



**Rescission of the Rule
“Implementing Legal Requirements
Regarding the Equal Opportunity
Clause’s Religious Exemption”**

Stakeholder Briefing

Presenters



Sarah Carson
Senior Regulatory Analyst



Marla Tumiel
Policy Specialist

Overview

- Background
- Directive 2018-03
- 2020 religious exemption rule
- Rescissions
- Purpose
- Clarifications from Title VII case law

Background - OFCCP

- Legal authorities:
 - Executive Order 11246
 - Section 503
 - VEVRAA

Background – Religious Exemption

- Executive Order 11246 religious exemption
- Title VII of the Civil Rights Act of 1964 religious exemption

Directive 2018-03 and 2020 Religious Exemption Rule

- DIR 2018-03, Executive Order 11246 § 204(c) religious exemption, issued August 10, 2018
- “Implementing Legal Requirements Regarding the Equal Opportunity Clause’s Religious Exemption,” in effect since January 8, 2021

Rescissions

- “Implementing Legal Requirements Regarding the Equal Opportunity Clause’s Religious Exemption” (2020 religious exemption rule)
- Rescission effective date: March 31, 2023
- DIR 2018-03, Executive Order 11246 § 204(c) religious exemption
- Rescission effective date: March 1, 2023

Purpose

- Resolve confusion caused by 2020 religious exemption rule
- Reaffirm nondiscrimination protections for employees of federal contractors
- Return to long-standing OFCCP policy and practice of aligning Executive Order 11246 religious exemption with Title VII case law

Clarifications from Title VII Case Law: Qualifying Employers

An employer can qualify for the exemption if its purpose and character are primarily religious.

Clarifications from Title VII Case Law: Scope of Exemption

- Qualifying religious employers generally *may* make decisions about whether to employ individuals based on acceptance of and adherence to religious tenets.
- Qualifying religious employers *may not* insist on compliance with such tenets to the extent it would result in violation of the other nondiscrimination protections.

Requesting Religious Exemption

- No specific process for request
- Contact Compliance Officer to make request if scheduled for a compliance review
- Contact OFCCP anytime with questions
- Frequently asked questions - OFCCP website

Additional Information

- [OFCCP webpage dedicated to the rescission](http://www.dol.gov/agencies/ofccp/religious-exemption)
(www.dol.gov/agencies/ofccp/religious-exemption)
 - Director Yang's blog post
 - Rescission of 2020 Rule
 - Frequently Asked Questions
 - Notice of Rescission of Directive 2018-03

Religious Exemption

Questions & Answers





Questions?

Toll-Free Help Line: **1-800-397-6251**

