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September 21, 2015

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

The Secular Policy Institute, along with the undersigned organizations, would like to request a review and repeal of the 2007 Office of Legal Counsel's ("OLC") Memorandum regarding the Religious Freedom Restoration Act of 1993 ("RFRA"). OLC's interpretation of the Act provides an avenue for a blanket override of statutory nondiscrimination provisions. Such an interpretation is, in our opinion, erroneous and injurious to free exercise of civil and religious rights, which RFRA was in fact intended to protect.

The erroneous explication of RFRA in the OLC Memo of June 29, 2007, has drawn the attention of multiple organizations in the past, such as Coalition Against Religious Discrimination which lead the effort to oppose what is commonly known as "charitable choice" direct federal funding of religious organizations to provide social services. While RFRA intends to prevent Government from imposing a "substantial burden" on a person's exercise of religion, the OLC Memo allows for broadening of what constitutes a substantial burden on religious practice. It does so by asserting that RFRA provides a framework for a federal agency to exempt a religious organization tied to a federal grant program from religious nondiscrimination provisions. Even though the OLC Memo interpreted laws passed prior to 2007, its premise extends to future law acts, and enables exemptions to hiring discrimination bans, such as those specified by the Violence Against Women Reauthorization Act of 2013 (VAWA).

As per provisions included in the VAWA, factors such as "race, color, religion, national origin, sex, gender identity, sexual orientation, or disability" may not exclude an individual from benefits under programs funded, wholly or partially, by the funds made available under VAWA. On April 9, 2014 the DOJ issued a document, "Frequently Asked Questions" about "Nondiscrimination Grant Condition in the Violence Against Women Reauthorization Act of

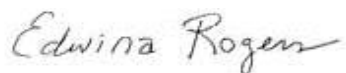
2013”, in which it announced certain exceptions from nondiscrimination provision to VAWA contractors. These exemptions will allow an organization to hire only co-religionists, under the condition of nothing more than the organization’s self-certification that beneficiaries of federal funds will not be discriminated against. The DOJ document delineates (in paragraph 6, points a., b., and c.) the criteria for an exemption to be granted, and allows to consider providing services “an exercise of religion”, and also implies that hiring people of different faiths can “substantially burden its [an organization’s] exercise of religion”.

Your Administration has done a lot to advance social services, and to ensure that civil and religious liberties are protected, and remain in a healthy balance. Although the OLC Memo pertains to only one Office of Justice Programs initiative (grants pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974), and focuses on a single religious organization (World Vision, Inc.), the precedent it created in interpreting RFRA has much broader repercussions. The over-broad interpretation of RFRA provided in the Memorandum has been cited by other federal agencies. It can very well extend to other programs and grants, such as those awarded under VAWA, and thus effectively nullify the nondiscrimination provisions within it.

We recall your presidential campaign promise of ending taxpayer-funded hiring discrimination, and request that you direct the Attorney General to review and withdraw the June 29, 2007 OLC Memorandum. It allows taxpayers to fund hiring discrimination which otherwise is illegal. It cannot be in any way justified that under the guise of protecting one liberty, another is violated.

Thank you in advance for your consideration of our views.

Sincerely,



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Signatories

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Hispanic American Freethinkers, Inc. – Reston, VA
Humanist Association of San Diego – San Diego, CA
Humanist Chaplaincy at American University – Washington, DC
Humanists of North Central Florida – Ocala, FL
Lincoln Atheists – Lincoln, NE
Muslimish – Plymouth, MI
NYC Atheists – New York, NY
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