

# U.S. Department of Labor: Proposes a rule clarifying civil rights protections for religious organizations

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**WASHINGTON, DC** – The U.S. Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) announced a Notice of Proposed Rulemaking intended to clarify the civil rights protections afforded to religious organizations that contract with the federal government. The proposed rule ensures that conscience and religious freedom are given the broadest protection permitted by law. [The proposed rule is currently available for public inspection](#) and will be published in the *Federal Register* tomorrow, August 15, 2019.

The proposed rule is rooted in statute, Supreme Court decisions, and Executive Orders. The Civil Rights Act of 1964 includes a critical, protective exemption for religious organizations. A similar exemption is included in Executive Order 11246 and OFCCP’s regulations, which govern certain employment practices of federal contractors. Recent Supreme Court decisions – *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, *Trinity Lutheran Church v. Comer*, and *Burwell v. Hobby Lobby Stores* – further address the protections afforded religious organizations and individuals under the Constitution and federal law. Executive Orders 13798, Promoting Free Speech and Religious Liberty, and 13831, Establishment of a White House Faith and Opportunity Initiative, along with U.S. Department of Justice guidance, likewise instruct federal agencies to protect religious exercise and not impede it.

In keeping with that rich history, the proposed rule would clarify that religious organizations may make employment decisions consistent with their sincerely held religious tenets and beliefs without fear of sanction by the federal government. The proposal also reaffirms employers' obligations not to discriminate on the basis of race, sex, or other protected bases and does not exempt or excuse a contractor from complying with any other requirements.

"Today's proposed rule helps to ensure the civil rights of religious employers are protected," Acting U.S. Secretary of Labor Patrick Pizzella remarked. "As people of faith with deeply held religious beliefs are making decisions on whether to participate in federal contracting, they deserve clear understanding of their obligations and protections under the law."

Office of Federal Contract Compliance Programs Director Craig Leen said, "OFCCP is consistently looking for ways to bring clarity and certainty to federal contractors, and this proposal falls squarely within that effort. The rulemaking process allows the public opportunity to comment on the proposal and impact any potential final rule."

Consistent with the President's policy to enforce the robust protections for religious freedom found in federal law, the proposed rule states that it should be construed to provide the broadest protection of religious exercise recognized by the Constitution and other laws, such as the Religious Freedom Restoration Act.

Comments must be submitted electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal by facsimile or mail. See the Federal Register notice for submission details. Comments must be submitted by September 16, 2019.

OFCCP is a civil rights agency in the U.S. Department of Labor. It enforces Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. Collectively, these laws prohibit federal contractors and subcontractors from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, disability or status as a protected veteran. Additionally, contractors must act affirmatively to ensure equal employment opportunity in their employment processes, and they must not discriminate against applicants or employees because they inquire about,

discuss, or disclose their compensation or that of others, subject to certain limitations.

The mission of the Department of Labor is to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.