



Written by [Raven Clabough](#) on October 16, 2020

## Court Temporarily Blocks N.Y. from Closing Faith-Based Adoption Services Agency

U.S. District Court Judge Mae D’Agostino ruled earlier this month that New York Governor Andrew Cuomo cannot close a Christian adoption agency over its policy of only placing children in the care of married, heterosexual couples.

New Hope Family Services is a Christian adoption agency that has been placing children in homes with a married mother and father since 1965. Life News reports the organization, which receives no public funding, does not place children for adoption with same-sex or unmarried couples, but instead refers such couples to one of the state’s approximately 130 adoption providers.



Image: Gam1983/iStock/Getty Images Plus

But the New York Office of Children and Family Services (OCFS) attempted to force New Hope to betray its religious convictions and place children with unmarried and same-sex couples. OCFS claimed New Hope’s policy is in violation of a 2013 state law prohibiting discrimination against adoption applicants based on sexual orientation or marital status. In a 2018 review of New Hope, OCFS wrote positively of the organization, but also issued an ultimatum stating that New Hope must begin placing children with unmarried and same-sex couples or close its adoption services.

New Hope noted its “recusal-and-referral” policy of referring same-sex and unmarried couples to other agencies was an acceptable compromise that went unquestioned for five years after the 2013 law was passed.

In December 2018, New Hope filed a complaint against OCFS, but Judge D’Agostino dismissed the case in May 2019, claiming New Hope had no plausible constitutional claims, the National Catholic Register reports.

The U.S. Court of Appeals for the Second Circuit reversed the dismissal in a July ruling, asserting that New Hope had a “plausible claim” that its First Amendment rights were being violated. The Court of Appeals believed that the state was forcing New Hope to choose between its own religious beliefs and the “state’s orthodoxy.” The appeals court sent the case back to the district court.

In reconsidering the merits of New Hope’s case, Judge D’Agostino, an Obama appointee, agreed with the Court of Appeals. In his preliminary injunction against the OCFS’ enforcement of its policy, the judge said the state was demonstrating “some animosity towards particular religious beliefs.”

“While not all of the evidence discussed weighs in favor of a finding of hostility when viewed individually, the totality of the evidence indicates that section 421.3(d), as promulgated and enforced by OCFS, is not neutral and appears to be based on some hostility towards New Hope’s religious beliefs,”



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D'Agostino wrote.

Judge D'Agostino noted that New Hope's policy of referring unmarried and same-sex couples to state or secular adoption agencies was an optimal alternative, since it "tailored to the state's interests while protecting New Hope's Free Speech rights."

With the injunction in place, New Hope may continue to operate while the case is decided in court.

Roger G. Brooks, senior counsel for Alliance Defending Freedom, which is representing New Hope, called the ruling "great news for children waiting to be adopted and for the parents partnering with our client," the *Washington Times* reported.

"Government officials have no business forcing faith-based providers to choose between speaking messages about marriage that contradict their religious convictions and closing their doors," said Brooks in a statement. "The need for adoption services in New York, whether public or private, is huge, and New Hope's faith-guided services do not coerce anyone and do nothing to interfere with other adoption providers."

With more than 25,000 children in New York's foster care system alone, New Hope asserts the state cannot afford to close down adoption agencies.

"We live in a diverse state, and we need more adoption providers, not fewer," Executive Director Kathy Jerman said in a statement. New Hope has placed more than 1,000 children in its history, the *Washington Times* reports.

"Every child deserves a home with a loving mother and father who are committed to each other," Jerman added.

Unfortunately, New York's policy did force the closure of Catholic Charities of Buffalo, which had been providing adoption services for 90 years before it closed.

"Because Catholic Charities cannot simultaneously comply with state regulations and conform to the teaching of the Catholic Church on the nature of marriage, Catholic Charities will discontinue foster care and adoption services," the agency said in August 2018.

Faith-based adoption agencies across the country are being targeted for their child placement policies, but a U.S. Supreme Court case next month may finally put a stop to these First Amendment violations. The high court is expected to hear the case of Catholic Social Services in Philadelphia, which has not received children for placement since 2018 because of its faith-based policy.



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