



What You Need To Know About the Equality Act

By Theo Santos, Caroline Medina, and Sharita Gruberg March 15, 2021

The Equality Act is a landmark piece of legislation that would expand federal civil rights laws to protect LGBTQ people from discrimination in employment, housing, credit, jury service, and federally funded programs, such as those for health and education, as well as public places and spaces.¹ Nondiscrimination protections are sorely needed: A nationally representative 2020 survey from the Center for American Progress revealed that 1 in 3 LGBTQ Americans, including 3 in 5 transgender Americans, experienced discrimination in just the past year.² Evidence demonstrates that discrimination has adverse effects on physical and mental health as well as basic economic security.³ This fact sheet explains how the Equality Act advances fair treatment for LGBTQ people, women, people of color, and people of faith.

Employment

The U.S. Supreme Court ruled in *Bostock v. Clayton County*⁷ that it is illegal under Title VII of the Civil Rights Act of 1964⁸ for an employer to not hire, to fire, or to otherwise discriminate against individuals because of their sexual orientation or gender identity (SOGI).⁹ The Equality Act would ensure that this interpretation is explicitly codified in the country's civil rights laws by clarifying that existing sex discrimination protections prohibit discrimination based on SOGI.

Housing

The Equality Act similarly amends the Fair Housing Act (FHA) to explicitly codify SOGI protections, robustly prohibiting housing discrimination against LGBTQ people.¹⁰ Specifically, the law would prohibit differential treatment in renting, selling, pricing, eviction, service provision, shelter access, homeowners insurance, mortgage lending, and other activities, along with harassment, coercion, and retaliation in the exercise of their fair housing rights.¹¹

The Equality Act enjoys broad-based support

The Equality Act enjoys broad support among the American public and a wide range of stakeholders, including the more than 300 member companies that comprise the Business Coalition for the Equality Act.⁴ According to a 2020 survey from the nonpartisan Public Religion Research Institute, more than 80 percent of Americans, including a majority of Americans in all 50 states, and majorities of Republicans, Democrats, and independents support LGBTQ nondiscrimination protections.⁵ The same survey found that solid majorities of people from all major religions support laws protecting LGBTQ people from discrimination; recently, more than 100 faith groups have endorsed the bill.⁶

Credit

The Equality Act would also codify the Consumer Finance Protection Bureau’s interpretive rule,¹² explicitly adding SOGI as protected characteristics in the Equal Credit Opportunity Act.¹³ Consequentially, the law would clarify that LGBTQ people cannot be denied car loans, mortgage loans, credit cards, student loans, or small-business loans simply because of who they are—and that differential treatment in credit transactions is prohibited. Access to credit is essential for promoting greater economic security and the financial stability of disadvantaged groups such as LGBTQ people.

Jury service

By amending the Jury Selection and Service Act to explicitly include SOGI in its definition of sex discrimination, the Equality Act would codify existing interpretations to prohibit attorneys from rejecting prospective jurors simply because they are LGBTQ.¹⁴ Although sex discrimination is prohibited in jury selection nationwide, in the 42 states that currently lack explicit SOGI jury protections, attorneys may attempt to deprive LGBTQ people of their constitutional right to a jury of their peers.¹⁵

Federally funded programs

The federal government funds a wide range of programs, including shelters, schools, community health centers, adoption agencies, and law enforcement or carceral institutions. The Equality Act amends Title VI of the Civil Rights Act of 1964 to include sex and SOGI, meaning that LGBTQ people and women would be protected from discrimination, mistreatment, or refusal by any of these programs.¹⁶ Given the difficulties faced by same-sex prospective parents considering adoption¹⁷ and the serious dangers that LGBTQ people, especially transgender individuals, face in confinement, these protections are needed and well overdue.¹⁸

The amendment of Title VI would benefit LGBTQ students in federally funded schools by clarifying federal protection against bullying and harassment and ensuring that students have the right to use sex-segregated facilities and participate in sex-segregated activities in accordance with their gender identity. The Equality Act would also protect transgender and nonbinary students from the pervasive misgendering and harassment that many face—a lifesaving step.¹⁹ The Equality Act does not amend Title IX of the Education Amendments of 1972.²⁰ Protections for women and girls and sex-segregated programs in schools would be maintained.

Public spaces and services

According to CAP’s 2020 survey, more than half of LGBTQ respondents who reported harassment or discrimination said that it occurred in a public space such as a store or restaurant.²¹ The Equality Act would establish sex and SOGI protections in public accommodations. This means that businesses open to the public, such as restaurants and pharmacies, would face accountability if they discriminate against, mistreat, or refuse to serve LGBTQ individuals. These amendments would not only benefit LGBTQ individuals; all women could no longer be charged higher prices than men for equivalent services or be denied services by establishments that provide health care.

Currently, the 1964 Civil Rights Act is out of date and includes protections for only four areas of public accommodation: hotels, inns, motels, or similar lodging; restaurants; entertainment spaces such as movie theaters and sports arenas; and any entity physically located within one of those places.²² By expanding the range of public accommodations recognized under civil rights law, the Equality Act would ensure protections for race, color, religion, national origin, and sex, including SOGI, in public spaces, including retail stores, transportation, and health care providers.²³

The Equality Act protects and advances religious liberty

The Equality Act would benefit many religious people and would not undermine existing religious exemptions in the amended civil rights laws, despite the suggestions of opponents of LGBTQ equality.²⁴ People of faith would, in fact, receive new protections from discrimination—for example, protections from faith-based discrimination in more public accommodations, such as prohibiting the use of “No Muslims allowed” signs in retail stores. Meanwhile, religious organizations would retain all the same exemptions they already have under civil rights laws such as Title VII²⁵ and the FHA.²⁶ They would still be allowed to favor people of the same religion, so long as they do not discriminate based on other protected characteristics. Importantly, the Equality Act clarifies that the Religious Freedom Restoration Act (RFRA)²⁷ cannot serve as a defense against claims of discrimination. This ensures that religion cannot be weaponized as a license to discriminate—including against people for their religious beliefs—in accordance with RFRA’s legislative intent.²⁸

Conclusion

The Equality Act would meaningfully expand civil rights protections for many Americans and advance equal treatment for LGBTQ people, women, people of faith, and people of color. The concrete benefits of the landmark civil rights laws that it would amend are clear—it’s time to extend these benefits equally to all.

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Endnotes

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