



Agudath
Israel
of America
אגודת ישראל באמריקה

May 13, 2019

Rabbi Abba Cohen
Vice President for Federal Government Affairs
Washington Director and Counsel

U.S. House of Representatives
Washington, D.C.

Re: *Oppose H.R. 5, the Equality Act*

Dear Representative:

I write on behalf of Agudath Israel of America, a national Orthodox Jewish organization, to urge your opposition to H.R. 5, the Equality Act, legislation that will include "sex, (including sexual orientation and gender identity)," within the scope of federal civil rights laws. Specifically, sex, sexual orientation and gender identity will be among classes protected in statutes covering discrimination in public accommodations, federal funding, employment, housing, and other areas.

The Equality Act would represent a sea change in the respect accorded religious belief and practice in our nation and in the rights and activities of religious organizations. Ultimately, it will dramatically affect the religious freedom Americans of many faiths enjoy. In the Jewish community, synagogues, religious schools and community charities that adhere to Judaism's hallowed and millennia-old code of sexual conduct could be hurt deeply and unjustly by this bill.

Federal Funding and Religious Rights -- The proposed legislation will condition the receipt of federal funds on requirements that may run afoul of a religious entity's beliefs and practices regarding marriage, gender and sexuality. This could affect federal assistance (e.g. security grants, college aid, child nutrition, disaster relief, etc.) to houses of worship, as well as to faith-based schools and colleges, charities, adoption and foster-care providers, emergency shelters for the homeless and victims of domestic violence, and other such agencies that cater to society's most needy and vulnerable.

These institutions are motivated by their religious mission to serve their communities and the public good. Being forced by the Equality Act to violate their religious tenets as a condition for receiving federal assistance will lead to an inevitable result: the cutback or elimination of services being provided by religious entities that are stepping up to fill the void left by government deficits. No religious entity should be put in that position and no deserving beneficiary should have to fall prey to it.

Public Accommodations and Religious Rights -- The Equality Act expands the entities that would constitute a "public accommodation" to include a place of "public gathering" or "any establishment that provides a good, service or program." A reasonable reading of this language on its face, and the examples it offers, could encompass within the new definition's scope houses

of worship and other religious entities that provide charitable or other social services to the community, such as food pantries or homeless shelters. Nothing in the proposed legislation makes clear that religious institutions are considered to be outside the realm of "public accommodations," as they were always considered to be.

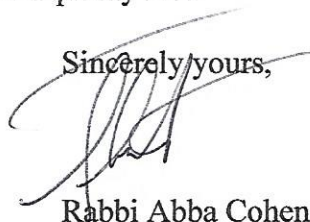
This concern could extend, for example, to Jewish funeral homes and cemeteries, kosher food stores and caterers, and rabbinic organizations that certify kosher products and affairs. It could further include businesses that provide wedding services, such as florists and bakeries, where the Supreme Court itself in *Masterpiece* showed concern for the treatment of the religious convictions of the Christian baker. Yet, the Equality Act shows no such concern and makes no such accommodation for the religious beliefs or practices of religious entities or adherents.

Religious Freedom Restoration Act -- Finally, perhaps the most egregious aspect of the Equality Act is its denial of free exercise protection under the Religious Freedom Restoration Act (RFRA). Congress overwhelmingly passed RFRA to safeguard religious liberty and to give religious adherents a fair hearing and their day in court. No case -- no matter how unpopular -- was deemed to be beyond the reach of the free exercise standard that the First Amendment itself provides, and no case was to be pre-judged without a balancing of interests and due consideration of both religious rights and governmental concerns. RFRA represents the restoration of religious liberty to its traditional and rightful place as America's First Freedom and to its profoundly important status in relation to other civil rights, even while not, *per se*, favoring every religious practice over any governmental interest.

Yet, the Equality Act flies in the face of that commitment and does so in the reverse direction through favoring rights based upon sexual orientation and gender identity. By exempting provisions of the bill from RFRA defenses, it not only denies religious freedom to American citizens and institutions, it sends a much more dangerous message: that religious belief and practice are not even worthy of consideration in a court of law and that religious adherents are not even worthy of protection. By exempting RFRA, it erases religious freedom -- the foundational principle of our republic -- from this law. Congress has never taken that drastic and devastating step. It should not do so now.

And it is worse. Without provisions that accommodate religious belief and practice, and without providing the protections of RFRA, the Equality Act plays right into the narrative of those who seek to deny America's religious heritage, to portray religious adherents as bigots and haters, and to change what to millions of Americans are millennia-old, Divinely-revealed, sincerely-held moral values. This hostility toward religion is not countenanced by our law or our ideals. We urge you to oppose H.R. 5, the Equality Act.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'Abba Cohen', written over a horizontal line.

Rabbi Abba Cohen

RAC/ me