



## United States Senate

January 28, 2020

The Honorable David Bernhardt  
Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Secretary Bernhardt:

I write to express my concern regarding recent reports that the Department of the Interior has removed “sexual orientation” from its guidelines regarding workplace discrimination. This action is inconsistent with federal law, and I ask that you reinstate the department’s previous guidance prohibiting workplace discrimination on the basis of sexual orientation.

Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex. The Supreme Court has recognized that unlawful sex discrimination under Title VII includes same-sex sexual harassment and discrimination based on sex stereotypes. Since 2012, the Equal Employment Opportunity Commission, which enforces Title VII and other civil rights laws, has taken the position that the prohibition on discrimination on the basis of sex extends to sexual orientation. Dozens of federal courts affirmed the EEOC’s position.

In addition to conflicting with existing law, the department’s new guidance is also inconsistent with the modern American workplace and effective employment policies. According to the Human Rights Campaign Foundation’s 2020 Corporate Equality Index report, approximately 93% of Fortune 500 companies include sexual orientation in their non-discrimination policies. A separate 2019 report on LGBT inclusion and business performance found that companies that advocate policies inclusive of the LGBT workforce more readily attract and retain top talent. The Government Accountability Office also published studies last year on strategies for agencies to better meet their missions and improve federal hiring efforts, which include recommendations on fostering a

diverse and inclusive workplace in order to recruit and maintain a high-performing federal workforce.

As secretary, you are responsible for leading and supporting the many LGBT employees at the Department of the Interior, and I ask that you stand up for them now by reinstating the prior guidance that ensures their professional and personal well-being in the workplace.

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a long, sweeping underline that extends to the left and then curves back under the name.

Dianne Feinstein  
United States Senator

DF/af/ra/as