



October 25, 2021

The Honorable Alma Adams
Chair, Workforce Protections Subcommittee
Education & Labor Committee
United States House of Representatives
Washington, DC 20515

The Honorable Suzanne Bonamici
Chair, Civil Rights and Human Services Subcommittee
Education & Labor Committee
United States House of Representatives
Washington, DC 20515

**RE: Charitable Nonprofit Perspective on October 26, 2021 Hearing:
Protecting Lives and Livelihoods: Vaccine Requirements and Employee Accommodations**

Dear Chairs Adams and Bonamici:

On behalf of the networks of the National Council of Nonprofits, I write to share concerns and commitments of the charitable nonprofit sector regarding proposed COVID-19 vaccination and testing requirements in the workplace.

Throughout the pandemic, charitable organizations have been in the forefront of promoting workplace safety and health, as well as providing COVID-19 education and vaccinations in communities throughout the United States. In April, the National Council of Nonprofits [hosted a national webinar](#) featuring experts discussing how to manage a safe return to in-office work. In September, after President Biden announced his comprehensive vaccination plans, we published [Vaccine Mandates and Your Nonprofit](#) that explains the proposed requirements and provides tips for organizations seeking to manage vaccine requirements and employee accommodations.

Similarly, the [North Carolina Center for Nonprofits](#) has published [COVID-19 Vaccination Requirements - Considerations for Nonprofits](#) – a regularly updated document that keeps nonprofits up to date on their obligations and opportunities. Likewise, the [Nonprofit Association of Oregon](#), and [other state associations of nonprofits](#) have posted vital resources to keep nonprofits informed and promote vaccinations. The issues discussed in these materials are truly relevant to the deliberations of your Subcommittees.

OSHA Emergency Temporary Standard

The forthcoming Emergency Temporary Standard from OSHA covering vaccination and testing requirements for employers with 100 and more employees has generated considerable interest and opposition within the employer community. The charitable community has responded not with objections but with questions seeking clarity. See [Nonprofit Questions Concerning the COVID-19 Vaccination & Testing Emergency Temporary Standard](#), National Council of Nonprofits, Sept. 29, 2021. We have expressly asked that “OSHA provide clear guidance that reflects the understanding that charitable organizations operate under myriad models,” ranging from all-remote workforces to human service providers delivering home visitation services, and operating multiple small facilities throughout a region or even in several states tied to a centralized office. We also requested that OSHA provide guidance that goes beyond the stereotypical “factory” workplace by offering examples

that recognize the application of the ETS to arts and cultural facilities, houses of worship, childcare providers with multiple locations, summer camps, nature preserves, and other outdoor activities.

The concerns we raised in the letter are the same we raise before your Subcommittees: to ensure that nonprofit employees and employers receive clear and comprehensive guidance that expressly addresses [unique, nonprofit-specific questions](#):

1. How will the number of “employees” be determined?
2. How will remote work factor into calculating the number of employees and the application of the vaccination and testing requirements?
3. Will the ETS apply to guests, contractors, and/or volunteers who come on the worksite?
4. What law applies in states that have prohibited vaccination, testing, and masking mandates?
5. Who will pay for the weekly employee testing called for in the President’s instructions?
6. What testing protocols must nonprofit employers follow?
7. What employee exemptions or accommodations will the ETS recognize?
8. How will OSHA alert covered employers when changes will be required?

For each question, we have provided OSHA with context on how charitable nonprofits operate, identifying areas of greatest confusion and concerns over unintended consequences.

On a call last week with the Office of Management and Budget Office of Information and Regulatory Affairs (OIRA), a group of eight nonprofit professionals provided context for these questions. Specifically, we stressed that the vast majority of charitable organizations fully support vaccinations, and many have led drives in their communities to promote and provide vaccinations. Regarding concerns over unintended consequences, we submitted follow-up comments to the Office of Management and Budget professionals and others explaining that charitable nonprofits are our nation’s safety net. We’re also the guardians of our faith, culture, and wellbeing. And, as the third largest employer and provider of essential services we are important catalysts and contributors to the economic recovery. The letter states, “We all believe that the emergency temporary standard – **done right** – can help end the pandemic; **done wrong**, the ETS can lead to greater suffering.” See [Letter to Office of Information and Regulatory Affairs, OMB](#), National Council of Nonprofits, Oct. 22, 2021.

Nonprofit Job Vacancies

The follow-up letter to OIRA also brought forth growing concerns within the nonprofit community over job vacancies and their adverse impact on communities and the economy. This pre-existing challenge potentially could be exacerbated by employee responses to vaccine requirements. After discussing current and forthcoming data in the letter, we shared unique challenges in the area of competition for qualified staff. For instance, a recovery center in New York state has lost staff to hospitals that pay \$10,000 to \$15,000 more. A behavioral health provider in the Midwest is now competing with the state government for qualified staff; the state is filling similar jobs with employees straight out of school which is a marked change from past practices. Other human services providers report that they are now competing to fill vacancies, and too often losing, with online services, CVS and Walgreens, and even McDonalds and Target.

It is important for members of the Subcommittees to understand that charitable organizations providing services under written agreements with governments cannot simply raise prices or cut back on services; relief must come through upgrades to those written agreements. Until that

happens, job vacancies at childcare facilities, to name only one example, will lead to job losses at for-profit and governmental entities as parents are forced to stay home with their children. **We ask the Subcommittees to consider taking action to ensure that federal agencies upgrade written agreements with nonprofits to reflect the economic realities, specifically the salary pressures, that these organizations are facing.**

Promoting Nonprofit Human Services Employment

Finally, we'd like to raise the point that additional resources need to be devoted to education and promotion of the opportunities and value of working in the human services sector. The pandemic has imposed significant stress on all levels of providers – from childcare and domestic violence centers to homeless outreach programs, residential care facilities of all types, and many others. As the country recovers, it is essential that policymakers recognize the tremendous sacrifice of the care-giving fields outside of hospitals and provide appropriate resources to encourage workers back into these professions that are vital both to individual wellbeing as well as to the economic recovery.

We commend you for convening this hearing and stand ready to assist your Subcommittees by providing workforce data and policy solutions to address the challenges that charitable nonprofits are facing.

Respectfully submitted,



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