



The Equality Act: What It Means for the Jewish Community

WHAT IS THE EQUALITY ACT

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If passed by the U.S. Congress, the Equality Act would update the federal Civil Rights Act of 1964 to prohibit discrimination based on sexual orientation and gender identity in employment, housing, public accommodations, public education, federal funding, credit, and the jury system. Passage of the Equality Act would provide LGBTQ+ people nationwide with protection against discrimination.

Why has the Equality Act not passed?

In 2019, the bill passed the U.S. House of Representatives in a bipartisan 236-173 vote. In the Senate, it never moved out of Committee. Now, under new leadership in the Senate, it has a greater chance of passing. President Biden has pledged to sign the Equality Act into law if Congress passes it.

What is a “Public Accommodation”?

A public accommodation is a place that is open to the public and offers goods and services such as a restaurant, stadium, hotel, or library. Federal and state laws protect designated groups from discrimination in places of public accommodation, based on the premise that all are entitled to enjoy the goods and services offered on an equal basis. There are two types of entities classified as public accommodations: government-owned and operated entities and privately-owned and operated businesses and services.

What does not qualify as a Public Accommodation?

Churches, synagogues, mosques, and other religious organizations are generally not considered public accommodations. However, when these facilities rent to the public for non-religious purposes, they become public accommodations during that period of use. Besides these exceptions, the law interprets most public accommodations to include most businesses that are open to the public, especially in the context of enforcing anti-discrimination laws.

How does the Equality Act expand protections under Public Accommodations?

"Public accommodations" is a category that the bill will broaden to include online retailers, transportation providers, and other areas not currently protected due to the development of modern technologies that have emerged since the signing of the original Civil Rights Act in 1964. The Equality Act would expand existing discrimination classes — like racial or religious discrimination — to these types of businesses and retailers.

How does the Equality Act Affect the federal Religious Freedom Restoration Act (RFRA)?

The Equality Act would set limits on the Religious Freedom Restoration Act so an entity could not use RFRA to challenge the act's provisions, nor could it use RFRA as a defense to a claim made under the act.

What does limiting RFRA mean?

The Equality Act would limit RFRA from being used to discriminate against people based on sexual orientation and gender identity in employment, housing, public accommodations, public education, federal funding, credit, and the jury system. These areas of protection currently exist under the Civil Rights Act.



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IMPLICATIONS FOR THE JEWISH COMMUNITY –FAQ

Does the Equality Act undermine religious freedom?

No. Religious freedom is a fundamental American value and protecting religious minorities from discrimination is entirely compatible with protecting LGBTQ+ people from discrimination. The Equality Act furthers the principle of religious freedom by expanding and enhancing nondiscrimination protections for people of all faiths. Because the Equality Act amends existing federal civil rights laws, the same religious exemptions that have been in place for decades will continue to apply. Protection for LGBTQ+ people will be held to the same standard as other forms of discrimination — no more and no less.

Are there religious exemptions?

Yes. Under the Equality Act, longstanding religious exemptions in federal civil rights employment law or housing law for religious entities are maintained. This means that religious organizations, such as churches, mosques, and synagogues, can continue to prefer people of their faith in hiring.

What about stores and service providers that sell religious goods and services like Christian bookstores or Jewish funeral homes?

The Equality Act will not mandate that any retailer sell any product or offer any particular service type. It merely requires that all customers be treated equally and can purchase the same products or services on the same terms as others.

Would religious schools lose government funding if they don't admit LGBTQ+ students?

The Equality Act does not add religion to Title VI of the Civil Rights Act of 1964, which prohibits discrimination by federal funds recipients. A religious school that limits enrollment and employment to members of their identified faith may continue to receive federal funds, such as school lunch subsidies. Religious schools may determine their faith's tenets and decline to enroll or hire individuals who are not members of their faith in good standing. However, once a school decides that enrollment is open to the public and includes students of all faiths or no faith, it cannot deny entry to LGBTQ+ students and maintain its federal funding.

What about a house of worship that rents out its facilities for weddings? Would it have to let couples rent those facilities for weddings it believes violates its religious principles?

Under the Equality Act, houses of worship will remain free to determine which religious ceremonies they will celebrate within their faith traditions. If a religious organization rents out space to the general public for wedding ceremonies outside its faith tradition, it would be considered a public accommodation and subject to nondiscrimination laws.

Will the Equality Act require religious organizations to hire people who don't live consistent with their faith traditions? What about board members of religious nonprofits? The Equality Act does not change the existing exemptions in Title VII of the Civil Rights Act, allowing religious organizations to prefer individuals of the same faith in hiring. That means these organizations can continue to hire people exclusively of the same religion or prefer applicants. But they cannot otherwise discriminate. That means if a religiously affiliated hospital employs people of all faiths for secular positions, they can't fire a nurse or janitor for having a same-sex spouse or for transitioning. A religious school that only employs members of the same faith could continue to do so. Unpaid leadership positions like boards of directors are not considered "employees" subject to the employment discrimination laws.