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VIDEO: Rokita Questions Witnesses on NLRB's Threats to Religious Universities

(Washington, D.C.) – U.S. Rep. Todd Rokita, a member of the House Committee on Education and the Workforce, today questioned witnesses at a joint hearing of the Subcommittee on Health, Employment, Labor and Pensions and the Subcommittee on Higher Education and Workforce Training on various issues regarding the National Labor Relations Board's expansion into higher education. One of those issues was the NLRB's attempts to expand its jurisdiction over religiously affiliated colleges and universities.

After a brief exchange with Christian Sweeney of the AFL-CIO about whether the NLRB should have jurisdiction over graduate students, Rokita questioned Dr. Michael P. Moreland, Vice Dean and Professor of Law at Villanova University School of Law. Their discussion centered on the NLRB's attempts to assert a broader authority over religiously affiliated higher education institutions by considering whether, in the opinion of the NLRB, the schools have a "substantial religious character." [Click here](#) to watch a video of Rokita's exchange with the witnesses.

"We had an illuminating discussion about some troubling developments that could threaten the First Amendment freedoms of religious colleges and universities," said Rokita. "The NLRB is apparently trying to declare that certain schools are not 'religious enough' so it can expand its authority as broadly as possible. As Dr. Moreland said, it is extremely disturbing that the NLRB in recent years has not accepted the limits on its jurisdiction imposed by the U.S. Supreme Court and the U.S. Court of Appeals for the D.C. Circuit – and ultimately, by the Constitution itself. This unprecedented trend of expanding jurisdiction by the NLRB under the Obama administration is dangerous not only to our economic liberty, but to our religious liberty," said Rokita.

Rokita cited the Internal Revenue Service's criteria for tax-exempt institutions, and then questioned Dr. Moreland on the appropriateness of the NLRB's using a more narrow definition of religious institutions than the IRS observes. This "substantial religious character" test would potentially allow the NLRB to assert its jurisdiction over religiously affiliated colleges and universities, even if they have been granted tax-exempt status by the IRS.

In its 1979 decision in *NLRB v. Catholic Bishop of Chicago*, the U.S. Supreme Court ruled that Congress, in the National Labor Relations Act, had not explicitly granted the NLRB jurisdiction over religious schools, thus limiting the NLRB's jurisdiction so as not to conflict with the First Amendment.

In 2000, the NLRB attempted to assert jurisdiction over the University of Great Falls, a Roman Catholic institution in Montana, by considering whether the school in fact had a "substantial religious character." The board ruled that the school was "primarily secular," and claimed jurisdiction. The school appealed to the U.S. Court of Appeals for the D.C. Circuit, arguing that the NLRB had no jurisdiction and that the NLRB had improperly investigated the university's religious character. The court agreed with Great Falls, and affirmed that the Supreme Court's opinion was intended to protect the First Amendment rights of religious institutions, and not to create a mechanism for the NLRB to judge which schools are and are not sufficiently religious.

In spite of this, some religious institutions remain concerned that the Board will continue to impinge on their First Amendment guarantees by applying the narrow "substantial religious character" test again in the future.