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16 Shvat 5779

January 22, 2019

The Honorable Alex Azar  
Secretary of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Mr. Secretary,

We write to request that you reverse regulatory changes made late in the Obama Administration (see 45 CFR § 75.300(c), (d)), adding new requirements that demand religious organizations act contrary to their faith principles if they wish to aid America's most vulnerable children. These policy changes not only violate religious freedom, but also grievously harm children in need of loving homes.

Our organization represents over 1000 traditional rabbis in matters of public policy — and the clear consensus of the traditionally-observant Jewish community, the Orthodox. We support the core principles of our faith, including the idea that every Jewish child should be raised in a Jewish home and taught the principles of Judaism. It is our principles and emphasis upon religious upbringing which have preserved our minority community through millennia of pressure, often at the tip of a sword, to abandon our beliefs and assimilate into society around us.

To be certain, we do not share the religious beliefs and practices of organizations such as Catholic Social Services in Philadelphia, or Miracle Hill Ministries in South Carolina. We plainly believe that a Jewish couple is no less qualified than an Evangelical one to raise a child, and if Miracle Hill were discriminating against Jewish families we would find that abhorrent.

But that is not the case, and their observance of their religious tenets should not be mischaracterized as such. As people of faith ourselves, we recognize the key difference between discrimination against others and affirming our own religious principles.

For a religious organization to function, its doctrine must guide everything it does. For Miracle Hill, for example, that means bringing children into foster homes which share Miracle Hill's religious foundations, mission and motivations. To require them to abandon their requirements in order to offer foster care, which they regard as a religious service, denies them the free practice of their religion guaranteed under the First Amendment. To disqualify them from

neutral, per-child funding would similarly amount to unconstitutional discrimination against them as a religious group.

Furthermore, were we to object to their policies on faith-neutral grounds, we would logically be unable to defend Jewish organizations that prioritize (and indeed, insist upon) placement of Jewish children with Jewish families. In order to preserve our own religious freedom, we must respect the right of Catholic and Evangelical organizations to conduct themselves in ways that conform to their own faiths as well. There's a word for that: *tolerance*.

It is for this reason that we deplore the statements by groups such as the Anti-Defamation League, which claims that the practices of these and similar organizations are "discriminatory." Their position makes a mockery of the First Amendment, forcing religious organizations to choose between sincerely-held beliefs and the privilege of serving children.

We must also underscore that the new regulations exact a direct human toll specifically from America's most vulnerable children: those who lack parents able to care for and raise them into adulthood. Due to Philadelphia's destructive action against Catholic Social Services, excluding that organization from providing foster care, there are now dozens of children waiting in group homes rather than placed with foster parents able to care for them as individuals. Who could contend that this result is better for our country, or for our very humanity? Children are being harmed on a daily basis by this discriminatory, misguided policy.

Thus we implore you to act immediately, that there be no further delay, that no more children be hurt (and that the currently-affected children not be further hurt) by this damaging policy — which also runs contrary to the First Amendment that ensures our freedoms.

Yours Sincerely,

  
Rabbi Pesach Lerner  
President

  
Rabbi Yaakov Menken  
Managing Director

cc: Lynn Johnson  
Assistant Secretary, Administration for Children and Families

Roger Severino  
Director, Office for Civil Rights