



THE EQUALITY ACT AND RELIGIOUS FREEDOM

Freedom of religion is important; it's one of our nation's fundamental values. That's why it's already protected by the First Amendment. Our Constitution guarantees everyone's right to practice—or not practice—their faith. But it doesn't give anyone the right to discriminate against or harm others. The Equality Act upholds this fundamental principle.

In fact, the Equality Act protects and advances religious freedom—the bill strengthens legal protections against discrimination on the basis of religion in public accommodations. And the religious exemptions that already existed in the underlying civil rights laws will remain unchanged.

Furthermore, the bill would uphold religious freedom by clarifying that the Religious Freedom Restoration Act (RFRA) cannot be used to defend discrimination in public settings or with federal funds. Courts have long rejected the use of religion to deny civil rights protections, including those based on race and sex. Today, we must similarly reject efforts to use religion to undermine civil rights and harm others.

Refuting Myths About the Equality Act and Religious Freedom

A common, but misguided attack on the Equality Act is that it undermines religious freedom. Here are some responses to these false claims.

Fact: The Equality Act has strong support among people of faith.

Often discussions about the Equality Act falsely pit people of faith against LGBTQ rights. In fact, large majorities of every major religious group in America support LGBTQ nondiscrimination laws. More than [120 faith-based organizations](#) have endorsed the Equality Act, as have at least [17,000 individual faith leaders](#) across the country.

Fact: The Equality Act would expand protections against religious discrimination.

Currently, federal law prohibits discrimination, including religious discrimination, in certain public places, such as hotels, theaters, and restaurants. The Equality Act would expand these protections to include public places and services like retail stores, banking and legal services, transportation services, and bars. This is important because religious minorities often face discrimination in many everyday activities. Under the Equality Act a person of a minority faith, for example, could no longer be denied a loan, refused a ride share or taxi, or be turned away from their neighborhood stores because of their religion.

Fact: The Equality Act maintains the religious exemptions that already exist in our civil rights laws.

The Equality Act would amend our existing civil rights laws in order to provide explicit and comprehensive civil rights protections to LGBTQ people nationwide. The bill would not change

the religious exemptions that already exist in these civil rights laws—they would remain in place and untouched. This would allow LGBTQ people to have the same protections as everyone else who is covered by our nation’s civil rights laws.

Fact: The Equality Act does not repeal or even amend the Religious Freedom Restoration Act (RFRA).

The Equality Act simply says that RFRA can’t be used to create *new*, broad religious exemptions beyond what already exist in the underlying civil rights laws. When RFRA was adopted, its supporters recognized that it was possible that RFRA shouldn’t apply to specific laws. As a result, RFRA itself provides a way for Congress to exclude the application of RFRA to certain laws. Far from repealing RFRA, the Equality Act is just using RFRA’s own mechanism to say it shouldn’t apply in this instance.

Even though courts have long rejected religious claims as a reason to deny civil rights protections, including those based on race and sex, we continue to see efforts to use RFRA to expand existing religious exemptions to allow discrimination against LGBTQ people and others. Recognizing these dangerous attempts to misuse RFRA, the Equality Act simply clarifies that RFRA cannot be used to defend discrimination in public settings or with federal funds.

Fact: The Equality Act would not require houses of worship to hire LGBTQ people or women to serve in ministerial roles.

The First Amendment’s “ministerial exception” allows religious institutions to make their own decisions about who can preach and teach the faith without governmental interference. For these specific employees, houses of worship and religious schools are already exempt from federal civil rights laws that govern hiring and firing.

Fact: The Equality Act would not force houses of worship to change any of their religious beliefs or practices.

The Equality Act would not require religious congregations to change how they define their own religious beliefs, how they are organized, who becomes a leader of the faith, or how they determine membership. The First Amendment to the U.S. Constitution guarantees that houses of worship have autonomy over their own internal matters, like faith, doctrine, and governance.

In addition, the Equality Act would not require clergy members to perform or houses of worship to host marriage ceremonies they don’t support. We see this in practice in other similar scenarios already—a rabbi may refuse to marry an interfaith couple or a church may refuse to host a marriage ceremony in its sanctuary for a divorced person. In fact, the U.S. Supreme Court in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, made clear that, under the First Amendment, “a member of the clergy who objects to gay marriage on moral and religious grounds could not be compelled to perform the ceremony” because “this refusal would be well understood in our constitutional order as an exercise of religion.” (138 S. Ct. 1719, 1727 (2018).)

Fact: The Equality Act would not transform all houses of worship into public accommodations that must be open to all.

Houses of worship serving their congregations would not fall within the definition of place of public accommodation under the Equality Act because they are simply providing space for and leading religious services for congregants. Under the bill, houses of worship could still have separate gender seating for services or refuse to extend membership to someone who is gay or transgender. If, however, religious institutions offer space or services for general public use, these spaces or services, only when they are open to the public, would be considered “public accommodations,” which would trigger nondiscrimination protections.

Fact: Under the Equality Act, religiously affiliated organizations would still be able to partner with the government to provide social services regardless of their views on marriage or sexuality.

The Equality Act does not favor any set of religious beliefs over another and it would not affect the ability of any religious denomination or organization to maintain their beliefs about marriage and sexuality. If these organizations *choose* to accept *federal funds* to provide services, however, protections against discrimination will apply. This is the right policy—no one seeking government-funded social services or a taxpayer-funded job should face discrimination.

Fact: The Equality Act would not prevent all harmful religious exemptions. We must pass the Do No Harm Act too.

The Equality Act adds important civil rights protections currently missing in the law for LGBTQ people, women, and many other marginalized communities. And it would make clear that RFRA cannot be misused to create new religious exemptions to the underlying civil rights laws. We need the Do No Harm Act to ensure that people cannot carve out harmful religious exemptions to a broader array of civil rights, health care, labor and other laws—laws that fall outside of the purview of the Equality Act. For example, the Equality Act would not fix the problems created by the *Hobby Lobby* case, which allowed employers to misuse RFRA to refuse to provide their employees with the Affordable Care Act’s birth control benefit. The Do No Harm Act, however, would prevent this misuse.