

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

September 16, 2019

Mr. Harvey D. Fort
Acting Director
Division of Policy and Program Development
Office of Federal Contract Compliance Programs
Room C-3325
200 Constitution Avenue NW
Washington, DC 20210

Re: Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemptions (RIN 1250-AA09)

Justice in Aging writes in opposition to the proposed rule, Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemptions (RIN 1250-AA09) because the proposed changes will give federal contractors a license to discriminate in the name of religion. Justice in Aging is a national nonprofit that uses the power of the law to fight senior poverty by securing affordable health care and economic security for older adults with limited resources. Our work focuses especially on older adult populations that have been marginalized and excluded from justice, such as women, people of color, LGBTQ+ individuals, and people with limited English proficiency.

The proposed changes are far-reaching and likely to have widespread negative consequences for older women, LGBTQ individuals, religious minorities and others. If promulgated, these definitional changes will undermine more than 50 years of progress by the federal government to prohibit discrimination in federal contracting and will affect more than one-fifth of the labor force.¹ Federal contractors include hospitals, nursing homes, aging services providers, and other for-profit and non-profit organizations that serve older adults.

On September 24, 1965, President Johnson signed Executive Order 11246, ensuring that the Secretary of Labor has strong enforcement authority to ensure equal opportunity in hiring and prohibiting discrimination on the basis of race, color, religion, and national origin.² In the intervening years, that Executive Order has been amended and further strengthened and helps protect against discrimination in federal contracting on the basis of race, color, religion, sex, sexual orientation, gender identity, and national origin.³

Current anti-discrimination law already protects individuals from religious-based discrimination. These proposed changes, rather than strengthening those existing rules, will instead give federal contractors the right to use their religion as a basis for discriminating against others. The

¹ <https://www.dol.gov/ofccp/about/50thAnniversaryHistory/html>.

² *Id.*

³ *Id.*

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negative ramifications of this discrimination are likely to fall hardest on women, LGBTQ individuals, and religious minorities.

As an organization focused on aging, we have grave concerns about the effects these proposed changes could have on older adults. This rule would restrict younger and older adults' employment opportunities and subject them to discrimination, diminishing their earning capacity and negatively impacting their economic security into retirement and for the rest of their lives. Beyond these direct consequences, these changes would also impact who serves the older adult population. For example, an LGBTQ senior living in a federally-contracted nursing home would be less likely to be served by an LGBTQ employee. This ripple effect of the proposed rule would reduce the cultural competency of staff and make it more likely that a senior, as a recipient of services, would experience discrimination themselves.

Justice in Aging strongly urges the Department of Labor to withdraw these proposed changes which undermine current anti-discrimination protections. Employees of federal contractors need strong anti-discrimination protections so they can truly receive the full benefit of equal opportunity in hiring. If there are questions concerning this submission, please contact Claire M. Ramsey, Senior Staff Attorney, at cramsey@justiceinaging.org.

Sincerely,



Jennifer Goldberg
Deputy Director