

The Coalition Against Religious Discrimination

February 14, 2019

Secretary Alex Azar
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar:

We, the undersigned members and allies of the Coalition Against Religious Discrimination (CARD), write to denounce the recent Department of Health and Human Services (HHS) decision to exempt federally funded foster care and adoption agencies in South Carolina from the religious nondiscrimination protections provided under 45 CFR § 75.300(c). Paradoxically, the exemption uses the concept of religious freedom as a justification for taxpayer-funded religious discrimination.

CARD is a broad and diverse group of organizations formed in the 1990s to monitor legislative and policy changes impacting government partnerships with religious and other nonprofit organizations and, in particular, to oppose government-funded religious discrimination. Our coalition members appreciate the important role religiously affiliated and other community-based institutions historically have played in addressing many of our nation's most pressing social needs, as a complement to government-operated programs; indeed, many members of CARD are directly involved in this work. We also recognize that the separation of church and state is the linchpin of religious freedom. In our view, effective government collaboration with faith-based groups does not require the sanctioning of federally funded religious discrimination.

This HHS decision grossly misinterprets the Religious Freedom Restoration Act (RFRA), as requiring the government to allow taxpayer-funded child placement agencies to turn away potential parents and volunteers who cannot meet their religious test. For example, Miracle Hill, the agency whose policy led to the statewide exemption, made clear it would turn down a Jewish volunteer because she did not meet its religious requirements. This discriminatory policy harms children and parents and threatens core civil rights and religious freedom protections. The government should never fund religious discrimination, especially when it is vulnerable children who will pay the price.

The Exemption Harms Children and Parents

Children in foster care have been entrusted to the state for care, stability, and safety. Adoption and foster care agencies that accept government funds to serve these children have a duty to act in the best interests of each child. Using a religious litmus test to reject qualified and caring parents who want to foster and adopt, however, makes it even more difficult for these children to find a loving home. Indeed, a religious test reduces the number of qualified foster and adoptive parents who are able to open their homes to these children. We cannot allow the

religious beliefs of a government-funded agency to override the best interest of our most vulnerable children.

In addition, the exemption clearly harms potential parents who are rejected from the government program. No qualified parent should be denied the opportunity to provide a loving home to children in need because they are the “wrong” religion.

This RFRA Exemption Harms Religious Freedom

Some of us were members of the Coalition for the Free Exercise of Religion, which led the effort to persuade Congress to enact RFRA; yet, we all agree that granting the requested exemption is an inappropriate use of the law. RFRA was meant to be a shield to protect religious freedom, not a sword to sanction discrimination against others. This exemption turns the original promise of RFRA on its head—it uses RFRA to disqualify individuals from participating in government programs solely because of their religion. In issuing this harmful policy, HHS ignored the state’s compelling interest in acting in the best interest of children in its care and in not discriminating against potential parents and volunteers because of their religion.

Religious freedom, which is a core American value, requires that those who perform government services must serve everyone, regardless of religion. Ensuring that taxpayer-funded child placement agencies abide by nondiscrimination laws is not hostile to religion—turning away people seeking to engage in government-funded services because they fail a religious test is.

Because granting South Carolina’s request for a RFRA exemption will harm children and families and violate our nation’s fundamental protections for religious freedom, we urge you to reconsider this action.

Sincerely,

African American Ministers In Action
AIDS United
Alliance of Baptists
American Atheists
American Civil Liberties Union
American Conference of Cantors
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers
American Humanist Association
Americans United for Separation of Church and State
Anti-Defamation League
Arab American Institute
Athlete Ally
B'nai B'rith International
Baptist Joint Committee for Religious Liberty

Bend the Arc: Jewish Action
BPFNA ~ Bautistas por la Paz
Catholics for Choice
Center for American Progress
Center for Reproductive Rights
Center for the Study of Social Policy
CenterLink: The Community of LGBT Centers
Central Conference of American Rabbis
Child Welfare League of America
Children's Defense Fund
Children's Home Society of America
Clearinghouse on Women's Issues
Congregation of Our Lady of the Good Shepherd, US Provinces
Dave Thomas Foundation for Adoption
DignityUSA
Disciples Center for Public Witness
Disciples Justice Action Network
The Episcopal Church
Equal Partners in Faith
Equality Federation
Family Equality Council
Feminist Majority Foundation
FORGE, Inc.
FosterClub
Franciscan Action Network
Freedom for All Americans
GLMA: Health Professionals Advancing LGBTQ Equality
Global Faith and Justice Project
Global Justice Institute, Metropolitan Community Churches
GLSEN
Healthy Teen Network
Hindu American Foundation
Human Rights Campaign
Interfaith Alliance
Japanese American Citizens League
Jewish Council for Public Affairs
The Jewish Federations of North America
Juvenile Law Center
Jewish Women International
Keshet
Lambda Legal
The Lavender Effect
The Leadership Conference on Civil and Human Rights
Men of Reform Judaism

Methodist Federation for Social Action
Military Association of Atheists & Freethinkers
Movement Advancement Project
Muslim Advocates
Muslims for Progressive Values
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
National Asian Pacific American Women's Forum (NAPAWF)
National Assoc. of Counsel for Children
National Association of Social Workers
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
National Center on Adoption and Permanency
National Congress of Black Women, Inc.
National Council of Churches
National Council of Jewish Women
National Council on Independent Living (NCIL)
National Crittenton
National Employment Lawyers Association
National Equality Action Team (NEAT)
National Health Law Program
National LGBTQ Task Force
National LGBTQ Task Force Action Fund
National Network for Youth
National Organization for Women
National Partnership for Women & Families
National Trans Bar Association
National Women's Health Network
National Women's Law Center
NETWORK Lobby for Catholic Social Justice
Network of Jewish Human Services Agencies
New Ways Ministry
North American Council on Adoptable Children
People For the American Way
PFLAG National
Planned Parenthood Federation of America
Population Connection Action Fund
Presbyterian Church USA, Washington Office of Public Witness
Public Justice Center
Reconstructing Judaism
Reconstructionist Rabbinical Association
Religious Coalition for Reproductive Choice
Religious Institute

Secular Coalition for America
Secular Policy Institute
Sexuality Information and Education Council of the United States (SIECUS)
Sikh Council on Religion and Education (SCORE)
Southern Poverty Law Center
T'ruah: The Rabbinic Call for Human Rights
True Colors Fund
Union for Reform Judaism
Unitarian Universalist Association
United Church of Christ, Justice and Witness Ministries
United Methodist Church, General Board of Church and Society
Uri L'Tzedek: Orthodox Social Justice
Voice for Adoption
Witness to Mass Incarceration
Women of Reform Judaism
YATOM: The Jewish Foster & Adoption Network
Youth Dynamics, Inc.