

Chairman Jerrold Nadler
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Ranking Member Doug Collins
House Judiciary Committee
2142 Rayburn House Office Building
Washington, DC 20515

April 12, 2019

Dear Chairman Nadler and Ranking Member Collins:

As the committee has begun hearings on the Equality Act, we write representing over 150 institutions of faith-based higher education in the United States to share with you the impact that this piece of legislation would have on our institutions. While the Equality Act moves to expand the scope of the Civil Rights Act, it ultimately harms a diverse group of educational, social service, and civic institutions that contribute significantly to the strength and vibrancy of our society by failing to preserve the essential liberty protections provided even under current law. In particular, as it relates to the sector of faith-based higher education that has religious convictions around marriage, human sexuality, and gender, the Equality Act would put at risk their ability to hire professors who support these schools' religious teachings and to operate programs that are consistent with their religious beliefs and missions. Middle- and low-income students would be prohibited from taking their federal student aid to these institutions, thus having their choice of colleges restricted in an unprecedented way. Religious students, first-generation college students, and students from racial and ethnic minority groups would be disproportionately impacted.

Specifically:

- ♦ Religious colleges and universities will not be able to apply religious standards of conduct in making employment decisions. The Equality Act's religious protection is so narrow that a school could make hiring decisions based only on whether the applicant professed to be a member of the same religion, regardless of whether the member actually followed the institution's religious beliefs and teachings.
- ♦ Properties of religious schools will be treated as public accommodations (spaces). This would require the religious college to allow access to campus facilities to the general public, even to those who don't comply with university religious standards. Additionally, the bill makes a place of "gathering" a public accommodation, which raises doubts whether a house of worship or the sacred spaces on a college campus would now be governed by federal law.
- ♦ Federal financial aid (such as Pell grants) will be jeopardized for any student seeking to attend a religious college or university whose religious teachings vary from the Equality Act. This penalty on middle- and low-income students would disproportionately impact religious students, first-generation college students, and students from racial and ethnic minority groups.
- ♦ Federal research grants will be denied to any religious university that enforces religious conduct standards in its student admissions, continuing enrollment, and graduation

decisions, even when they are the best qualified or most cost-effective institutions to conduct the research. Taxpayers lose when government must select from a smaller pool of applicants.

- ♦ The bill has no protection from the loss of federal or state tax-exempt status because of a religious organization's lawful expressions or activities stemming from its beliefs regarding marriage, human sexuality, and gender. Loss of tax-exempt status would harm students directly, as scholarships, new classrooms, and athletic facilities are all funded through the generous donations of others.
- ♦ The bill guts the Religious Freedom Restoration Act (RFRA), whose important balancing test ensures that the government is rightly protecting the religious rights of its citizens. Without this balancing test in place, LGBT rights will always trump an institution's religious conscience rights, no matter how great the harm to religion.

Faith-based higher education has always been an essential element of the diversity of the higher education system in the United States—many of the first colleges and universities in the United States were religious—and religious colleges and universities continue to play a vital role in ensuring that every aspiring college student is able to find the institution that is the best fit for her. In fact, the most recent data on this topic from the Higher Education Research Institute at UCLA on Spirituality in Higher Education found that four in five entering college students indicated “having an interest in spirituality” and “believing in the sacredness of life,” and nearly two-thirds said that “my spirituality is a source of joy.” Moreover, nearly half (48%) say that it is “essential” or “very important” that college encourage their personal expression of spirituality. Therefore, it is essential that protections for LGBT persons be paired with the essential religious freedoms that maximize freedom for all.

Like all colleges and universities in the country, faith-based institutions graduate future teachers, social workers, nurses, members of the military, and business leaders. Our society benefits from their contribution to the common good. Additionally, faith-based colleges and universities have graduation rates that are above the national average, the highest loan repayment rates in higher education, and remarkable track records of successfully graduating low-income, first-generation, and racial- and ethnic-minority students.

The United States has a long tradition of preserving diversity of thought, especially as contributed by religious beliefs and communities, not only within its higher education system but also within society as a whole. This was most recently affirmed by Justice Kennedy in the majority opinion in *Obergefell*, when the matter of same-sex marriage and religious convictions were at odds: “Finally, it must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure they have long revered.” It is vital that religious institutions of higher education—which offer unique and essential perspectives to

society, to the academy generally, and to the scholarship of each academic discipline—be protected so that they can continue to flourish.

We believe that God created every person equally in his own image. As divine image-bearers, all people have inestimable value and dignity before God and deserve honor, respect, and protection. We agree that no one should face violence, harassment, or unjust discrimination on the basis of sexual orientation or gender identity. American civil rights laws have never treated—and should not treat—all issues and protected groups identically, but have been amended over time to provide basic protections to additional groups. We believe there is a place for recognizing that, as all people are made in the image of God, LGBT Americans should also receive such basic protections, in a way that also respects the rights of others.

Thank you for taking the time to consider the issues raised in this letter. We are grateful for the opportunity to explain how the Equality Act would undermine our goals of student access and success by failing to respect the religious character and mission of our institutions. We are eager to work with you to ensure that every student in the United States, including religious students and students who wish to attend religious institutions, can find the best higher educational opportunity to prepare them for a lifetime of successful contribution to society. Because of the devastating impacts this bill would have on millions of students and the hundreds of institutions they attend, we write to express our opposition to the Equality Act. We look forward to working with you to find a better way forward.

Thank you for your attention to our concerns,

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