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The Johnson Amendment's Fate After the 2018 Elections: The Fight Continues

By: David L. Thompson

The [House flipped to Democratic control](#) and the sponsor of the [anti-Johnson Amendment appropriations rider](#) lost his seat, so is the fight by the White House and others to politicize charitable nonprofits, houses of worship, and foundations over? We don't think so.

First, the good news on nonpartisanship. The leading proponents of eliminating the protections of the [Johnson Amendment](#) won't be around in the House of Representatives next year to continue their efforts. Among those who lost re-election on Tuesday is the individual who repeatedly sponsored [riders to House appropriations bills](#) seeking to remove the protection of nonpartisanship that fosters public trust in 501(c)(3) organizations: Representative John Abney Culberson of Texas. Several other Representatives on the [House Appropriations Committee](#) who actively promoted and supported politicizing houses of worship and other nonprofits were defeated as well, including Representatives Rooney of Florida, Taylor of Virginia, Yoder of Kansas, and Young of Iowa. House Democrats have tended to support maintaining the Johnson Amendment, the longstanding law that protects

charitable nonprofits from demands for endorsements by candidates for public office and their donors and for diversion of charitable assets to fund partisan campaigns. There is no reason to think that the new House majority will change its position on this fundamental issue.

But there is bad news for the cause of nonprofit nonpartisanship. The opposition by the President and Vice President to the Johnson Amendment first surfaced during their 2016 campaign and they have been asserting that the Administration is no longer enforcing the law. Those assertions may well have emboldened several prominent evangelical groups to violate the Johnson Amendment in support of partisan candidates in the weeks leading up to this week's votes. Newly elected Senators for whom President Trump campaigned – as well as the 21 Republican Senators running for re-election in 2020 – may feel beholden to President Trump on this issue that he [vowed to “totally destroy.”](#) Plus, at least one Senator-Elect campaigned on repeal of the Johnson Amendment. With the presidential campaign season in full swing from now until November 3, 2020, nonprofits can expect heightened efforts at the congressional, administrative, and public relations levels to politicize charitable nonprofits for partisan ends.