

August 20, 2015

The Honorable Barack H. Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Mr. President:

The 130 undersigned religious, education, civil rights, labor, LGBT, women's, and health organizations write to request that you direct the Attorney General to instruct the Office of Legal Counsel (OLC) to review and reconsider its flawed June 29, 2007 Memorandum titled, Re: Application of the Religious Freedom Restoration Act to the Award of a Grant Pursuant to the Juvenile Justice and Delinquency Prevention Act (OLC Memo). The OLC Memo reaches the erroneous and dangerous conclusion that the Religious Freedom Restoration Act of 1993 (RFRA) provides a blanket override of a statutory non-discrimination provision. If left in place, the OLC Memo will tarnish the legacy of your work to advance fairness and equal treatment under the law for all Americans.

Some of us were members of the Coalition for the Free Exercise of Religion, which led the effort to persuade Congress to enact legislation after the United States Supreme Court sharply curtailed Free Exercise Clause protections in *Employment Division v. Smith*, 494 U.S. 872 (1990). This effort culminated in 1993, when then-President William J. Clinton signed RFRA into law.

RFRA was intended to provide protection for free exercise rights, applying strict scrutiny, on a case-by-case basis, to federal laws that substantially burden religious exercise. RFRA was not intended to create blanket exemptions to laws that protect against discrimination.

Yet, in contrast to this, the OLC Memo relies on flawed legal analysis and wrongly asserts that RFRA is "reasonably construed to require" a federal agency to categorically exempt a religiously affiliated organization from a grant program's explicit statutory non-discrimination provision, thus permitting the grantee to discriminate in hiring with taxpayer funds without regard to the government's compelling interest in prohibiting such discrimination.

The OLC Memo's broad and erroneous interpretation of RFRA has far-reaching consequences. For example, although the OLC Memo's conclusion is focused on one grantee in one Justice Department program, the Department has implemented it as a categorical exemption—that does not even require an individualized inquiry—to all religious hiring discrimination bans, most recently in the reauthorization of the Violence Against Women

Act (VAWA). The Department of Labor has also cited the OLC Memo to adopt a categorical prohibition. Moreover, some have cited the OLC Memo in arguing that RFRA should broadly exempt religiously affiliated contractors from the nondiscriminati

American-Arab Anti-Discrimination Committee (ADC)  
Americans for Religious Liberty  
Americans United for Separation of Church and State  
Anti-Defamation League  
Asian Americans Advancing Justice-AAJC  
Association of University Centers on Disabilities (AUCD)  
B'nai B'rith International  
Baptist Joint Committee for Religious Liberty  
Bend the Arc Jewish Action  
California Women's Law Center  
Catholics for Choice  
Center for Inquiry  
Center for Reproductive Rights  
CenterLink: The Community of LGBT Centers

Keshet  
Lambda Legal  
Lawyers' Committee for Civil Rights Under Law  
The Leadership Conference on Civil and Human Rights  
League of United Latin American Citizens  
Legal Momentum  
Los Angeles LGBT Center  
Many Voices: A Black Church Movement for Gay & Transgender (LGBT) Justice  
Marriage Equality USA  
MergerWatch  
Methodist Federation for Social Action  
Military Association of Atheists & Freethinkers  
Movement Advancement Project  
Muslim Advocates  
Muslims for Progressive Values  
NA'AMAT USA  
NAACP  
NARAL Pro-Choice America  
National Abortion Federation  
National Asian Pacific American Women's Forum  
National Black Justice Coalition  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Coalition Against Domestic Violence  
National Coalition of Anti-Violence Programs (NCAVP)  
National Congress of Black Women  
National Council of Jewish Women  
The National Crittenton Foundation  
National Education Association  
National Employment Law Project  
National Employment Lawyers Association  
National Family Planning & Reproductive Health Association  
National Latina Institute for Reproductive Health  
National LGBTQ Task Force  
National Network to End Domestic Violence  
National Organization for Women  
National Partnership for Women & Families  
National Resource Center on Domestic Violence  
National Women's Health Network  
National Women's Law Center  
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