

February 18, 2020

Robert Davis, Acting Director  
Office of Communications, Office of Justice Programs  
810 7<sup>th</sup> St. NW  
Washington, DC 20531

Submitted online: <http://www.regulations.gov>

RE: Equal Participation of Faith-Based Organizations in Department of Justice's Programs and Activities: Implementation of Executive Order 13831 (RIN 1105-AB58)

The Fenway Institute is the research arm of Fenway Health, a federally qualified health center and Ryan White Part C clinic in Boston, MA that serves 32,000 patients each year. About half of our patients are LGBTQIA+, 4,000 are transgender or nonbinary, and 2,200 are people living with HIV. The Fenway Institute works to make life healthier for LGBTQIA+ people, people living with HIV, and the larger community. We do this through research and evaluation, education and training, and policy analysis.

We are writing to strongly oppose the Department of Justice's proposed rule called "Equal Participation of Faith-Based Organizations in Department of Justice's Programs and Activities: Implementation of Executive Order 13831 (RIN 1105-AB58)." We are concerned that this proposed rule would unfairly favor taxpayer-funded religious organizations and expand religious exemptions that allow for discrimination against LGBTQ people who are disproportionately represented in the criminal justice system.

The rule eliminates key protections for participants while inviting discrimination by government-funded service providers under the guise of religious freedom. If finalized, this proposed rule would undermine access to critical services, such as assistance for crime victims, prisoner rehabilitation, mentorship programs for at-risk youth, and assistance for trafficked youth.

This rule would be especially detrimental to LGBT people, who are both disproportionately burdened by hate violence as well as overrepresented in the criminal justice system. On a per capita basis, LGBT people are more likely to be the targets of hate crimes than any other group in America.<sup>1</sup> In 2014, over one-fifth (20.4%) of reported hate crimes were perpetrated based on the victim's sexual orientation or gender identity.<sup>2</sup> Because of harassment in schools, compounded with other factors such as family rejection and homelessness, LGBT youth are particularly vulnerable to interaction with the criminal justice system. Studies have found that

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<sup>1</sup> Park H, Mykhyalyshyn I. (2016, June 16). L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group. *The New York Times*.

<sup>2</sup> Federal Bureau of Investigation. (2014). *Uniform Crime Reports: 2014 Hate Crime Statistics*. Available at <https://www.fbi.gov/about-us/cjis/ucr/hate-crime/2014>

sexual and gender minority youth are overrepresented in confinement facilities, with up to 20% of youth in confinement identifying as something other than heterosexual.<sup>3</sup>

This proposed rule is discriminatory and dangerous. In America, no one's ability to get vital services should depend on whether they share the religious beliefs of government-funded organizations. We strongly urge the Department of Justice to withdraw this harmful rule in its entirety.

Sincerely,

Jane Powers, MSW, LICSW  
Acting Chief Executive Officer  
Fenway Health

Kenneth Mayer, MD, FACP  
Co-chair and Medical Research Director, The Fenway Institute  
Director of HIV Prevention Research, Beth Israel Deaconess Medical Center  
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<sup>3</sup> Majd K, Marksamer J, & Reyes C. (2009). *Hidden injustice: Lesbian, gay, bisexual and transgender youth in juvenile courts*. Washington, DC: Legal Services for Children, National Juvenile Defender Center, and National Center for Lesbian Rights. <http://www.modelsforchange.net/publications/237>.