



REPRODUCTIVE RIGHTS & HEALTH

THE RUSSELL AMENDMENT ALLOWS UNPRECEDENTED DISCRIMINATION

Section 1094 of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, otherwise known as the “Russell Amendment,” would allow employers who are recipients of federal grants or contracts to discriminate against individuals in hiring based upon the employer’s religious beliefs. The Russell Amendment would not only allow an employer to refuse to hire an individual who is not of the same religion, but also to refuse to hire someone for acting in a manner that the employer believes violates their religious beliefs or tenets. This kind of discrimination is unacceptable anywhere, but certainly does not belong in a bill that funds our nation’s defense and it certainly should not be funded with taxpayer money.

The Russell Amendment Goes Far Beyond Existing Law

The Russell Amendment goes far beyond existing law, which generally provides exceptions for certain religious entities in limited contexts to make employment decisions related to religious beliefs. The Russell Amendment would greatly expand such exemptions and upend existing non-discrimination principles, including by:

- Allowing recipients of all federal grants and contracts to prefer individuals of the same religion in hiring decisions.
- Allowing recipients of all federal grants and contracts to make employment decisions based upon behavior that they believe violates their religious tenets or beliefs.
- Opening the door for broad employment discrimination, including discrimination based on how an individual’s behavior is perceived, contrary to Executive Order 13672, which prohibits discrimination by federal contractors, including discrimination based on sexual orientation or gender identity.

The Russell Amendment Would Harm Individuals

The Russell Amendment would jeopardize job stability of individuals working for entities receiving federal funds—including through grants, contracts, and direct funding, which includes a wide variety of companies, institutions, and organizations.¹

Under the Russell Amendment these entities holding certain religious beliefs or tenets could, for example, claim a right to:

- Fire an employee because she used birth control or had an abortion;
- Fire a pregnant woman because she used in vitro fertilization to become pregnant or because she is unmarried;
- Refuse to hire a transgender individual; or
- Refuse to offer parental leave to an employee who is a lesbian when her same-sex spouse gives birth to their child.

Unfortunately, these examples aren’t just theoretical. Women across the country have been fired or faced repercussions because of their reproductive health decisions.² The Russell Amendment emboldens these kinds of practices—allowing taxpayer dollars to facilitate discrimination.

The Federal Government Should Never Be in the Business of Discriminating

The federal government should not be in the business of funding any kind of discrimination, and no one should be disqualified from a taxpayer-funded job because she accessed reproductive health care, because of her religion or sexual orientation, or because she does not have the same religious beliefs as an employer. The Russell Amendment would undermine longstanding and hard-won civil rights and anti-discrimination protections, including those for LGBTQ and women workers. The Russell Amendment is yet another attack on individual rights cloaked in the guise of religious liberty.



- 1 For an extensive list of organizations, companies, institutions, educational institutions that receive government contracts and subject to the Russell Amendment see 2016 Government Contracts Excel Spreadsheet, USA SPENDING.GOV, <https://www.usaspending.gov/DownloadCenter/Pages/dataarchives.aspx> (change fiscal year to 2016 and click go; follow “2016_All_Contracts_Full_20160915.csv.zip” hyperlink).
- 2 For example, in 2014, after an anonymous letter revealed her pregnancy, unmarried middle school teacher Shaela Evenson was fired by a Catholic school district in Montana for having sex outside of marriage. She was fired despite her ten-year career at the school and the fact that the principal called her an “excellent teacher.” Molly Redden & Dana Liebelson, A Montana School Just Fired a Teacher for Getting Pregnant. That Actually Happens All the Time, MOTHER JONES (Feb. 10, 2014, 10:32 AM), <http://www.motherjones.com/politics/2014/02/catholic-religious-schools-fired-lady-teachers-being-pregnant>. See also NAT’L WOMEN’S LAW CTR., STATES TAKE ACTION TO STOP BOSSES’ RELIGIOUS BELIEFS FROM TRUMPING WOMEN’S REPRODUCTIVE HEALTH CARE DECISIONS (May 2015) <https://hwlc.org/resources/states-take-action-stop-bosses%E2%80%99-religious-beliefs-trumping-women%E2%80%99s-reproductive-health-care-decisions/>.

