

February 18, 2020

Mr. Mark Zelden  
Director, Centers for Faith & Opportunity Initiatives  
U.S. Department of Labor, Room S-2228,  
200 Constitution Avenue NW  
Washington, DC 20210

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

Re: Equal Participation of Faith-Based Organizations in the Department of Labor's Programs and Activities: Implementation of Executive Order 13831 (Docket No. DOL-2019-0006)

Dear Director Zelden,

The Fenway Institute is the research arm of Fenway Health, a federally qualified health center and Ryan White Part C HIV clinic in Boston, Massachusetts 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 U.S. Department of Labor's proposed rule "Equal Participation of Faith-Based Organizations in the Department of Labor's Programs and Activities: Implementation of Executive Order 13831 (Docket No. DOL-2019-0006)." We are concerned that this proposed rule would expand religious exemptions that allow for discrimination against LGBTQIA+ people across the U.S.

The proposed rule would undermine access to critical services, such as employment training programs for older Americans, youth summer programs, and reintegration programs for homeless veterans. The rule eliminates key religious freedom protections for participants while inviting employment discrimination by the government-funded service providers that are supposed to be serving everyone.

The DOL proposed rule would unfairly favor taxpayer-funded religious organizations over the people that government programs are intended to help. No one should be forced to sacrifice their religious freedom in order to qualify for basic government-funded services.

This rule takes the concept of religious freedom and turns it on its head. True religious freedom protects an individual's right to worship—or not—and harms no one. But this rule is designed so that DOL grantees can deny job training or other services to LGBTQIA+ people by claiming that providing such service would violate their religious beliefs or sincerely held principles. This is especially concerning given that LGBT Americans already experience widespread employment discrimination. A research study by Harvard, NPR, and the Robert Wood Johnson Foundation found that at least one in five LGBT Americans experienced discrimination based on their sexual orientation or gender identity when applying for jobs (20%) and being paid equally or considered

for promotion (22%).<sup>1</sup> Codifying anti-LGBT employment discrimination under the pretext of religion will only worsen existing discrimination. Employment discrimination can have wide reaching effects on economic stability and health and well-being.

The rule eliminates key religious freedom protections for participants while inviting discrimination in employment and services by the government-funded service providers that are supposed to be serving everyone. No one's ability to get vital services should depend on whether they share the religious beliefs of government-funded organizations. We strongly urge you to please withdraw this harmful rule.

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  
Professor of Medicine, Harvard Medical School

Jennifer Potter, MD  
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Carl Sciortino, MPA  
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Sean Cahill, PhD  
Director of Health Policy Research  
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Tim Wang, MPH  
Senior Policy Analyst  
The Fenway Institute

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<sup>1</sup> National Public Radio, the Robert Wood Johnson Foundation, and The Harvard T.H. Chan School of Public Health. (2017). *Discrimination in America: Experiences and Views of LGBTQ Americans*. Available online at: <https://www.rwjf.org/en/library/research/2017/10/discrimination-in-america-experiences-and-views.html>