



April 8, 2019

Hon. Suzanne Bonamici, Chairwoman
House Education and Labor Committee
Subcommittee on Civil Rights and
Human Services
2176 Rayburn House Office Building
Washington, DC 20515

Hon. James Comer, Ranking Member
House Education and Labor Committee
Subcommittee on Civil Rights and
Human Services
2010 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Bonamici and Ranking Member Comer:

The Association of Christian Schools International (ACSI) takes this opportunity to express its concern about H.R. 5, the Equality Act, which has sharply negative implications both for the common good and for the First Amendment rights of all Americans of all stripes. The legislation's hostility to religious faith is revealed in its fundamental requirement that all must adhere to a single understanding of human sexuality. H.R. 5 does not permit any variation, objection or even mere concern. It thus is a threat to the very diversity of American political and cultural debate.

The bill achieves this mandate of uniformity of belief by two principal means: first, its elimination of any exemption for genuine religious viewpoints to the contrary; and, second, its explicit ban on the use of the Religious Freedom Restoration Act (RFRA) to assert a religious viewpoint contrary to government mandate.

In the first case, the overwhelming majority of sexual orientation / gender identity laws at the state and local level make a point of including religious exemptions. This bare-minimum approach at least has the advantage of allowing *some* Americans the capacity to live in accord with genuine faith-based viewpoints related to human sexuality. The legislation before you does not even do that and is thus in conflict with basic American principles of fairness.

In the second case, the legislation combines the threat inherent in the deliberate exclusion of a religious exemption with an explicit rejection of recourse to RFRA when government policy and religious faith are in conflict. Under RFRA, the government must show that it has a compelling state interest in a policy which restricts religious liberty and it must show that it uses the least restrictive means to implement that policy. A religious entity is not *guaranteed* its liberty when policy and faith conflict, but it *is* given a chance to make its case in court. The Equality Act, by explicitly rejecting even this safety valve, imposes a draconian approach that brooks no objection.

This has already been happening. Some state and local governments have *already* banned faith-based adoption agencies from their vital role. Others use sexuality-based policies to suppress the participation of religious schools in programs of general applicability. Remarkably, rather than allow all to participate in providing adoption and foster care services, including those who

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operate in accord with their religious convictions, government entities choose to ban any participation whatsoever by religious entities based purely on the faith-based conviction of those entities that seek to place children in families in accord with their faith. Such policies of exclusion harm the very children that faith-based entities seek to assist. The Equality Act would impose very similar policies nationwide in a variety of circumstances.

Among many others, Christian schools face serious negative repercussions from the Equality Act. The legislation could turn a school into a public accommodation which would, in turn, compel Christian schools to admit students who disagree with Christian convictions about how best to promote human flourishing and student conduct standards that reflect those convictions. Christian school health plans would have to include sex reassignment surgeries and other treatments for gender dysphoria that conflict with schools' understanding of the best medical practices. The legislation would compel Christian schools to allow mixed use of rest rooms, locker rooms and other sex-separated facilities, including boarding school arrangements.

Further, the legislation almost certainly would extend into the regulation of curriculum and teaching practices of faith-based schools. If a Christian school is prohibited in all these other ways of living out its faith, government policy surely will not leave the school alone to teach contrary to what the government has just forced it to comply with in every other way. In essence, a Christian school may be left to hold its beliefs but have no way to live them out under the law. Freedom of thought needs no protection but freedom of expression and the ability live in conformity with a viewpoint does.

This bill does not simply attempt to raise certain identity-based labels to a protected status, it also seeks to silence all religious objection. This silencing of dissenting views is a significant risk and has much broader implications than just to human sexuality. It poses a significant risk to public debate on these and other issues to which RRFA has historically appealed in order to balance the government's ability to choose ideological winners and losers. This bill would give too much unchecked authority to government to silence religious viewpoints without recourse and sets a terrible precedent of how to deal with future dissenters of the approved viewpoint – by silencing them. This bill goes beyond protecting one group and includes an effort to harm religious groups by further empowering government to choose ideological winners and losers without appropriate recourse by citizens.

These very real concerns implicate the many benefits that Christian schools provide to their communities. According to a *CAPE Outlook* article, a 2017 Gallup poll showed 63% of parents gave religious schools a “good” or “excellent” rating. The National Center for Education Statistics (NCES) reports that 78% of private school students choose faith-based options. Families are willing to make significant economic and other sacrifices to ensure their children receive a faith-based education.

Parents who voluntarily choose a Christian school education are actively seeking a genuinely Christian approach to human flourishing which includes a well-founded, reasonable approach to marriage and sexuality. Christians believe that God has created us for joy, that His loving standards are designed to promote an “abundant life” of “joy inexpressible”. The Equality Act, by contrast, does not merely promote a different view, it also mandates that view by eliminating any

religious exemptions or even an appeal to RFRA. Such an approach is a radical departure from America's tradition of enhancing the common good by protecting diverse viewpoints and religious conscience under the First Amendment's First Freedom.

Thus, the Association of Christian Schools International (ACSI), on behalf of our nearly 3000 member schools in the United States, respectfully urges you to oppose the Equality Act with its one-size-fits-all mandatory approach to human sexuality issues. ACSI is the largest Protestant school association that includes nearly 24,000 member schools around the world. Together, member schools educate 5.5 million children worldwide.

Thank you for your consideration and for your dedication to public service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas J. Cathey".

Thomas J. Cathey, EdD
Chief of Staff