

Senate Judiciary Committee Hearing
“The Equality Act: LGBTQ Rights Are Human Rights”
Questions for the Record

Responses of Alphonso David, President of the Human Rights Campaign

Questions from Senator Cory Booker

- How does the Equality Act expand "places of public accommodations" and what are the limitations?

Title II of the Civil Rights Act of 1964 defines places of public accommodation narrowly to include eating establishments, temporary lodging, and entertainment venues. The Equality Act would expand places of public accommodation to include additional establishments where individuals would expect to be able to receive goods and services as a member of the general public, similar to the scope of many state public accommodations laws. This expansion includes retail establishments, services providers such as legal services agencies, tax preparers, child and elder care facilities, and transportation services. The legislation would not impact private establishments that are open only to their membership, consistent with current law. Under Title II, houses of worship can choose to operate places of public accommodations, such as a pool or cafe open to the general public, but that would only make those places public accommodations when open to the public and would not automatically make the entire house of worship a place of public accommodations. Places of public accommodation also have the right to set limitations on what services or goods they offer as well as what spaces are open to the public, and the Equality Act would not change that.

- Can you explain the original intent behind the Religious Freedom Restoration Act (RFRA) when it was passed? How have federal courts applied RFRA in ways that go beyond the original intent?

When the federal Religious Freedom Restoration Act (RFRA) became law in 1993, it was designed to protect minority religious groups' constitutional right to freely exercise their religious beliefs, but not to authorize discrimination and other conduct that would harm others in the name of religion. Indeed, legislative history makes clear that, for example, Congress intended that nothing in RFRA “shall be construed as affecting Title VII of the Civil Rights Act of 1964.” H.R. Rep. No. 103-88, at 9 (1993); *see also* S. Rep. No. 103-111, at 12-13 (1993) (section entitled “Other Areas of Laws Are Unaffected”). Since RFRA was seen as an important safeguard for our country’s most vulnerable groups, it was supported by a richly diverse coalition of religious and civil rights groups. However, despite this focused, straightforward intent, individuals and businesses have sought to use RFRA as a license to discriminate and impose their religious beliefs on others. Police officers have used state RFRA as an excuse to refuse orders they claimed offended their personal religious views, including a police officer who

asserted a religious objection to his community policing duties at a mosque claiming a “moral dilemma” and an officer who cited “religious liberty” in his refusal to police a gay pride parade. The majority view of the courts has been that nondiscrimination laws further the government’s compelling interest in preventing and remedying the harms of discrimination in the narrowest way possible and so comport with RFRA, if RFRA is properly applied to such laws at all. However, a federal judge recently held that the federal RFRA prevented a full investigation of possible child labor law violations because the individual under investigation said that his religious beliefs forbade him from discussing those matters with the government. Another federal judge held that the federal RFRA permitted a for-profit business to fire a woman because the owner disapproved of her being transgender. This misapplication of RFRA as a defense to civil rights protections risks undermining these protections and jeopardizing the health and safety of vulnerable people. It is important to codify the correct original understanding that RFRA cannot justify harming others through allowing discrimination that is barred by federal civil rights laws. People are absolutely entitled to their beliefs, but they are not entitled to harm others, and that is all the Equality Act provides.

- The Equality Act adds sexual orientation and gender identity to Title VI of the Civil Rights Act of 1964. How will that addition impact houses of worship? Would they still be eligible to receive funds under the Paycheck Protection Program and DHS's Nonprofit Security Grant Program?

The Equality Act would not bar houses of worship from receiving government funds. It simply prohibits any entity that receives federal funds from engaging in prohibited forms of discrimination, which has long been the law with regard to discrimination based on race, color, and national origin. Houses of worship would still be able to define their own membership, set the tenets of their faith, and maintain exclusive control over their worship services.

- Would the Equality Act impact houses of worship in their employment practices?

With respect to employment practices, current federal law allows religious organizations, including houses of worship, to limit employment to members of the faith. In addition, the Supreme Court has determined that the First Amendment requires a “ministerial exception” that allows religious organizations to select faith leaders, and so make hiring and firing decisions for positions involving teaching the faith without regard to civil rights laws. The Court has interpreted the exception to apply more broadly than the nomenclature might imply, including with respect to teachers who perpetuate the faith at religious elementary and secondary schools. The Equality Act will not change either the current Title VII exemption nor this exception.

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Questions from Ranking Member Chuck Grassley

- Section 5 of the Equality Act adds “*sexual orientation and gender identity*” to Sec. 401 of the Civil Rights Act on Desegregation of Public Education.
 - What can you tell us about the intent behind Section 5 of the Equality Act and the need for the inclusion of this language?
 - What effect will this have?

Title IV of the Civil Rights Act of 1964 currently permits the United States Attorney General to address equal protection violations on the basis of race, color, national origin, religion, and sex. Consistent with the Supreme Court’s decision in *Bostock v. Clayton County*, the Equality Act affirms that the term sex also applies to sexual orientation and gender identity. The Department of Justice utilizes Title IV to address a range of discriminatory actions by public schools including harassment of students based upon their faith (DOJ Resolution in Dekalb County School District (N.D. Ga.)), adoption of practices that resulted in students being underrepresented in academic programs based on race (Geier & United States v. Sundquist), failure to recognize transgender students consistent with their gender identity (DOJ Resolution Arcadia Unified School District), and providing inferior practice and playing facilities based on sex (Communities for Equity v. Michigan High School Athletic Association). The express inclusion of sexual orientation and gender identity will ensure that the Department of Justice continues to address discrimination against LGBTQ students.

- Are students who identify as transgender segregated in elementary and secondary schools?

Transgender students experience a broad range of discrimination in elementary and secondary schools including harassment, exclusion from programs, and exclusion from facilities. In numerous public schools, transgender students have been denied the ability to use the restrooms consistent with their gender identity that all other students are allowed to use. For example, in one case a transgender boy was required to use a converted janitor’s closet rather than the boys’ restroom which singled him out and made him vulnerable to harassment (GG v. Gloucester County School Board).

- Do you believe that an elementary school curriculum should include information about gender identity, and if so, what should that curriculum include?

Curriculum inclusive of all students allows youth to thrive and can help to reduce bullying. However, the Equality Act, like existing nondiscrimination laws, does not include a curriculum mandate. Decisions about inclusive curriculum will continue to be determined at the state and local levels.

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Questions from Senator Amy Klobuchar

- In 2015, the Supreme Court held in *Obergefell v. Hodges* that the Constitution guarantees same-sex couples the right to marry. In his majority opinion, Justice Kennedy wrote that the same-sex couples in the case “*ask for equal dignity in the eyes of the law. The Constitution grants them that right.*”

What did Justice Kennedy mean by “equal dignity” under the law and how would passing the Equality Act extend the concept of equal dignity for LGBTQ people even further?

Justice Kennedy was referring to the right of all individuals, couples, and families to be treated with equal respect and provided equal status by the law so that no one is relegated to a second-class status in this country. The Equality Act will further the equal dignity of LGBTQ people by expressly prohibiting discrimination based on sexual orientation and gender identity in employment, housing, public accommodations, credit, federally funded programs and services, and federal jury service nationwide. Recognizing the history and ongoing prevalence of such discrimination and providing remedies for it will further equal treatment and respect for LGBTQ people and their families. It also will express that the law’s commitment to protecting LGBTQ people, like all others in our country, against wrongful discrimination that deprives them of their dignity and causes tangible harms as well.

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Questions from Senator Patrick Leahy

- During the hearing last week, we discussed the important progress that we have made towards addressing the discrimination that LGBTQ+ survivors of gender-motivated violence face in finding safety and support. Specifically, the 2013 reauthorization of the Violence Against Women Act (VAWA) barred VAWA-funded service providers from excluding, denying benefits, or discriminating against clients on the basis “*actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability.*” This provision is almost identical to Equality Act provisions that prohibit discrimination in federally funded services.

Just as when we worked to get these provisions into VAWA, some at the hearing decried this as “*preferential treatment.*” Some also predicted, while offering no evidence, that the Equality Act would result in charities being “*shut down.*”

- In the eight years since this antidiscrimination provision was added to VAWA, is there evidence of shelters being closed or losing federal funding?

No. Not that I am aware of.

- In the 21 states that have comprehensive anti-discrimination provisions working hand-in-hand with VAWA, is there evidence of improvement in LGBTQ+ individuals accessing the support that they need?

The implementation of VAWA’s nondiscrimination provisions coincided with the Trump administration’s attacks on the LGBTQ community, especially the transgender community. During this period there was minimal effort to implement the nondiscrimination provisions, including a lack of training and technical assistance from the Office of Violence Against Women (OVW). However, despite the lack of implementation efforts, clear provisions naming LGBTQ survivors as a priority for protections in 2013 has led to significant shifts in the domestic violence and sexual assault field as a whole, in that LGBTQ survivors went from largely invisible, to a named priority for the field.

- Along with passing the Equality Act, I am committed to ensuring that we remove barriers to services in the current VAWA reauthorization bill.

- Are there continued instances of explicit discrimination against LGBTQ+ survivors, despite the nondiscrimination provisions of the 2013 VAWA reauthorization?
- Are nondiscrimination provisions of VAWA translating to funds reaching LGBTQ+ survivors directly?

Yes, despite progress, programs across the country share that LGBTQ survivors are denied access to care. Additionally, even with VAWA nondiscrimination protections, those protections are largely focused on domestic violence and sexual assault service providers. They do not impact many of the other essential areas of a survivor's life, including employment, housing, and public accommodations. Where discrimination is legal, or even tacitly allowed, abusers use those points to maintain power and control over their survivor. For example, a survivor may be unwilling to alert a landlord of potential abuse because of fear of housing discrimination.

Some survivors have reported experiencing anti-LGBTQ prejudice, such as agency staff refusing to use their correct pronouns or staff telling survivors not to discuss LGBTQ issues. Others have described shelter staff forcing them to leave when they disclosed their LGBTQ identity. Many express feeling that the programs diminished the violence they experienced because of gender stereotypes, such as the incorrect assumption that masculine people cannot experience abuse, or overall lack of knowledge of LGBTQ communities.

It is difficult to determine if funding is reaching LGBTQ survivors. Only a handful of LGBTQ specific-programs are funded directly through OVW, which is in part why an LGBTQ-specific grant program is necessary. Further, OVW does not collect sexual orientation or gender identity data, making it hard to know how many LGBTQ people across the country were served.

- A recent CDC survey found that within the LGBTQ+ community, 44% of lesbians, and 61% of bisexual women experienced rape, physical violence, or stalking by an intimate partner, compared to 35% of straight women. One in 4 LGBTQ+ organizations reported to have spent the majority of their funding to provide training and technical assistance to non-LGBTQ+ agencies, while LGBTQ+ survivors overwhelmingly reported they would rather seek services for domestic violence from an LGBTQ+ specific program instead of broad-based domestic violence programs.
 - How are LGBTQ+-specific programs and services beneficial to LGBTQ+ survivor communities?

LGBTQ specific programs provide unique culturally responsive services that LGBTQ survivors need. Many LGBTQ survivors—especially transgender, gender non-conforming and LGBTQ survivors of color—are reluctant to or will not seek help from formal services due to of fear or direct experience of bias, harassment, or violence (Calton, Cattaneo, & Gebhard, 2016; Simpson & Helfrich, 2014; Jordan, Mehrotra & Fujikawa, 2020). Many LGBTQ survivors continue to

experience discrimination, lack of knowledge, and bias when seeking help at non-LGBTQ specific agencies.

The 2015 U.S. Transgender Survey found that only 1% of transgender survivors visited or used services at a domestic violence shelter, domestic violence program, or rape crisis center in the prior year. Fifty-nine percent of those who accessed these services believed that the staff or employees knew or thought they were transgender. Of those who believed their identity was known, 22% reported experiencing one or more of the following incidents: denied equal treatment or service, verbally harassed, or physically attacked because of being transgender.

In a survey of 590 LGBTQ survivors, 69% indicated that given a choice, they would rather seek services for domestic violence from an LGBTQ specific program than a mainstream program. However, close to 20% had sought services via mainstream programs. The survey found much higher levels of satisfaction with services from LGBTQ specific programs.

- Sexual violence perpetrated against LGBTQ+ people is particularly concerning. According to the CDC, lesbian, gay, and bisexual people experience sexual violence at rates that are similar or higher than straight people. And perhaps more concerning, 85% of victim advocates surveyed by the National Coalition of Anti-Violence Programs (NCAVP) reported having worked with an LGBTQ+ survivor who was denied services because of their sexual orientation or gender identity.
 - Please describe how the Equality Act provisions would aid in protecting LGBTQ+ sexual assault survivors.

The fact that the Equality Act makes clear that it is unlawful to discriminate against LGBTQ people is critical to protecting LGBTQ survivors of sexual assault. Given that housing insecurity, fears of being outed, instability in employment and increased rates of poverty, can all increase the risk of experiencing sexual violence, the protections at issue in the Equality Act are also central to addressing the needs of LGBTQ sexual assault survivors. Further, fear of discrimination and rejection makes it hard for LGBTQ survivors to seek services or protections when experiencing violence. Survivors need to access a range of federally funded programs that are not limited to those covered by VAWA. The failure of the federal government to fully recognize the LGBTQ community as deserving of protections sets a second-tier status that can be interpreted by survivors as a proclamation that they are not deserving of protection. Also because of the lack of societal recognition, perpetrators may feel like they can target LGBTQ community members for violence without fear of reprisal.

- At the hearing, you countered Ms. Shrier's claim that "*gay and trans people today experience less discrimination than ever before*" with concrete evidence of the tragic murders of 44 trans woman, mostly black and brown, in 2020—more than any other year in history. This aligns with FBI data released last year showing an escalation in hate crimes against LGBTQ+ individuals over the past few years.

- Please describe some of the factors contributing to the alarming rise in hate crimes against LGBTQ+ individuals.

The referenced FBI report shows that in 2019, hate crimes based on sexual orientation comprised 16.8% of all reported hate crimes, making it the third largest category after race and religion. Additionally, reported hate crimes based on gender identity are increasing. As you also mentioned, for years the Human Rights Campaign has tracked fatal violence in the LGBTQ community and know that Black transgender women comprise the vast majority of victims, due to interlocking risk factors that include systemic racism and sexism, stigma against transgender people, and denial of opportunities that result in increased poverty and health disparities, which then exacerbate already-held anti-trans beliefs and stigma. Transgender people, and particularly Black and Brown transgender women, face discrimination in education, employment, healthcare, identification documents, policing and incarceration, and immigration, which all fuel the transphobia that underpins fatal violence. The Equality Act is an important tool to address this discrimination and help make communities safer.

- How would the Equality Act bolster the efforts of the *Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act* in protecting LGBTQ+ survivors?

Ultimately, the Equality Act is a more comprehensive way to address the root causes of the violence that the federal hate crimes law seeks to prevent. When we think of hate crimes as isolated incidents against individuals, we fail to see the larger societal and cultural context of bias that creates the conditions that lead to violence, including systemic racism, sexism, anti-immigrant xenophobia, and fear and hatred of religious minorities. The Equality Act's non-discrimination protections will help LGBTQ people find safe workplaces, stable living situations, and services that they need, and will also increase those protections for people of color, women, and religious minorities.

- In the 2015 U.S. Transgender Survey, transgender women of color faced discrimination in many contexts, including pervasive housing discrimination. In particular, 31% of Black transgender women and 27% of Native transgender women reported being denied a home or apartment in the past year because of their gender identity. In Vermont, 7% of respondents in the same study experienced homelessness in the past year due to their transgender identity. By 2020, under the Trump administration, the Department of Housing and Urban Development proposed allowing homeless shelters to prohibit transgender people access to single-sex shelters of their gender identity.
- How does the Equality Act support full and equal access to housing and shelter for the transgender community?

The Equality Act confirms the Supreme Court's analysis in the *Bostock* decision that discrimination based on sex includes discrimination against transgender individuals. That is as true for the Fair Housing Act as it is for Title VII, as the current Department of Housing and

Urban Development has concluded. That, and the inclusion of gender identity as a prohibited ground of discrimination in public accommodations and federally funded programs and services will support full and equal access to housing and shelter for transgender individuals.

- During the hearing last week, some relied on a false narrative that we must choose between protecting LGBTQ+ individuals and upholding religious freedom.
 - The Religious Freedom Restoration Act (RFRA) was never intended to apply to civil rights law. Please describe the harm that would be caused by misreading RFRA in a way that defends civil rights violations.

It is correct that RFRA was never intended to apply to civil rights laws. The Equality Act would confirm that understanding and would be in accord with the majority view of courts that have considered the issue, including the U.S. Court of Appeals decision in *EEOC v. R.G. & G.R. Harris Funeral Homes*, 884 F.3d 560, 596 (6th Cir. 2018), that nondiscrimination laws “are least restrictive means of furthering [the government’s] compelling interest in eradicating discrimination in the workplace,” which satisfies the terms of RFRA. While RFRA guarantees absolute freedom to believe, it does not entitle individuals or entities to harm others, including by engaging in discrimination against them.

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Questions from Senator Mike Lee

- Would the Equality Act require health care facilities to treat people according to their stated gender identity?

Section 1557 of the Affordable Care Act (ACA) already prohibits discrimination by federally funded health care facilities on the basis of sex. Numerous courts have determined that the ACA’s prohibition on sex discrimination also prohibits discrimination based on gender identity, and the Supreme Court affirmed in *Bostock v. Clayton County* that protections from sex discrimination extend to transgender people. The Equality Act codifies this interpretation of the law.

- Biologically speaking, do you believe transwomen are women and transmen are men?

Transgender women are women and transgender men are men. There are many aspects of biology that relate to sex and there is considerable variation among individuals with respect to those aspects of biology. Nevertheless, some research has indicated that, on average, the brains of transgender women biologically resemble the brains of cisgender women more than the brains of cisgender men, and that the brains of transgender men biologically resemble the brains of cisgender men more than the brains of cisgender women. In addition, many transgender individuals receive hormone therapy that makes their hormone levels consistent with their gender identity and that make other biological changes in their bodies that make them consistent with their gender identity. Some transgender individuals obtain a variety of surgeries that biologically make parts of their bodies consistent with their gender identity. Genitals and internal gonads are not defining of maleness or femaleness because, for example, a man can lose parts of his genitals by injury or disease and would still be a man and a woman can have her internal reproductive organs removed for a number of reasons and would still be a woman.

- Can transmen impregnate women? Can transwomen deliver babies and breast feed them successfully?

Many individuals are unable to bear children or do not wish to do so. Even when they do deliver babies, many women are unable or do not wish to breastfeed. None of these factors negates a person’s gender.

- What does it mean to be a woman?

Most people have a deep understanding of what their sex is from an early age. Women vary widely from one another in their height, body shape, and other biological characteristics, as well as in their interests and aptitudes, and the overlap of the range of most of those characteristics, interests, and aptitudes with the range among men is considerable. A woman is an adult who knows herself to be female.

- The preamble to an HHS final rule from 2020 concerning the treatment of sex and gender identity discrimination under Section 1557 of the Affordable Care Act remains the official factual findings of HHS on these questions. In that document HHS said *“biological (and, [] genetic) differences between males and females are real and matter to health outcomes and research. Sex affects: Cell physiology, metabolism, and many other biological functions; symptoms and manifestations of disease; and responses to treatment.”*

Do you agree with that statement?

As explained above, this is not true for all males or all females. It ignores that there are individuals who do not share all characteristics stereotypically considered male or all characteristics stereotypically considered female, including intersex individuals. It is also the case that, for example, health outcomes and responses to treatment are not necessarily different for individuals with genetic differences. In addition, more than one federal court enjoined the 2020 HHS final rule with respect to the rule’s elimination of nondiscrimination protections based on sexual orientation and gender identity.

- HHS then identified the dangers of “masking” vitally important medical information by requiring health care providers to track and treat people by their subjective gender identity as opposed to their biological sex.

Do you acknowledge this danger exists, especially in emergencies?

The concept of “biological” sex is a distortion of the reality that the actual “biology” of sex is complicated and affected by many factors. Health care providers should treat people based on the totality of their medical status and not based on how their sex may have been identified at birth, which may have been inaccurate then and may no longer be accurate now for some individuals. For example, health care providers need to know individuals’ hormone levels for certain treatments and it is vitally important that health care providers not assume what those are based on the sex an individual was identified as at birth.

- Finally, HHS found just last year that *“there is no medical consensus to support one or another form of treatment for gender dysphoria.”*
 - Is it true that the Equality Act would require surgeons who routinely perform hysterectomies on non-transgender persons to perform them for sex reassignment

purposes if it is deemed necessary by a patient's psychiatrist and is otherwise safe?

The Equality Act does not require access to any particular procedure. It prohibits discrimination in health care based on gender identity just as does Section 1557 of the Affordable Care Act. If surgery is medically necessary for a patient, it should not be denied based on the patient's gender identity. In addition, the referenced "finding" by HHS was incorrect. There is a "robust international consensus in the peer-reviewed literature that gender transition, including medical treatments such as hormone therapy and surgeries, improves the overall well-being of transgender individuals." (See, <https://whatweknow.inequality.cornell.edu/topics/lgbt-equality/%20what-does-the-scholarly-research-say-about-the-well-being-of-transgender-people%20/>.)

- Is it true that this requirement to perform the surgery holds even if the patient is a minor?

Again, the Equality Act does not require access to any particular procedure, including for minors. The Equality Act also does not change state laws governing parental or custodial consent to medical procedures provided to minors. Surgery on reproductive organs is not currently recommended treatment for transgender minors.

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Questions from Senator Sheldon Whitehouse

- The Alliance Defending Freedom claims *“the ‘Equality Act’ could be used to require doctors, businesses, and taxpayers to support and participate in abortion.”*
 - Federal law currently prohibits federal funding of abortions. Does the Equality Act repeal or override that law?

I believe you are referring to the Hyde Amendment. The Hyde Amendment discriminates against people struggling to make ends meet by denying Medicaid coverage of abortion. The Hyde Amendment is a rider effectuated through the annual appropriations process, a process that would continue even after the Equality Act becomes law. The legislative measure that directly addresses the Hyde Amendment is the EACH Act, which would eliminate the Hyde Amendment and related harmful bans on abortion coverage.

- Since 2004, appropriations language has shielded hospitals, health insurance plans, doctors, and nurses that refuse to provide, cover, pay for, or refer for abortion.

Does the Equality Act prevent Congress from continuing to include this language in appropriations bills?

I believe you are referring to the Weldon Amendment. Like the Hyde Amendment, the Weldon Amendment is a rider effectuated through the annual appropriations process, a process that would continue even after the Equality Act becomes law. The Weldon Amendment allows health care entities – including insurance companies – to deny patients abortion care and is designed to deter policymakers from protecting abortion access and coverage. The Weldon Amendment does not include any provisions to protect patient access to abortion care and for too long has prioritized personal beliefs over patient care. In fact, just last year, the Trump Administration announced it would withhold \$200 million in federal Medicaid funds quarterly from California due to an alleged violation of the provision. The most direct way to remedy this harmful provision is by eliminating it from the yearly appropriations law.

- Existing statutes and regulations balance the rights of individual doctors to provide care in accordance with their religious or moral beliefs with the rights of patients to access the care they need and deserve.

Does the Equality Act include any requirement that individual doctors provide specific health care services, including abortion?

The Equality Act is not designed to require any specific health care service. The Equality Act gives people an additional basis to go to court and defend their rights when they experience sex discrimination in a whole host of different circumstances—including in health care.

The Heritage Foundation claims, “*Sexual orientation and gender identity laws that open up sex-specific facilities like bathrooms, locker rooms, etc. to members of the opposite sex enable sexual assault.*” In 2001, Rhode Island passed a nondiscrimination law that protects transgender people in employment, housing, and public spaces, including bathrooms.

Have nondiscrimination laws like the one in Rhode Island led to increased rates of sexual assault?

No. There is no evidence to support the assertion of the Heritage Foundation. In fact, it is transgender individuals who are most at risk of sexual assault in such facilities. In addition, sexual assault is criminal, regardless of who engages in it. Over 300 domestic violence and sexual assault organizations have signed onto a “National Consensus Statement of Anti-Sexual Assault and Domestic Violence Organizations in Support of Full and Equal Access for the Transgender Community” and leading anti-violence and women’s safety advocates like the National Task Force to End Sexual and Domestic Violence have endorsed the Equality Act.

- Last year, the American Principles Project, a conservative super PAC, spent millions on ads attacking President Biden and Senator Peters for supporting the Equality Act. One of the ads said the bill would “*destroy girls sports.*”

Rhode Island and dozens of other states have policies that allow for trans youth to participate in K-12 sports.

Have these states seen decreasing opportunities for girls in sports?

No. That assertion is a myth. There is no evidence of decreased opportunities for girls in sports in any states that allow transgender youth to participate in K-12 sports. To the contrary, there is evidence of increased participation of girls in sports in states such as California and Connecticut that allow transgender youth to participate in K-12 sports consistent with their gender identity (see the Fair Play report from Center for American Progress). Organizations that advocate for women and girls in sports, including the National Women’s Law Center, the Women’s Sports

Foundation, and the American Association of University Women, support inclusion of transgender women and girls in women's and girls' athletics.