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EEOC Proposed Guidance Shows We Can Protect Religious Freedom & LGBTQ Rights

Public Rights/Private Conscience Project

Press Release:
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From:
Columbia Law School, The Public Rights Private Conscience Project

Subject:
EEOC Proposed Guidance Shows We Can Protect Religious Freedom & LGBTQ Rights

Contact:
Liz Boylan, eboyla@law.columbia.edu, 212.854.0167

While the President and Congress consider acts to expand religious exemptions at the expense of LGBTQ and other rights, a proposed federal regulation demonstrates that we can—and should—protect both religious *and* LGBTQ communities. The Public Rights/Private Conscience Project (PRPCP) at Columbia Law School submitted commentary this week commending the Equal Employment Opportunity Commission (EEOC) on their "Proposed Enforcement Guidance on Unlawful Harassment," which protects the right of religious employees to discuss their beliefs while prohibiting religiously-motivated harassment in the workplace.

Professor Katherine Franke, Faculty Director for the PRPCP commented, "At a time when we are witnessing government officials engaging in both troubling violations of the Establishment Clause and blatant forms of religion-based discrimination, the EEOC's proposed guidelines offer a reasoned and careful way to harmonize religious liberty and equality in the workplace."

Elizabeth Reiner Platt, Director of the PRPCP elaborates, "The proposed guidelines respect both the right to express one's religious beliefs and the right to a safe and productive work environment. This kind of carefully tailored religious accommodation protects all workers from discrimination."

The PRPCP's letter notes that nearly one in three transgender workers, and up to 43% of gay, lesbian, and bisexual people, have faced employment discrimination. The proposed EEOC guidelines "appropriately explain that Title VII's duty to accommodate religion does not amount to an official sanctioning of religiously-motivated harassment-including against LGBTQ employees, who already face pervasive discrimination in the workplace."

The EEOC's responsibility to protect religious minorities and LGBTQ persons is of critical importance, as the Trump Administration continues to issue Executive Orders that roll back LGBTQ protections and express disapproval of Muslims. Of particular concern is a potential Executive Order on Religious Freedom. If signed, the order could provide a special license for those holding certain conservative religious beliefs— including opposition to same-sex

marriage, sex outside different-sex marriage, and abortion—to violate any regulations that conflict with these beliefs.

The PRPCP's mission is to address contexts in which religious liberty rights conflict with or undermine fundamental rights to equality and liberty through academic legal analysis. PRPCP approaches the developing law of religion in a manner that respects the importance of religious liberty while recognizing the ways in which broad religious accommodations may violate the First Amendment's Establishment Clause, which, "not only forbids the government from establishing an official religion, but also prohibits government actions that unduly favor one religion over another."[1]

Read the full letter from the PRPCP here: http://tinyurl.com/PRPCP-Columbia-EEOC-Letter

For more information on the PRPCP, visit the PRPCP's webpage, here: http://tinyurl.com/PRPCP-Columbia

The EEOC's Proposed Enforcement Guidance on Unlawful Harassment is available here: https://www.regulations.gov/document?D=EEOC-2016-0009-0001

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[1] https://www.law.cornell.edu/wex/establishment_clause