

# The Coalition Against Religious Discrimination

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July 22, 2019

The Honorable Alex Azar  
Secretary  
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 express our opposition to any rules the Department of Health and Human Services (HHS) may propose that would exempt federally funded foster care and adoption agencies across the country from the religious nondiscrimination protections provided under 45 CFR § 75.300(c).<sup>1</sup> Paradoxically, the exemption would use 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.

In January, HHS used a gross misinterpretation of the Religious Freedom Restoration Act (RFRA) to justify exempting South Carolina foster care agencies from 45 CFR § 75.300(c). HHS should not use the same flawed analysis to justify a nationwide exemption. RFRA does not require 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 Ministries, the agency whose policy led to HHS granting a statewide exemption in South Carolina, turned down prospective volunteers and parents who are Catholic, Jewish, and Unitarian Universalist because they 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.

## **An Exemption Would Harm 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

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<sup>1</sup> Sam Baker and Jonathan Swan, *Scoop: Trump's Plan to Let Adoption Agencies Reject Same-Sex Parents*, Axios (May 24, 2019).

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, an exemption would clearly harm 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.

### **An Exemption Would Harm 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 using RFRA to create a blanket exemption to nondiscrimination protections 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. Regulations based on RFRA would turn the original promise of the law on its head—they would use RFRA to disqualify individuals from participating in government programs solely because of their religion. Under this harmful policy, HHS would ignore 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 an exemption will harm children and families and violate our nation’s fundamental protections for religious freedom, we urge you to end consideration of any proposed regulations.

Sincerely,

African American Ministers In Action  
African Methodist Episcopal Church  
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  
Children's Rights  
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.  
Foster America  
Foster Impact  
Franciscan Action Network  
Freedom for All Americans  
GLBTQ Legal Advocates & Defenders (GLAD)  
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  
Jewish Women International  
Juvenile Law Center  
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  
MomsRising  
Movement Advancement Project  
Muslim Advocates  
Muslims for Progressive Values  
NAACP  
NARAL Pro-Choice America  
National Advocacy Center of the Sisters of the Good Shepherd  
National Asian Pacific American Women's Forum (NAPAWF)  
National Association 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 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  
The 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.