

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**NEW HOPE FAMILY SERVICES, INC.,**

Plaintiff,

No.: 5:21-cv-01031-MAD-TWD

vs.

**LETITIA JAMES**, in her official capacity as New York State Attorney General; **LICHA NYIENDO**, in her official capacity as Commissioner of the New York Division of Human Rights; **MELISSA FRANCO**, in her official capacity as Deputy Commissioner for Enforcement of the New York Division of Human Rights; **GINA MARTINEZ**, in her official capacity as Deputy Commissioner for Regional Affairs of the New York Division of Human Rights; **JULIA DAY**, in her official capacity as Syracuse Regional Director of the New York Division of Human Rights; **WILLIAM FITZPATRICK**, in his official capacity as Onondaga County District Attorney,

**[PROPOSED] ORDER GRANTING  
PLAINTIFF’S MOTION FOR  
PRELIMINARY INJUNCTION**

Defendants.

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This matter is before the Court on Plaintiff’s Motion for Preliminary Injunction. In determining whether to grant the motion, this Court has considered the following factors: whether (1) the movant would suffer irreparable harm absent a preliminary injunction; (2) the movant will likely succeed on the merits; (3) granting the preliminary injunction will serve the public interest; and (4) the balance of equities tips in favor of the movant. *Yang v. Kosinski*, 960 F.3d 119, 127 (2d Cir. 2020). This Court, having reviewed the motion and being otherwise sufficiently advised, finds as follows:

1. Plaintiff has established that its First Amendment rights would be irreparably harmed in the absence of a preliminary injunction. *See Tunick v. Safir*, 209 F.3d 67, 70 (2d Cir. 2000) (“[V]iolations of First Amendment rights are presumed irreparable.”).

2. Plaintiff has established a likelihood of success on the merits of its First Amendment free speech and free exercise claims.

3. Plaintiff has established that a preliminary injunction is in the public interest because “securing First Amendment rights is in the public interest.” *N.Y. Progress and Prot. PAC v. Walsh*, 733 F.3d 483, 488 (2d Cir. 2013).

4. Plaintiff has established that the balance of equities weighs in favor of an injunction because New York does not have an interest in enforcing a law in a way that is likely unconstitutional. *Id.* And Plaintiffs have demonstrated significant hardship if the challenged laws are applied to them.

5. Because Defendants would not be harmed by the requested injunction, this Court concludes that requiring security under Fed. R. Civ. P. 65(c) is not appropriate in this case. *See Int’l Controls Corp. v. Vesco*, 490 F.2d 1334, 1356 (2d Cir. 1974) (“district court may dispense with security where there has been no proof of likelihood of harm to the party enjoined”).

Accordingly, IT IS HEREBY ORDERED as follows:

1. Plaintiff’s Motion for Preliminary Injunction is GRANTED.
2. Defendants and all those acting in concert with them are ENJOINED from enforcing the following:
  - N.Y. Exec. Law § 296(2)(a) and N.Y. Civ. Rights Law § 40-c(2) to impose or threaten any penalty on New Hope for publicly explaining, in any context and through any medium, its religious beliefs concerning marriage, family, and the best interests of children, or from publicly explaining its constitutionally protected practice of working with and placing children with only married couples comprising a mother and a father; and
  - N.Y. Exec. Law § 296(2)(a) and N.Y. Civ. Rights Law § 40-c(2) to impose or threaten any penalty on New Hope in connection with its constitutionally protected practice of working with and placing children with only married couples comprising a mother and a father.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 2021

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UNITED STATES DISTRICT JUDGE