

Congress of the United States
Washington, DC 20515

December 17, 2020

Janet Dhillon
Equal Employment Opportunity Commission
131 M Street, NE
Washington, D.C. 20507

Dear Chair Dhillon:

As Members of Congress, the Democratic Women’s Caucus, and the Congressional LGBTQ+ Equality Caucus, we write to strongly oppose the Equal Employment Opportunity Commission’s recently proposed *Updated Compliance Manual on Religious Discrimination*. The proposed changes would embolden discrimination against women and LGBTQ+ individuals by allowing for-profit entities to ambiguously claim the religious organization exemption to Title VII protections. Specifically, we have strong concerns that these changes will open the doors for employment discrimination based on sex, reproductive health and marital choices, sexual orientation, and gender identity.

As you know, Title VII of the 1964 Civil Rights Act prohibits employment decisions based on race, color, religion, sex, or national origin. In June, the Supreme Court held in *Bostock v. Clayton County* that Title VII protections include gender identity and sexual orientation. Under Title VII, religious organizations whose “purpose and character are primarily religious” can give employment preference to members of their own religion. This exception applies only to employees whose duties are primarily religious in nature.

Despite the narrow scope of the religious organization exemption, the EEOC’s proposed manual changes would potentially extend this protection to for-profit businesses, giving them license to discriminate on factors including sex, gender identity, and sexual orientation. We are further alarmed that once an employer makes a religious entity claim, the EEOC will be limited in its ability to investigate the validity of the claim.

The proposed changes repeatedly misinterpret the Religious Freedom Restoration Act (RFRA), which employers have at times inappropriately cited to justify discrimination under the false pretext of religious expression. The proposed update does not acknowledge that under RFRA, the government can restrict religious exercise when there is a compelling interest to do so and by using the least restrictive means available. The proposed guidance fails to recognize that the government has a compelling interest in protecting individuals from discrimination, and the least restrictive means to satisfy this interest are by implementing federal nondiscrimination laws.

Finally, we are alarmed at this apparent attempt to rush through complex, dangerous changes in the final days of an administration that has spent four years attacking protections for women and the LGBTQ+ community. The EEOC has released a 114-page document with 320 footnotes, governing a very complex area of the law with merely 30 days to comment. In drafting the updated manual, the EEOC failed to engage with minority faith leaders, civil rights organizations, and many other relevant stakeholders.

Given the immense harm this update will cause, we urge the EEOC and this administration to immediately withdraw the proposed change in its entirety. The administration should be working to end discrimination in employment, not embolden it.

Sincerely,



Lois Frankel
Co-Chair
Democratic Women's Caucus



Brenda L. Lawrence
Co-Chair
Democratic Women's Caucus




Jackie Speier
Co-Chair
Democratic Women's Caucus



Veronica Escobar
Vice Chair
Democratic Women's Caucus



Deb Haaland
Vice Chair
Democratic Women's Caucus



David N. Cicilline
Co-Chair
Congressional Equality Caucus



Angie Craig
Co-Chair
Congressional Equality Caucus



Sharice L. Davids
Co-Chair
Congressional Equality Caucus



Sean Patrick Maloney
Co-Chair
Congressional Equality Caucus



Chris Pappas
Co-Chair
Congressional Equality Caucus



Mark Pocan
Co-Chair
Congressional Equality Caucus



Mark Takano
Co-Chair
Congressional Equality Caucus



Alan Lowenthal
Vice Chair
Congressional Equality Caucus

/s/
Alma S. Adams, Ph.D.
Member of Congress

 /s/
Kathy Castor
Member of Congress

 /s/
Debbie Dingell
Member of Congress

 /s/
Sara Jacobs
Member-Elect of Congress

 /s/
Ann McClane Kuster
Member of Congress

 /s/
Carolyn Maloney
Member of Congress

 /s/
Eleanor Holmes Norton
Member of Congress

 /s/
Jan Schakowsky
Member of Congress

 /s/
Norma J. Torres
Member of Congress

 /s/
Suzanne Bonamici
Member of Congress

 /s/
Judy Chu
Member of Congress

 /s/
Anna G. Eshoo
Member of Congress

 /s/
Pramila Jayapal
Member of Congress

 /s/
Barbara Lee
Member of Congress

 /s/
Doris Matsui
Member of Congress

 /s/
Ayanna Pressley
Member of Congress

 /s/
José E. Serrano
Member of Congress

 /s/
Nydia M. Velázquez
Member of Congress

 /s/
Julia Brownley
Member of Congress

 /s/
Madeleine Dean
Member of Congress

 /s/
Teresa Leger Fernandez
Member-Elect of Congress

 /s/
Eddie Bernice Johnson
Member of Congress

 /s/
Zoe Lofgren
Member of Congress

 /s/
Betty McCollum
Member of Congress

 /s/
Lisa Blunt Rochester
Member of Congress

 /s/
Rashida Tlaib
Member of Congress

 /s/
Jennifer Wexton
Member of Congress