the church is a political committee because it received "contributions," namely money specifically designated to be used "in support of or in opposition to" a measure. Idaho Code § 67-6602(3).

As a political committee, the church must appoint a political treasurer who has specific accounting obligations, *see* Idaho Code §§ 67-6603, 6604, and "file . . . a statement of all contributions received and all expenditures and encumbrances made by or on behalf of the candidate or political committee." Idaho Code § 67-6607(1). The statement must include the full name and complete address of each person who contributed more than fifty dollars, along with the amount contributed. Idaho Code § 67-6607(1)(a). There are also additional reporting requirements that apply depending on the size of the contribution and the size of the expenditure.

2. FERPA

Idaho's FERPA prohibits the government from "substantially burden[ing] a person's exercise of religion even if the burden results from a rule of general applicability." Idaho Code § 73-402(2). An exception exists where the burden is both "[e]ssential to further a compelling governmental interest" and "[t]he least restrictive means of furthering that compelling governmental interest." Idaho Code § 73-402(3).

FERPA applies "to all state laws and local ordinances and the implementation of those laws and ordinances, whether statutory or otherwise, and whether enacted or adopted before, on or after the effective date of this chapter." Idaho Code § 73-403(1). State laws adopted after the effective date are subject to FERPA "unless the law explicitly excludes application by reference to this chapter." Idaho Code § 73-403(2).

Pursuant to Idaho Code § 73-403, FERPA applies to the Sunshine Law as the Sunshine Law was adopted prior to FERPA and at no point has the legislature explicitly excluded the application of FERPA to the Sunshine Law.

3. FERPA Prohibits the Enforcement of the Sunshine Law's Idaho Code § 67-6606(2) Reporting Requirements for Churches in at Least Some Limited Situations.

In determining whether FERPA prohibits the enforcement of another state law, a person must: (1) "establish a prima facie" claim under FERPA by presenting evidence to show that the activities the person claims are burdened are an "exercise of religion;" and (2) show that the government has substantially burdened the person's exercise of religion. *State v. Cordingley*, 154 Idaho 762, 765, 302 P.3d 730, 733 (Ct. App. 2013) (citations omitted). If the person fails to show sufficient evidence on those two elements, then FERPA does not supersede the other law. However, if the person can present sufficient evidence on both elements, then the burden shifts to the state "to prove that the challenged government action is in furtherance of a compelling governmental interest and is implemented by the least restrictive means." *Id.* (cleaned up).

Here, the question is whether FERPA trumps the Sunshine Law's donor disclosure requirement when a church qualifies as a nonbusiness entity. As explained herein, it appears that it does in limited circumstances.

With regard to the Abortion Initiative, churches can likely establish the first element of the FERPA analysis. The "exercise of religion" is defined as "the ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief." Idaho Code § 73-401(2). There can be no doubt that for at least some churches, activities supporting or opposing the Abortion Initiative would be substantially motivated by that churches' religious beliefs.[2] While this analysis needs to be completed on a case-by-case basis, it is likely that this first element would be an easy step for many churches to meet. Importantly, however, this is not an element that should be overlooked. In at least some situations, a church's political activities would not be an exercise of religion.

The second element of the FERPA analysis, whether the enforcement of the Sunshine Law's donor reporting requirements substantially burdens the person's exercise of religion, appears to also be met. "Substantially burden" means "to inhibit or curtail religiously motivated practices," Idaho Code § 73-401(5), and is something more than "trivial, technical or de minimis infractions." Idaho Code § 73-402(5). This is a very broad phrase that brings within its ambit many government activities.

As discussed above, if a church is a nonbusiness entity and makes more than $1,000 in expenditures in a calendar year in support of or in opposition to the Abortion Initiative, it must disclose the identity of any person who tithes more than $500 to that church, even when the tithes are considered general donations and are not given for the purpose of supporting or opposing a candidate or measure.[3] Idaho Code § 67-6606(1)(b). This requirement will substantially burden

---

[2] *See, e.g.,* Masci, *Where major religious groups stand on abortion*, (Pew Research Center) (June 21, 2016), https://www.pewresearch.org/short-reads/2016/06/21/where-major-religious-groups-stand-on-abortion/ (last visited August 25, 2026) (describing the religious views towards abortion of several major religious denominations in the U.S.).

[3] It is worth noting the incongruence of language between the definition of nonbusiness entity and the reporting requirements of a nonbusiness entity. While the definition of nonbusiness entity refers to "contributions, gifts or membership fees" received by the entity, Idaho Code § 67-6602(12)(b), the reporting requirements for nonbusiness entities require them to report the identity of "each person whose fees, dues, payments or other consideration paid to such nonbusiness entity…." Idaho Code § 67-6601(1)(b). For purposes of this opinion, the

the churches' exercise of its religion as it may curtail their willingness to engage in their religiously motivated practice of opposing or supporting the Abortion Initiative. Such a conclusion is supported by the U.S. Supreme Court's repeated findings in the campaign finance context that "compelled disclosure" of donor identities "can seriously infringe" the First Amendment rights of "privacy of association and belief." *Buckley v. Valeo*, 424 U.S. 1, 64 (1976). The Supreme Court also held that "[d]isclosure requirements burden speech." *McCutcheon v. Fed. Election Comm'n*, 572 U.S. 185, 223 (2014).

Because the first two elements are met, it must be determined whether the State can prove that the "government action is in furtherance of a compelling government interest." *Cordingley*, 154 Idaho at 765, 302 P.3d at 733 (internal quotations and citation omitted). The Sunshine Law's purposes are 1) to "promote confidence in government;" 2) to "promote openness in government;" and 3) to "promote transparency by those giving financial support to election campaigns and those promoting or opposing legislation or attempting to influence executive or administrative actions for compensation." Idaho Code § 67-6601. The third purpose can be summarized by stating that the purpose is to help prevent corruption by publicly disclosing those who are trying to influence governmental actions.

Federal courts have held that "providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce more substantive electioneering restrictions" are compelling governmental interests *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773, 792 (9th Cir. 2006) (internal quotation and citations omitted). The purposes of the Sunshine Law are sufficiently similar to the interests that federal courts have found to be compelling such that the governmental interests in enforcing the Sunshine Law are compelling. Further, the enforcement of the Sunshine Law's reporting requirements furthers those compelling governmental interests.

Because the State has a compelling government interest, we address whether the Sunshine Law's donor reporting requirement as applied to churches that are nonbusiness entities is the least restrictive means necessary to further such interests. Idaho Code § 73-402(3)(b); *Cordingley*, 154 Idaho at 765, 302 P.3d at 733 (internal quotations and citation omitted). We determine it is not. This analysis hinges on the fact that churches as nonbusiness entities are utilizing general donations which are not "contributions" under the Sunshine Law. This is because the donors generally donate to churches as an act of worship or as an exercise of their religious beliefs. The churches then use these funds for many religious activities including paying for pastor and staff salaries, the church building, religious missionaries, and youth activities, among others. While churches can also use such general funds to support or oppose ballot measures, the general donations were not received with donor instructions specifying that they must be used to support or oppose a political candidate or ballot measure.

---

difference in language is not material, as a "gift" received by a nonbusiness entity falls into the category of "payments or other consideration paid to such nonbusiness entity."

In this situation, the church, not the donor, is deciding how to utilize the general donations[4] and the church, not the donor, has decided to exercise its religious beliefs by expending money in support of or opposition to a candidate or ballot measure. In this scenario, the State's governmental interests can be furthered through the less restrictive means of requiring the church to identify itself as the source of the expenditures in support of or in opposition to a candidate or ballot measure and to identify itself as the source of any political communications, as required by Idaho Code §§ 67-6611 and 6614A. Because the Sunshine Law donor disclosure requirement is not the least restrictive means for accomplishing the State's compelling government interest, FERPA precludes the enforcement of the Idaho Code § 67-6606(1)(b) donor disclosure reporting requirement.

4. **Political Committees, Contributions, and the remaining provisions of chapter 66, title 67, Idaho Code.**

Importantly, because of the differences between a nonbusiness entity and a political committee, the Sunshine Law's donor reporting requirements cannot be evaded by funneling one's political donations through a church. A donation to a church for the purpose of supporting or opposing a candidate or ballot measure is a "contribution" under Idaho Code § 67-6602(3). A church that accepts a "contribution," and makes expenditures in excess of $1,000 in support of or in opposition to a candidate or measure, falls within the definition of a political committee, and therefore becomes subject to all of the Sunshine Law's requirements for political committees.[5]

Further, Idaho Code § 67-6614 prohibits any person from making a contribution or expenditure "in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution." Thus, if a person were to make a "contribution" to a church in a manner as to conceal the identity of the source of the contribution, both the person making the contribution and the church being involved in that concealment would be committing a crime that the State could enforce.

In order to comply with the Sunshine Law, a church that plans to accept "contributions" for the purpose of supporting or opposing a candidate or ballot measure and make expenditures in excess of $1,000 should form a separate political committee and then comply with the reporting requirements applicable to political committees. *See generally* Phil McGrane, *Nonprofit political activity and Idaho's campaign finance laws* (October 16, 2025),

---

[4] As soon as the money is donated, the donor loses all control over how it is spent. *See Nat'l Republican Senatorial Comm. v. FEC*, 609 U.S. ___, 2026 WL 1868932, at *8-9 (June 30, 2026) (holding that where donations to a political party are not earmarked for a specific candidate, the political party is free to spend the money in whichever way it wants, significantly reducing the risk of quid pro quo corruption).

[5] The analysis of whether the Sunshine Law's disclosure requirements as applied to a political committee are the least restrictive means of furthering the State's compelling governmental interests is a much different analysis than the analysis applied to a church that qualifies as a nonbusiness entity. This opinion does not address, and should not be read as addressing, whether FERPA applies to political committees.

https://archive.voteidaho.gov/download/cf_guidance_nonbusiness_entity.pdf (last visited August 25, 2026).

CONCLUSION

Based on the above analysis, the State, including the Secretary of State, the Attorney General, county clerks, and county prosecuting attorneys, cannot enforce the Idaho Code § 67-6606(1)(b) donor reporting requirements against churches that qualify as a nonbusiness entity and that, in exercising the church's religious beliefs, make expenditures in excess of $1,000 in support of or in opposition to the abortion ballot initiative. However, the State, including the Secretary of State, the Attorney General, county clerks, and county prosecuting attorneys, may enforce the remaining provisions of the Sunshine Law contained in chapter 66, title 67, Idaho Code if a church becomes a political committee by accepting contributions (as defined in Idaho Code § 67-6602(3)) in support of or in opposition to a candidate or ballot initiative and spends more than $1,000 in support of or in opposition to a ballot initiative.

AUTHORITIES CONSIDERED

1. IDAHO CODE:

Idaho Code title 67, chapter 66
Idaho Code title 73, chapter 4

2. CASES:

Alaska Right to Life Comm. v. Miles, 441 F.3d 773, 792 (9th Cir. 2006)

Buckley v. Valeo, 424 U.S. 1, 64 (1976)

McCutcheon v. Fed. Election Comm'n, 572 U.S. 185, 223 (2014)

National Republican Senatorial Committee v. FEC, 609 U.S. ___,
2026 WL 1868932, at *8-9 (June 30, 2026)

State v. Cordingley, 154 Idaho 762, 765, 302 P.3d 730, 733 (Ct. App. 2013)

3. **OTHER AUTHORITIES:**

Masci, *Where major religious groups stand on abortion*, (Pew Research Center) (June 21, 2016), https://www.pewresearch.org/short-reads/2016/06/21/where-major-religious-groups-stand-on-abortion/ (last visited July 29, 2026)

Phil McGrane, *Nonprofit political activity and Idaho's campaign finance laws* (October 16, 2025), https://archive.voteidaho.gov/download/cf_guidance_nonbusiness_entity.pdf (last visited July 30, 2026)

Reproductive Freedom and Privacy Act ballot initiative ("Abortion Initiative")

Dated this 27th day of August, 2026.

Raúl R. Labrador

RAÚL R. LABRADOR
Attorney General

Analysis By:

JAMES E. M. CRAIG, Division Chief
Civil Litigation and Constitutional Defense Division