

SOGI Employment Language in PA: *How Does it Target Religious Organizations?*

Religious organizations¹ are currently permitted to hire all of their employees based on whether they believe and live according to their shared religious beliefs.² However, sexual orientation and gender identity bills in Pennsylvania would make it illegal for churches, ministries, and schools to hire people who actually believe and live according to the religious organization's teaching on human sexuality and marriage.

The employment bill does not simply add sexual orientation to the section of the bill referring to all secular employers. It also adds the words sexual orientation, gender identity, and gender expression to the definition of "employer" which is specifically referring to religious corporations and associations as well. As such, churches, religious schools, and religious ministries could no longer make distinctions based on whether an employee believes and acts consistent with the organization's religious beliefs regarding sexual orientation, gender identity, and gender expression.

The words "sexual orientation, gender identity and expression" must NOT be added to the section of the PA Human Relations Act that explains which protected classes applies to religious organizations.

The current PA Human Relations Act, section 4(b), which is the definition of "Employer" section, applies the employment provisions of the law to "Religious, fraternal, charitable and sectarian corporations and associations" for some protected classes, but not others.

Religious organizations are only subject to the race, color, age, sex, national origin or non-job related handicap or disability laws. Purposefully missing from that list is "Religion" or "Religious Creed." This is missing to ensure religious organizations have the statutory protection to hire all of their employees on the basis of shared religious beliefs and adherence to those religious beliefs.³

KEY POINTS

Religious employers are currently permitted by law to consider religious beliefs and adherence to those beliefs when making employment decisions for all of their employees.

However, this employment bill eliminates the right of these employers to make employment decisions on the basis of whether the employee agrees with the organization's religious beliefs about sexuality and whether the employee adheres to those religious beliefs.

Human sexuality is intimately tied to religious beliefs about actions that a person can either engage in or not engage in, despite feelings. This falls squarely in the realm of religious beliefs.

No law should carve out issues of human sexuality from the permissible religious beliefs upon which a religious organization can make hiring decisions.

¹ Religious organizations or associations include religious schools, churches, and religious ministries. Very rarely, a for-profit ministry could qualify as a religious ministry - a Bible publishing company or an acting group that operate for religious purposes may sometimes be deemed a religious organization for purposes of hiring employees on the basis of religion.

² It does this by excluding the term "religion" from the list of protected classes which **are** applicable to even religious corporations and associations.

³ Ministerial employees, on the other hand, are completely exempt from all protected classes by virtue of the Constitution.

Our nondiscrimination law currently defines "employer" as follows:

The term "employer" includes ... any person employing four or more persons ... , but except as *hereinafter provided*, does not include religious, fraternal, charitable or sectarian corporations or associations, *except such corporations or associations supported, in whole or in part, by governmental appropriations*. The term "*employer*" with respect to discriminatory practices based on race, color, age, sex, national origin or non-job related handicap or disability, *includes* religious, fraternal, charitable and sectarian corporations and associations *employing four or more persons* within the Commonwealth.

We need to ensure that no law carves out issues of human sexuality from the permissible religious beliefs upon which a religious organization can make hiring decisions.

What this ultimately means, is the law is inapplicable to religious groups that both receive no government funds *and* have fewer than four employees. If you have more than three employees, the law applies. These bills add sexual orientation, gender identity, and gender expression to the section of the bill that specifically applies to religious organizations. *We need to ensure that no law carves out issues of human sexuality from the permissible religious beliefs upon which a religious employer can make hiring decisions.*

Currently, a church cannot make hiring decisions for all their employees on the basis of other protected classes, for example, national origin. Those classes, which Pennsylvania deemed unrelated to legitimate religious belief upon which employment decisions can be made by religious employers, are not at all like sexual orientation or gender identity/expression.

Human sexuality is intimately tied to religious beliefs about actions that a person can either engage in or not engage in, despite feelings of wanting to do the thing the religious organization deems immoral. This falls squarely in the realm of religious beliefs. The other protected classes apply to religious organizations and non-religious organizations alike because those protected classes have no action element that a person can either engage in or abstain from and therefore, there are no religious belief to comply with (since there is no action).⁴

Individuals can act or abstain from acting on their feelings about human sexuality, and individuals can either believe or disbelieve that such actions are moral. Religious organizations must continue to be able to hire based on whether their employees believe and live according to their teaching on human sexuality.



717-545-0600 • 23 N. Front St., Harrisburg, PA 17101

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⁴ For instance, the category of national origin is legislatively applied to religious organizations because a person cannot choose to act or abstain from acting in a manner that affects their national origin. Therefore, it cannot be possible to talk about the morality or immorality of any action since there's no ability to act or abstain from one's national origin.