

November 20, 2019

United States House of Representatives
Washington, DC 20515

Re: The Fairness for All Act of 2019 ("FFA")

Dear Representative,



We represent schools, health care professionals, charities, businesses, and millions of citizens. We strongly oppose the Fairness for All Act because it shares many of the dangerous characteristics of the Equality Act. By elevating sexual orientation and gender identity (SOGI) to the level of protected classes in the 1964 Civil Rights Act (CRA), this bill would codify a radical gender ideology and empower the federal government to punish citizens who believe sex is rooted in biology and that marriage is between a man and a woman. It would reverse significant progress that the Trump Administration has made in protecting religious freedom, medical conscience rights, and the privacy, safety and equal opportunities of women and girls.



FFA would: 1) infringe upon medical professionals' conscience rights if they decline to administer puberty blockers, cross-sex hormones, and sex reassignment surgeries, including on minors; 2) subject foster children to medically unproven treatments imposed by transgender ideology; 3) reduce privacy and safety for females and destroy female athletics; 4) violate freedom of speech, conscience, and religion for countless businesses, charities, and citizens.



Many proponents of FFA are our allies on religious freedom and other issues. We believe they desire to protect religious freedom, but FFA fails to effectively protect religious freedom and the common good. All Americans, not only those within a religious institution, should be able to live according to their beliefs. Limiting freedom to a religious institution does not strengthen it, but drastically shrinks the ability for everyone to live out their beliefs in the public square.



By adding SOGI to CRA Title II on Public Accommodations, FFA creates legal liability for medical professionals and hospitals that decline to administer hormones or perform surgeries for gender dysphoria. Disagreement over these treatments were central to a case in Ohio where a biological mother and father lost custody of their teenage daughter because they objected to her undergoing testosterone treatments. In Texas, a dispute between two divorced parents over "transitioning" their 7-year old alleged gender dysphoric son highlighted the risks of these experimental treatments upon children. Children have no long-term understanding of their sexuality and reproductive function, but hormones can lead to permanent sterilization. After a federal court enjoined the Obama care sex reassignment insurance coverage mandate, the Trump Administration reversed the mandate and introduced robust conscience protections for medical professionals. Passing FFA would revert to the Obama policy. Religious exemptions do not protect the consciences of doctors or secular hospitals. When doctors lose choices, parents lose choices. Under FFA, federally funded foster agencies and parents would be forced to affirm transgender ideology. The caretakers of these children would be legally



forbidden from pursuing body-affirming counseling or even suggesting a period of “watchful waiting.” The Trump Administration just announced it would rescind harmful Obama-era SOGI restrictions on faith-based child welfare agencies, but FFA would continue these discriminatory policies.

Under state SOGI laws and policies, women and girls have begun suffering the consequences of transgender ideology. In Alaska and California, there have been lawsuits involving homeless shelters for abused women who have been asked to admit biological men simply because they identify as women. The Department of Housing and Urban Development recently announced that homeless shelters have the freedom to admit clients according to biological sex. FFA would curtail this freedom. The Department of Education (ED) is investigating a complaint from the mother of a kindergarten girl who was sexually assaulted by a boy after her public elementary school adopted a transgender bathroom policy. In Connecticut, high school girls have filed a complaint with ED over the state’s decision to allow males to compete in girls’ track and field. The Trump Administration ended the Obama-era ED gender identity mandate on single-sex facilities in public schools, but FFA would reverse this progress by conditioning receipt of federal funds (CRA Title VI) upon implementation of gender identity policies. It would erase women and girls as a coherent category in civil rights law by allowing any male to claim a female identity. Exempting religious institutions does nothing to prevent this.

Adding SOGI to CRA Title VII, which forbids discrimination in employment, could force employers to permit transgender employees to use the private facilities of the opposite sex and violate sex-specific dress codes. It could create a “preferred pronoun” mandate and require employers to include sex-reassignment treatments in their employee health plans. Under FFA, only businesses with less than 15 employees are exempted, while the rest face the certain loss of their conscience rights as their workforces grow. FFA would also lessen the impact of the Department of Labor’s recent proposed rule allowing religious federal contractors to hire according to their own religious beliefs and practices.

FFA is simply not an effective means of stopping the Equality Act. Its narrow religious exemptions would not even protect religious schools, colleges and charities that open their property to the public, but who don’t want it used to celebrate same-sex weddings. And major LGBT organizations oppose religious exemptions. They have repealed them in other countries and are now seeking to nullify parts of the U.S. Religious Freedom Restoration Act itself. Indeed, the severability language in FFA could allow the religious exemptions it contains to be invalidated while other damaging provisions remain.

We strongly urge you to oppose this bill. It is anything but “fairness for all.” All Americans—medical professionals, parents (biological and foster), females, and employers—not just those in religious institutions, should enjoy the rights protected by our Constitution.

Sincerely,

Tim Chapman, Executive Director
Heritage Action for America

Michael Farris, President, CEO, General Counsel
Alliance Defending Freedom

Tony Perkins, President
Family Research Council

Penny Nance, CEO and President
Concerned Women for America

Mike Chupp, MD, CEO
Christian Medical and Dental Association

Dr. Michelle Cretella, MD, FCP, Executive Director
American College of Pediatricians