



**U.S. Department of Justice**

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 25, 2020

The Honorable Steve Sisolak  
Governor of Nevada  
101 North Carson Street  
Carson City, Nevada 89701

Dear Governor Sisolak:

We recognize your duty to protect the health and safety of the citizens of Nevada during this unprecedented time, and thank you for your efforts and commitment to Nevada — a commitment that the Department of Justice shares. Like other leaders around the country, you have been called on to balance competing interests and make your best judgments.

Given Emergency Directive 16 and subsequent guidance on Nevada’s phased reopening, we write to address civil rights concerns arising from the continued limitation of in-person worship services for ten or more persons. Attorney General William Barr recently issued a statement on *Religious Practice and Social Distancing*, in which he noted that state and local laws must be applied evenly to avoid disparate impact on faith-based organizations. On May 22, 2020, President Donald J. Trump announced that places of worship are essential and requested that States authorize their immediate reopening. And also on May 22, the CDC published *Interim Guidance For Communities of Faith*, providing best practices that those communities should consider when preparing to reconvene in-person gatherings.

In Nevada, Emergency Directive 13 (March 20, 2020) banned in-person worship services of ten or more people and prohibited drive-in and pop-up services. On April 29, you issued Emergency Directive 16. We appreciate that Emergency Directive 16 permits places of worship to offer services on an in-car or drive-in basis (so long as occupants remain in their vehicle and maintain social distancing guidelines).

But under Emergency Directive 16 and the corresponding “Phase One Reopening” guidance issued on May 13 (i.e., Emergency Directive 18), churches and other faith-

based organizations are currently subject to restrictions that other businesses and groups are not:

- For example, under current Section 17 of Emergency Directive 18, restaurants can reopen to the public if they operate at 50% capacity and adhere to the conditions outlined in the re-opening guidance.
- Hair and nail salons are also authorized to re-open, without limitation on the number of patrons.
- In contrast, places of worship are still prohibited from holding in-person worship services consisting of ten or more persons.

We understand these directives were issued in the midst of an uncertain situation, which may have required quick decisions based on changing information. We are concerned, however, that the flat prohibition against ten or more persons gathering for in-person worship services — regardless of whether they maintain social distancing guidelines — impermissibly treats religious and nonreligious organizations unequally. These directives may violate the Free Exercise Clause of the First Amendment, unless the government can prove a compelling interest and pursued the least restrictive means possible. *Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993).

To protect constitutional values, we urge you to help preserve the Free Exercise Clause of the First Amendment by amending earlier Emergency Directives and remedying their unequal treatment of places of worship.

Thank you for your prompt consideration of this matter. Should you wish to discuss further, please contact the United States Attorney for the District of Nevada, Nicholas Trutanich, at (702) 388-6336 or [Nicholas.Trutanich@usdoj.gov](mailto:Nicholas.Trutanich@usdoj.gov).

Sincerely,

*Eric S. Dreiband*

05/25/2020

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cc: The Honorable Aaron Ford  
Attorney General of Nevada