



## Fact vs. Fiction

### Setting the Record Straight on the BSA Adult Leadership Standards

#### Overview:

Recently, several questions have been raised about the BSA's new leadership standards and the effect the standards might have on the BSA. Regretfully, some of these comments appear to be aimed at causing division or confusion within the Scouting movement.

One source of these questions is a July 2015 commentary on "The Legal Ramifications to Churches of BSA's New Membership Policy." This document recycled a May 2013 memorandum on the same topic,<sup>1</sup> including copying the old discussions of the "new youth membership policy" adopted in 2013. None of the predictions from 2013 about litigation or other problems for the BSA came true.

The BSA already has addressed many of the issues raised in the commentary, both in the resolution itself and in memoranda with factual and legal support that the commentary lacks.<sup>2</sup> While no one can fully predict future legal actions, the following is meant to clearly explain the effect of the leadership standards and to provide facts in order to address speculations.

#### The adult leadership standards and chartered organizations:

The new adult leadership standards state that "No adult applicant for registration as an employee or non-unit-serving volunteer, who otherwise meets the requirements of the Boy Scouts of America, may be denied registration on the basis of sexual orientation." Furthermore, with respect to unit-level volunteer leaders, each chartered organization may continue to select adult leaders who support the religious expression of the organization and who will best inculcate the organization's values through the Scouting program.

The BSA reaffirmed that any sexual conduct, whether homosexual or heterosexual, by youth of Scouting age is contrary to the values of Scouting. Members and leaders must demonstrate behavior that exemplifies the highest level of good conduct and respect for others and is consistent at all times with the values expressed in the Scout Oath and Scout Law. As always, BSA standards state that members cannot use Scouting as a vehicle for promoting a particular social or political agenda.

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1. <http://www.adfmedia.org/files/BSALegalRamifications.pdf>

2. <http://www.scoutingnewsroom.org/blog/update-on-adult-leadership-standards/>

The *Boy Scout Handbook* continues to define “morally straight” as “Your relationships with others should be honest and open. Respect and defend the rights of all people. Be clean in your speech and actions and faithful in your religious beliefs. Values you practice as a Scout will help you shape a life of virtue and self-reliance.” The *Boy Scout Handbook* tells boys that “Your religious leaders can give you guidance for making ethical choices. Your parents, guardian, or a sex-education teacher can provide the basic facts about sex.”

## Frequently asked questions:

### 1. Is the BSA promoting “a new radical definition” of morality?

No. The BSA resolution affirms the right of each chartered organization to reach its own religious and moral conclusions about sexual relations between adults. Scouting is a youth program, and any sexual conduct, whether heterosexual or homosexual, by youth of Scouting age is contrary to the virtues of Scouting. Scouting also is not the place to resolve divergent viewpoints about sexuality, and no member or organization may use Scouting to promote or advance any social or political agenda about sexuality.

### 2. Do the BSA’s adult leadership standards eradicate legal protections obtained in *Boy Scouts of America v. Dale*?

No. On the contrary, the rights of the BSA and its chartered organizations to select adult leaders in accordance with their values are protected by the First Amendment to the United States Constitution, as the Supreme Court of the United States concluded in *Boy Scouts of America v. Dale*. The selection of adult leaders by religious chartered organizations—such as churches, temples, synagogues, and mosques—also is protected by other aspects of the First Amendment that safeguard religious exercise from government interference.

### 3. Do the BSA’s adult leadership standards increase the risk of litigation against other membership requirements, including the “duty to God”?

No. “Duty to God” is a core value and immutable tenet of the Scouting program. The BSA reaffirmed that “the Scout Oath begins with the duty to God and the Scout Law ends with a Scout’s obligation to be reverent, and Scouting respects and defends the rights of others to practice their own religious beliefs without criticism.” The BSA has defended and won several lawsuits protecting the “duty to God” requirement. And the Supreme Court in *Boy Scouts of America v. Dale* protected the BSA’s First Amendment right to select leaders according to Scouting’s values, which include the “duty to God.”

The BSA has and will continue to oppose any action that threatens the BSA’s right to define its own moral standards for membership or that threatens the BSA’s relationships with its chartered organizations. The BSA remains committed to defending its religious chartered organizations threatened by litigation solely because of their right to select leaders according to their beliefs.

**4. Do the BSA's adult leadership standards mean the BSA has abandoned the right to limit membership on any sex-based criteria?**

No. The BSA resolution on the adult leadership standards is limited to the terms in the resolution and does not affect other aspects of the Scouting program.

**5. Are the new adult leadership standards just another step in a process that will fundamentally change the BSA?**

No. Chartered organizations continue to have the right and responsibility to choose their own unit leaders according to their own values and Scouting values. The Scout Oath and the Scout Law have been the foundation for the Scouting program for more than a century, and they will continue to be the foundation in the future.

**6. Do the BSA's adult leadership standards mean religious chartered organizations will not be able to adhere to their beliefs? Will a church with ties to the BSA lose the ability to teach biblical principles of sexual morality to its Scouts and to require them to adhere to those principles? Will the Scouting program of a religious chartered organization teach sexual values and beliefs completely inconsistent with the religious organization? Will churches or other religious organizations be censored from teaching Bible-based standards for sexual morality to youth in a Scouting unit?**

No. The BSA resolution affirms the right of each chartered organization to reach its own religious and moral conclusions about sexual relations between adults. Chartered organizations continue to have the right and responsibility to choose their own unit leaders according to their own values and Scouting values. The BSA reaffirmed that no Scouting unit may deny a youth membership in the BSA on the basis of sexual orientation or preference. But each chartered organization may adhere to its beliefs and teachings and may use Scouting as part of its youth ministry.

**7. Are religious chartered organizations more likely to be sued for refusing to accept gay leaders?**

No. Chartered organizations have not been sued in the past for refusing to accept gay leaders, and there is no basis for believing they will be in the future. Any such claim is likely to be dismissed, because the Supreme Court of the United States has made it clear that religious organizations may select their leaders based upon their religious principles. That legal principle is acknowledged implicitly in anti-discrimination laws that exempt religious organizations. The 2015 commentary recycles inaccurate predictions from 2013 about impending lawsuits. There is no legal authority or factual basis for the claim that religious organizations are now more likely to be sued for exercising their religious beliefs.

**8. Do the BSA's adult leadership standards open chartered organizations to legal challenges by homosexual adults who are denied a volunteer leadership position?**

No. Each chartered organization always has and will make its own determination of whether an adult volunteer leader is qualified for leadership based upon its assessment of the moral, educational, and emotional qualities deemed necessary for leadership. Religious chartered organizations may continue to use religious beliefs as criteria for selecting adult leaders, including matters of sexuality, and the First Amendment protects those choices. Secular (non-

religious) chartered organizations are not permitted to exclude adult leaders on the basis of sexual orientation.

**9. Will religious organizations that accept the BSA's adult leadership standards open themselves up to litigation under state public accommodation laws?**

No. Many, if not all, place of public accommodation laws exempt religious organizations, and many courts have concluded that Scouting units are not subject to place of public accommodation laws. In general, state public accommodation laws do not apply to religious organizations, whether or not they accept the BSA's adult leadership standards.

**10. Do the BSA's adult leadership standards mean organizations that charter BSA units will lose their religious liberties?**

No. The BSA resolution reaffirms the right of each religious chartered organization to exercise its religious liberties, and the BSA agrees to defend and indemnify any claim or action contending that a religious chartered organization's good faith refusal to select a unit leader based upon the religious principles of the chartered organization is in violation of the law.

**11. Can a Scouting unit maintain its own right of expression while participating in Scouting activities with units that view things differently?**

Absolutely. Scouting units and the religious organizations that support them interact with other organizations and individuals all the time without losing or compromising their freedom of expression. Religious organizations routinely interact with other organizations and individuals that have different beliefs without being required to adopt the beliefs or values of the other organizations or individuals. As long as there have been religious organizations—such as churches, temples, synagogues, and mosques—they have held beliefs that differ from other religious organizations. The First Amendment protects the right to hold different religious views.

**12. Will sending Scouting units to activities led by Scouters who might be homosexual undermine a religious organization's ability to select leaders based on religious beliefs?**

No. Religious organizations participate in many aspects of life that cause them to interact with people who might be homosexual without compromising the ability of the religious organizations to maintain their own beliefs about sexuality.

**13. If a religious organization allows Scouting units to use its facilities, will it have to allow everyone to use its facilities?**

No. The mere fact that a religious chartered organization allows a Scouting unit to use its facilities has nothing to do with allowing other organizations to use its facilities. There is no legal authority or factual basis for the claim that a religious organization that associates with Scouting must allow everyone to use its facilities.

**14. Does chartering a Scouting unit constitute granting use of facilities to an organization that opposes the religious beliefs of a religious chartered organization?**

No. The BSA does not oppose the religious beliefs of any of its religious chartered organizations. As stated in the resolution, “the Boy Scouts of America recognizes the sincere religious beliefs and freedoms of religious chartered organizations and will not require any religious chartered organization to act in ways inconsistent with that organization’s mission, principles, or religious beliefs.” Scouting respects and defends the rights of others to practice their own religious beliefs without criticism.

**15. Will religious organizations that accept the BSA’s adult leadership standards open themselves up to claims of hazing, bullying, discrimination, assault, and coercion within Scouting?**

No. The BSA will not tolerate any such accusations. Scouts and their leaders are required to be helpful, friendly, courteous, and kind, in addition to other requirements of the Scout Law. The resolution states that “The Boy Scouts of America rejects any interference with or condemnation of the diverse beliefs of chartered organizations on matters of marriage, family, and sexuality. The message of Scouting is one of toleration and respect for different religious and moral conclusions in this matter, acknowledging that reasonable minds may honorably differ. Any effort to exclude or penalize chartered organizations based on their beliefs or policies regarding marriage, family, or sexuality is contrary to the Boy Scouts of America’s commitment to religious freedom and respect for the beliefs and convictions of its chartered organizations.”

**16. Can a youth member or adult leader of the BSA participate in a social or political cause that calls attention to his or her sexual orientation?**

Under the BSA’s rules and regulations, a youth member may appear in uniform at a nonpartisan and nonpolitical gathering in a way that gives him or her the opportunity to render service in harmony with his or her training in the Scouting program. The BSA is required to avoid involving the Scouting movement in any activity of a political character, and Scouts and their leaders may not participate in single-issue or social advocacy events or activities outside of the Scouting program in a way that suggests the BSA endorses that activity or event. Each youth member is free as an individual to express his or her thoughts or take action on political or social issues but must not use Scouting’s official uniforms and insignia when doing so.

## **Conclusion:**

We understand the leadership standards have raised questions with many of Scouting’s supporters and have been used by others as an opportunity to create confusion or division. When reviewing statements meant to misrepresent Scouting’s position, it is important to keep them in context and to examine the issues, without conjecture or speculation.

Moving forward, Scouting will continue to focus on reaching and serving youth, helping them grow into good, strong citizens. By focusing on the goals that unite us, we are able to accomplish incredible things for young people and the communities we serve.

Please feel free to share this document, and thank you for your help in making sure this discussion remains focused on an examination of the facts.