



# ILLINOIS YOUTH SUMMIT

Constitutional Rights Foundation Chicago



## LGBTQ Americans & the Civil Rights Act

*A Unit of the 2016 Illinois Youth Summit*

### Major Sponsors

ROBERT R.  
**MCCORMICK**  
FOUNDATION

*Stuart Family Foundation*



# Unit 1: LGBTQ Americans and the Civil Rights Act of 1964

---

## Overview

When the U.S. Supreme Court ruled in *Obergefell v. Hodges* (2015) that the Fourteenth Amendment protected same sex couples' right to marry, many people celebrated the case as a landmark in the LGBTQ community's effort to achieve equal rights. But observers were quick to point out that, in many states, people could still be discriminated against on the basis of sexual orientation or gender identity. A gay man might be fired simply because of his sexual orientation, an employer could refuse to hire a transgendered job applicant because of her gender identity, and a same sex couple might be evicted because the landlord objected to their marriage.

To address that problem, members of Congress have proposed the Equality Act, which would amend the Civil Rights Act of 1964 to make discrimination based on sexual orientation and gender identity illegal. The Civil Rights Act is the nation's premier civil rights legislation. The Act outlawed discrimination on the basis of race, color, religion, sex, or national origin. The Act required equal access to public places and employment; prohibited segregation in restaurants, theaters, hotels and similar businesses; and enforced desegregation of schools and the right to vote. It did not end discrimination, but it did open the door to further progress. Advocates believe amending the Civil Rights Act would continue that progress while opponents feel the amendment is unnecessary and a potential threat to religious liberty.

This unit begins with a human graph activity, in which students show their level of agreement or disagreement with a series of statements about discrimination and how it might be ended. In a jigsaw activity, they gain background on the Civil Rights Act and on the Equality Act, including arguments for and against its passage. After preparing a position statement on the issue, students take part in a simulated town meeting held by members of Illinois' congressional delegation to gather input from citizens. A glossary of terms is available at the end of the unit; teachers may choose to use the glossary at any time throughout the unit. A list of resources is also provided.

## Focus Question

- *Should the U.S. Congress amend the Civil Rights Act of 1964 to make discrimination on the basis of sexual orientation or gender identity illegal?*

## Objectives

Students will be able to:

- Explain the history of the Civil Rights Act of 1964 and its impact on the United States.
- Describe the provisions of the proposed Equality Act.
- Identify arguments for and against amending the Civil Rights Act of 1964 to ban discrimination on the basis of sexual orientation and gender identity.

- Take and defend a position on amending the Civil Rights Act of 1964 to ban discrimination on the basis of sexual orientation and gender identity.

## **Common Core State Standards**

This unit addresses the following Common Core State Standards:

- Reading: Key Ideas and Details (CCRA.R.2): Determine central ideas or themes of a text and analyze their development; summarize the key supporting details and ideas.
- Reading: Integration of Knowledge and Ideas (CCRA.R.8): Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.
- Writing: Text Types and Purposes (CCRA.W.1): Write arguments to support claims in an analysis of substantive topics or texts using valid reasoning and relevant and sufficient evidence.
- Speaking and Listening: Comprehension and Collaboration (CCRA.SL.1): Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively.
- Speaking and Listening: Presentation of Knowledge and Ideas (CCRA.SL.4): Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development, and style are appropriate to task, purpose, and audience.

## **Materials**

1A: Activity: Equal Rights for All: Interpreting a Human Graph

1B: Handout: Press Release on Equality Act (Primary Source)

1C: Activity: Researching the Issue and Taking a Position

1D: Handout: A Brief History of the LGBTQ Rights Movement

1E(1): Reading: The Civil Rights Act of 1964

1E(2): Reading: The Equality Act (2015)

1E(3): Reading: Arguments in favor of Amending the Civil Rights Act of 1964

1E(4): Reading: Arguments against Amending the Civil Rights Act of 1964

1F: Handout: Building an Argument

1G: Activity: Town Meeting

1H: Handout: Preparing for and Conducting the Town Meeting

1I: Handout: Student Reflection on Town Meeting and Focus Question

LGBTQ Americans and the Civil Rights Act of 1964: Glossary

LGBTQ Americans and the Civil Rights Act of 1964: Selected Resources

## 1A: Activity: Equal Rights for All: Interpreting a Human Graph

---

### Objective

To stimulate students' thinking about discrimination and how government can act to end discrimination, they construct and interpret a human graph in response to a series of statements about discrimination and possible approaches to ending discrimination. Students then analyze a primary source—a press release announcing the introduction in Congress of the Equality Act—and consider what information they need to know in order to understand the press release and decide if the Equality Act is a good idea.

### Procedure

- Write *discrimination* on the board and ask students to share their understanding of the term. Help students develop a definition along the following lines: *Discrimination is the unfair treatment of a group of people when compared to other people.* Ask:
  - a. What groups have been discriminated against historically in the United States?
  - b. What groups do you think are still discriminated against? If students do not mention discrimination against people because of sexual orientation or gender identity, ask if students think this type of discrimination is a problem.
  - c. Who do you think is responsible for ending discrimination—the government, individuals, businesses, schools, someone else?
- Caution students that discrimination can be a sensitive topic, both because some people in the conversation may have been discriminated against and therefore have strong feelings about the issue and because people may have conflicting views on how to deal with discrimination against particular groups. Remind students that your classroom is a safe place for difficult conversations and that maintaining that safety requires everyone to think before they speak and to be considerate of others.
- Tell students that they are going to construct and interpret two human graphs, one about discrimination and one about what can be done about it. Put up signs across the front of the room saying “Strongly Agree,” “Somewhat Agree,” “Undecided,” “Somewhat Disagree,” and “Strongly Disagree.” Ask for about ten volunteers to serve on the human graph. When they have come to the front of the room, explain that they will be standing in front of one of the signs to show their response to a series of statements that you will read. The students on the line will not speak; instead, the remainder of the students will interpret the graph they have created. Make sure students understand the directions.
- Begin by reading statement (a) below and asking the volunteers to choose where they will stand (no standing between the signs!). Then ask seated students to interpret the graph. Stimulate discussion by asking such questions as: How would you summarize our class response to this statement? Why do you think so few students chose to stand in front of the \_\_\_\_\_ sign? Why do you think so many students chose to stand in front of the \_\_\_\_\_ sign? Follow the same pattern with statements (b)-(e). Then ask for a new set of graph volunteers and follow the same procedure for statements (f)-(i).

- a. The United States has a good record of fighting discrimination.
  - b. Discrimination on the basis of race and gender remains a problem in the United States.
  - c. I have been discriminated against.
  - d. Discrimination against people because of sexual preference or gender identity is a problem today.
  - e. The problem of discrimination will always exist.
  - f. Education is the only way of changing the attitudes that make discrimination possible.
  - g. Discrimination can only be eliminated through activism by people who care about equal rights.
  - h. Law is an effective tool for solving the problem of discrimination.
  - i. Laws against discrimination create special rights for certain groups.
  - j. When there's a conflict between someone's religious beliefs and the need to treat everyone equally under the law, I would give priority to religious beliefs.
- Have students return to their seats and explain that they are going to be looking at the issue of discrimination against people on the basis of sexual orientation and gender identity, considering whether changing the law is a good way to address the issue. Be sure students understand what is meant by the terms *sexual orientation*, *gender identity*, and *LGBTQ*.
    - a. *Sexual orientation*: one's romantic or sexual attraction to the opposite, same, or both sexes (this encompasses the L, G, and B—lesbian, gay, and bisexual—of LGBTQ).
    - b. *Gender identity*: the gender or combination of genders that a person knows themselves to be, which may or may not match the sex assigned at birth (this encompasses the T—transgender—of LGBTQ).
    - c. *LGBTQ*: Stands for lesbian, gay, bisexual, transgender, and questioning (still figuring out one's sexual orientation and/or gender identity).
  - Distribute **Handout 1B: Press Release on Equality Act** and ask students if they know what a press release is. Help them develop a definition along the following lines: A press release is an official statement issued to the news media to announce something of importance/interest. Assign students to read the press release and answer the questions in pairs or triads.
  - Debrief by focusing on the last two questions: What do you need to know more about in order to fully understand the press release? What do you need to know to decide if the Equality Act is good policy? Record students' responses to this question on the board. Tell students that they will be gathering this and other information in the next part of this unit.

## 1B: Handout: Press Release on Equality Act

---

**Directions:** Read the press release below. Highlight the most important information. Circle any words or phrases you need to know more about. Then discuss the questions that follow with a classmate.

### **Pallone Introduces the Equality Act with Colleagues to End LGBT Discrimination**

Jul 23, 2015

WASHINGTON, DC – Today, Congressman Frank Pallone, Jr. (NJ-06) introduced the Equality Act as an original cosponsor of the bill. The Equality Act would amend the Civil Rights Act of 1964 to make it illegal to discriminate against someone based on their sexual orientation or gender identity. The legislation would apply to public accommodations, federal funding, education, employment, housing, credit, and jury service.

“No one should ever be discriminated against, live in fear of being fired, or be denied equal basic protections under the law because of who they love,” said **Congressman Pallone**. “As a longtime advocate for LGBT equality, I am proud to help lead the fight to rid our country of this unacceptable discrimination.”

Despite last month’s U.S. Supreme Court ruling that affirmed marriage equality, discrimination against LGBT individuals remains legal in most states. For example, today, only 19 states offer employment and housing protections for the LGBT community. Furthermore, just 17 states prohibit discrimination for public accommodations based on sexual orientation or gender identity.

Among Pallone’s ongoing efforts for full LGBT equality, he has long-urged government action against LGBT discrimination in the workplace. He led letters in Congress asking the President to sign an executive order that would require any company seeking a federal contract to have adopted workplace policies against discrimination based on sexual orientation or gender identity. In 2014, the President heeded the call and extended protections to LGBT workers.

**Source:** Representative Frank Pallone, Jr., <http://pallone.house.gov/press-release/pallone-introduces-equality-act-colleagues-end-lgbt-discrimination>.

## Questions

1. Who issued this press release? When was it issued?
2. What was the news it was providing to the media?
3. What information does the press release provide to demonstrate the importance of the item?
4. What information does the press release provide to suggest that Representative Pallone is an important person in the effort to protect the rights of LGBTQ community?
5. Do you think this item was newsworthy? Why or why not?
6. What do you need to know more about in order to fully understand the press release?
7. What do you need to know to decide if the Equality Act is good policy?

## 1C: Activity: Researching the Issue and Taking a Position

---

### Objective

Students are introduced to the unit's focus question: *Should the U.S. Congress amend the Civil Rights Act of 1964 to make discrimination on the basis of sexual orientation or gender identity illegal?* This activity is composed of three parts. First, students in small groups peruse a reading on the history of the movement for LGBTQ rights and create a timeline using information from the reading. Through a jigsaw activity, students next read background and share what they learn about the Civil Rights Act of 1964, the provisions of the Equality Act, and the arguments for and against the Act. Finally, based on the readings, students write arguments supporting a position for or against passage of the Equality Act.

### Procedures

#### Part 1

- Introduce students to the focus question for the unit: *Should the U.S. Congress amend the Civil Rights Act of 1964 to make discrimination on the basis of sexual orientation or gender identity illegal?* Draw their attention to the list of things about which they said they needed more information and tell them that today they will have the opportunity to gather the information they will need to take a position on the focus question.
- Distribute **Handout 1D**. Organize students into four groups, giving each group a piece of posting (flip chart) paper and markers. Direct students to read and discuss the handout, choosing five to ten events discussed on the handout that they think are particularly important to understand in order to answer the focus question. They should use the posting paper to create a timeline showing these events.
- Have groups post their timelines near each other on one classroom wall and encourage students to compare and contrast the events chosen by different groups and to discuss the reasons for their choices with classmates who made different choices. Reaching agreement is unnecessary—the goal of the conversation is to encourage student reflection on the importance of the events and to recognize different perspectives on the events.

#### Part 2

- Have students return to their four groups. Give each group one version of **Handout 1E**, explaining that students are to read and discuss the information provided, with the aim of becoming experts who can teach their classmates that information. Allow time for students to complete their preparation in the expert groups.
- Reconfigure the groups so that each new group has representatives from all four expert groups. Remind students that each expert will have four minutes to present the most important points from their reading. Allow time for students to teach their group members.
- Conduct a general discussion of students' views on the unit focus question based on the information they have gathered: *Should the U.S. Congress amend the Civil Rights Act of 1964 to make discrimination on the basis of sexual orientation or gender identity illegal?*

### *Part 3*

- Distribute **Handout 1F** and explain that it provides an outline to help them write a well-structured argument for their position. If the previous activity and the discussion have revealed that students' views are heavily skewed to one side of the question, ask for some volunteers to write position statements for the opposing view in order to have good arguments prepared on both sides. Allow time for students to prepare their arguments.

## 1D: Handout: A Brief History of the LGBTQ Rights Movement

---

**Directions:** Read this brief history of the effort to achieve equal rights for LGBTQ people in the United States. As you read, highlight events that you think are important to know about in order to answer the focus question.

With your group, discuss what you learned from the reading. As a group choose five to ten events that you think are important to understand. Use the markers and paper your teacher provided to create a timeline showing these events.

Hang your timeline on the wall and compare the events you chose with those chosen by other groups. Discuss your choices with classmates who chose different events.

\* \* \* \* \*

In 2015, LGBTQ people and issues were highly visible. In January, President Obama became the first U.S. president to use the words *lesbian*, *bisexual*, and *transgender* in the State of the Union Address. Oregon's Kate Brown became the first openly bisexual person to serve as governor of a state. The Supreme Court, in the case of *Obergefell v. Hodges*, ruled that the Fourteenth Amendment protected same sex couples' right to marry, thus making same sex marriage legal throughout the United States. A former Olympian transitioned from male to female. A reality show featured a transgender teen's journey. Actors portraying transgender characters were nominated for and won awards. And these were just a few of the events involving LGBTQ members that made news.

Did this mean that LGBTQ rights were a new issue just emerging in the 21<sup>st</sup> century? The answer to this question is a resounding no. The LGBTQ rights movement has a history that dates back decades; this reading provides background on the movement's history, beginning in about 1950. Of course, there were LGBTQ people before that time. In fact, the first known gay rights organization, the Society for Human Rights, was established in Chicago in 1924. But activism became much more common in the mid-20<sup>th</sup> century.

You should also note that the groups that are represented in the name LGBTQ did not always work together smoothly. Sometimes lesbians thought gay men were excluding them from decision-making. At the same time, transgender people felt that gays and lesbians did not always understand or support their issues. Such disagreements are common in efforts to achieve change.

### The 1950s and 1960s

In 1948, sex researcher Alfred Kinsey published his book *Sexual Behavior in the Human Male*. His work suggested that homosexuality was much more common than people had thought. Thus, it began to bring the topic of homosexuality into public discussion.

Throughout the 1950s, several national organizations devoted to gay rights were established. These included organizations specifically dedicated to the issues of concern to lesbians.

At the same time, public awareness of transgenderism<sup>1</sup> was beginning to grow. Cases like that of Christine Jorgensen, who was open about having undergone sex reassignment surgery, gained worldwide attention. The law was not changing with public awareness, however. Jorgensen was unable to get a marriage license to marry a man. Her fiancé was fired when his employers learned of his engagement.

In 1962, Illinois became the first state to decriminalize private homosexual acts between consenting adults. Activists began to conduct protests demanding access to public accommodations and fair treatment. For example, an early protest involving the transgender community occurred in Philadelphia in 1965. A coffee shop was refusing to serve people who were wearing “non-conformist clothing.” By this they meant men dressed as women or women dressed in men’s clothing. To protest, 150 gender non-conforming people conducted a sit-in at the store. Four protesters were arrested because they refused to leave if they were not served. One of the protesters was a black gay activist. His arrest motivated the black LGBT community to get involved in picketing the shop. Following another sit-in, the coffee shop changed its policy.

Many people see the Stonewall Riots in New York in 1969 as the beginning of the modern gay rights movement. The Stonewall Inn was a bar in Greenwich Village; gays, lesbians, and transgender patrons hung out at the bar. In the 1960s, the police often raided gay bars, arresting gays, lesbians, and transgender people. On June 27, the police raided the Stonewall Inn. This time, the patrons fought back. Three days of riots followed. The experience prompted many people to become activists for LGBTQ rights.

While activists were developing public awareness, the law remained weighted against LGBTQ rights.

### **The 1970s and 1980s**

In the 1970s, the LGBTQ community achieved some victories—as well as some defeats. In 1973, the American Psychiatric Association removed homosexuality from its list of mental disorders. In 1975, Minneapolis was the first U.S. city to pass an ordinance protecting the civil rights of transgender people. In 1976, a New Jersey court ruled that a post-operative transsexual could marry as their post-operative sex. In 1977, the New York Supreme Court ruled that tennis player Renee Richards, who had had gender reassignment surgery, should be allowed to enter the U.S. Open tennis tournament as a woman. At the same time, courts were ruling against transgender/transsexual people fired from their jobs.

The victories and setbacks were also seen in Miami, Florida. In 1977, activists there succeeded in passing a city ordinance that banned discrimination on the basis of sexual orientation. This ordinance sparked counter protests from some Christian organizations and was quickly overturned.

Harvey Milk was an openly gay man active in local politics in the early 1970s. However, it was not until 1978 that he won election to the San Francisco Board of Supervisors. Milk

---

<sup>1</sup> The word transgender was first used in a medical textbook in 1965, but did not come into common usage until the 1990s.

worked tirelessly to defeat a proposal before California voters to fire any teacher or school employee who openly supported gay rights. Less than three weeks after achieving victory, Milk was assassinated, along with San Francisco Mayor George Moscone.

In 1979, the LGBT community held a march on Washington. With attendance of between 75,000 and 125,000 people, this was the biggest LGBT protest to date. In 1980, the Democratic Party took an official position supporting gay rights. Their party platform contained the following words: “All groups must be protected from discrimination based on race, color, religion, national origins, language, age, sex or sexual orientation.” Note that gender identity was not included. Two years later, Wisconsin became the first state to ban discrimination on the basis of sexual orientation. Two years after that, Berkeley, California, became the first city to extend employee benefits to same sex partners.

### **The 1990s and Beyond**

In 1993, the Clinton administration put the “Don’t Ask, Don’t Tell” policy in place for members of the military. This meant that gays and lesbians could serve in the military as long as they were not out. Military leaders could not ask about the sexual orientation of recruits.

This policy was a huge disappointment to people who had expected President Clinton to allow gays and lesbians to serve openly. A protest march on Washington drew between 800,000 and 1 million gay, lesbian, and bisexual people.

In Colorado in 1992, voters opted to stop cities and counties from including gays and lesbians in the groups protected from discrimination under city/county ordinances. Amendment 2, as this provision was called, was struck down by the Supreme Court in 1996 in the case of *Romer v. Evans*. In its decision, the Court rejected the idea that protecting groups from discrimination created “special rights.”

The 1990s saw transgender people become more organized to lobby for change. For example, several national organizations formed GenderPAC. GenderPAC was a political advocacy organization devoted to the rights of transgender people. The group sponsored a National Transgender Lobbying Day in Congress in 1995, the first event of its kind. It also began working to pressure companies to include gender identity in their non-discrimination policies. At the same time, the community was becoming more visible, achieving many “firsts.” The first Transgender Day of Remembrance was held to honor transgender people murdered in hate crimes. The Day of Remembrance is now held every year.

In 2003, the Freedom to Marry campaign was launched. Some critics argued that the emphasis on gaining the right to marry diverted attention from other important issues. But the campaign was ultimately successful. In the dozen years between 2003 and 2015, same sex marriage or civil unions became legal in many states. At the same time, public support for same sex marriage grew. In 2015, the Supreme Court ruled that the Fourteenth Amendment protected same sex couple’s right to marriage. The Freedom to Marry campaign had succeeded.

Successes were also seen in other areas. The Boy Scouts of America announced that it would allow gay adults to serve as leaders. (Groups sponsored by religious organizations could still

ban gay leaders, however.) The Girls Scouts of America opened their membership to transgender people. In 2012-2013, gains were made in protection against discrimination in employment. Policies related to education of transgender students also began changing. For example, California passed a law protecting the rights of transgender students in K-12 schools. The Obama Administration took a variety of actions to strengthen transgender people's rights.

## 1E(1): Reading : The Civil Rights Act of 1964

---

The Equality Act was proposed in 2015. It would amend, or change, the Civil Rights Act of 1964 to prohibit discrimination on the basis of sexual orientation or gender identity.

### Passage of the Civil Rights Act of 1964

What is the Civil Rights Act of 1964? It is an important piece of legislation in U.S. history, coming at a critical period in the movement to gain civil rights for African Americans.

After the Civil War, the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> Amendments were passed to end slavery and protect the rights of African Americans, but discrimination was still widespread. Discriminatory state laws called Jim Crow laws prevented African Americans from voting, permitted public facilities to be segregated by race, and allowed other types of unfair treatment. In 1895, in the case *Plessy v. Ferguson*, the U.S. Supreme Court upheld state laws requiring racial segregation, saying separate public accommodations could be “separate but equal.”

Finally, in 1954, the Supreme Court overturned the *Plessy* decision in *Brown v. Board of Education*. In this case, the Court said that “separate educational facilities are inherently unequal.” They therefore violate the 14<sup>th</sup> Amendment’s guarantee of equal protection of the laws.

This landmark case was an important step, but more was needed. Congress considered and passed several civil rights bills, but none made large advances. Activists worked long and hard to raise public awareness and bring pressure on public officials to change public policy; they protested, marched, sat-in, boycotted, registered voters, and more. Violence against civil rights leaders and protesters and the killing of four young girls in a Birmingham, Alabama, church bombing in 1963 increased pressure on the federal government to act.



Source: White House Press Office.

The U.S. Commission on Civil Rights, established in a law passed by Congress in 1957, made sweeping recommendations for a new law that would protect the civil rights of African Americans. The law also provided protection against discrimination based on religion, color, and national origin; both sexes were protected in terms of employment discrimination only. President John F. Kennedy submitted a bill to Congress addressing many of the Commission’s recommendations. After President Kennedy was assassinated, new President Lyndon B. Johnson and Congressional leaders worked hard to get the Civil Rights Act of 1964 through Congress. On July 2,

1964, President Johnson, with Dr. Martin Luther King, Jr. and other civil rights leaders by his side, signed the bill into law.

## Provisions of the Civil Rights Act of 1964

What exactly did the Civil Rights Act of 1964 do? Here are some of its most important provisions:

- Title I required voter registration requirements to be applied equally to all voters. (Stronger voting protections would be enacted in 1965 in the Voting Rights Act.)
- Title II banned discrimination based on race, color, religion, or national origin in all public accommodations involved in interstate commerce (e.g., hotels, motels, restaurants, theaters).
- Title III said state and municipal governments could not deny access to public facilities on the basis of race, color, religion, or national origin.
- Title VI prevented discrimination by government agencies that received federal funds.
- Title VII banned employment discrimination based on race, color, religion, sex, or national origin. (This provision has since been expanded to include discrimination based on pregnancy, age, and disability). It established the Equal Employment Opportunity Commission (EEOC) to enforce the provisions regarding employment.

Some aspects of the bill were controversial and resulted in lawsuits. For example, many people did not think the federal government had the power to tell privately owned businesses who they should serve. In the case of *Heart of Atlanta Motel v. United States*, the Supreme Court upheld that part of the act. The Court said that the Commerce Clause of the Constitution gave Congress the authority to regulate businesses that had “a direct and substantial relation to the interstate flow of goods and people.”

## Application to LGBTQ Community

The Civil Rights Act of 1964 and its amendments do not mention sexual orientation or gender identity. The EEOC has recently said that the word *sex* in Title VII covers people discriminated against because of sexual orientation or gender identity. It has filed lawsuits against companies that it alleges have discriminated on the basis of gender identity or sexual orientation. These cases include *Macy v. Department of Justice* (gender identity) and *David Baldwin v. Department of Transportation* (sexual orientation).

### Sources:

Civil Rights Act of 1964, National Park Service (n.d.), [www.nps.gov/subjects/civilrights/1964-civil-rights-act-htm](http://www.nps.gov/subjects/civilrights/1964-civil-rights-act-htm).

Facts about Discrimination in Federal Government Employment Based on Marital Status, Political Affiliation, Status as a Parent, Sexual Orientation, and Gender Identity, U.S. Equal Employment Opportunity Commission (2015), [www.eeoc.gov/federal/otherprotections.cfm](http://www.eeoc.gov/federal/otherprotections.cfm)

Transcript of Civil Rights Act (1964), Our Documents, National Archives (n.d.), [www.ourdocuments.gov/doc.php?flash=true&doc=97#](http://www.ourdocuments.gov/doc.php?flash=true&doc=97#).

## 1E(2): Reading : The Equality Act (2015)

---

The Equality Act was proposed in 2015. It would amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of sexual orientation or gender identity.

The purpose of the bill is stated at the very top:

114TH CONGRESS  
1ST SESSION

# S. 1858

To prohibit discrimination on the basis of sex, gender identity, and sexual orientation, and for other purposes.

---

How will it achieve that purpose? The Equality Act would protect people from discrimination on the basis of sexual orientation or gender identity in the following categories:

- **Employment.** Employers with at least 15 employees and labor organizations would be banned from discriminating on the basis of gender identity and sexual orientation. People whose religions teach that homosexuality or transgenderism is wrong would have to obey this law.
- **Housing.** People selling, renting, or providing loans for housing would be prohibited from discriminating on the basis of gender identity and sexual orientation.
- **Public Accommodations.** Businesses and health-care facilities could not deny service to LGBTQ people. Transgender people who have to be given access to sex-segregated facilities that match their gender identity.
- **Education.** Federal student financial aid programs would be barred from discriminating based on gender identity and sexual orientation.
- **Federal funding:** All organizations receiving federal funds would be barred from discrimination based on gender identity and sexual orientation.
- **Credit:** LGBTQ people could not be discriminated against in seeking credit.
- **Juries:** LGBTQ people could not be excluded from jury service.

Some other provisions have received less attention:

- Businesses would be prohibited from charging women more than men for any products or services.
- A variety of new types of businesses would be added to the list of public accommodations that are barred from discriminating: retail stores, banks,

transportation companies, and health care services, among others. One notable outcome would be that stores, salons, and taxicabs could not discriminate against people of color.

*Source:*

Zack Ford, “The Equality Act Could End Legal LGBT Discrimination for Good,” *Think Progress* (July 23, 2015), [thinkprogress.org/lgbt/2015/07/23/3683728/equality-act-introduction/](http://thinkprogress.org/lgbt/2015/07/23/3683728/equality-act-introduction/).

## **1E(3): Reading : Arguments in favor of Amending the Civil Rights Act of 1964**

---

The Equality Act was proposed in 2015. It would amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of sexual orientation or gender identity.

Like many bills proposed in Congress, the Equality Act includes a list of reasons that the sponsors of the bill think are important and necessary. Here are excerpts from that section of the Equality Act. These excerpts provide a list of arguments for passing the Equality Act

### **SEC. 2. FINDINGS.**

. . . (3) Lesbian, gay, bisexual, and transgender (referred to as "LGBT") people commonly experience discrimination in securing access to public accommodations--including restaurants, stores, places of or establishments that provide entertainment, and transportation. Forms of discrimination include the exclusion and denial of entry, unequal or unfair treatment, harassment, and violence. This discrimination prevents the full participation of LGBT people in society and disrupts the free flow of commerce.

(4) Women also face discrimination, in establishments such as stores and restaurants, and places or establishments that provide other goods or services, such as entertainment or transportation, including sexual harassment, differential pricing, and denial of services because they are pregnant or breastfeeding.

(5) Regular and ongoing discrimination against LGBT people, as well as women, in accessing public accommodations contributes to negative social and economic outcomes.

(6) Both LGBT people and women face widespread discrimination in employment and various services, including by entities that receive Federal financial assistance. Such discrimination--

(A) is particularly troubling and inappropriate for programs and services funded wholly or in part by the Federal Government;

(B) undermines national progress toward equal treatment regardless of sex, sexual orientation, or gender identity; and

(C) is inconsistent with the constitutional principle of equal protection under the Fourteenth Amendment of the Constitution of the United States.

(7) Workers who are LGBT, or are perceived to be LGBT, have been subjected to a history and pattern of persistent, widespread, and pervasive discrimination on the bases of sexual orientation and gender identity by private sector employers and Federal, State, and local government employers.

(8) Numerous provisions of Federal law expressly prohibit discrimination on the basis of sex, and Federal agencies and courts have correctly interpreted these prohibitions on sex discrimination to include discrimination based on sexual orientation, gender identity, and sex stereotypes [oversimplified ideas about the roles and characteristics of men and women]. In particular, the Equal Employment Opportunity Commission has explicitly interpreted sex discrimination to include sexual orientation and gender identity.

(9) The absence of explicit prohibitions of discrimination on the basis of sexual orientation and gender identity under Federal statutory law, as well as some conflicting case law on how broadly sex discrimination provisions apply, has created uncertainty for

employers and other entities covered by these laws. This lack of clear coverage also causes unnecessary hardships for LGBT people.

(10) LGBT people often face discrimination when seeking to rent or purchase housing, as well as in every other aspect of obtaining and maintaining housing. LGBT people in same-sex relationships are often discriminated against when 2 names associated with one gender appear on a housing application, and transgender people often encounter discrimination when credit checks or inquiries reveal a former name.

(11) National surveys, including a study commissioned by the Department of Housing and Urban Development, show that housing discrimination against LGBT people is very prevalent. For instance, when same-sex couples inquire about housing that is available for rent, they are less likely to receive positive responses from landlords. According to other studies, transgender people have half the homeownership rate of non-transgender people and about one in five transgender people experience homelessness.

(12) As a result of the absence of explicit prohibitions against discrimination on the basis of sexual orientation and gender identity, credit applicants who are LGBT, or perceived to be LGBT, have unequal opportunities to establish credit. LGBT people can experience being denied a mortgage, credit card, student loan, or many other types of credit simply because of their sexual orientation or gender identity.

(13) Numerous studies demonstrate that LGBT people, especially transgender people and women, are economically disadvantaged and at a higher risk for poverty compared with other groups of people.

(14) The right to an impartial jury of one's peers and the reciprocal right to jury service are fundamental to the free and democratic system of justice in the United States and are based in the Bill of Rights. There is, however, an unfortunate and long-documented history in the United States of attorneys discriminating against LGBT individuals, or those perceived to be LGBT, in jury selection. Failure to bar peremptory challenges based on the actual or perceived sexual orientation or gender identity of an individual not only erodes a fundamental right, duty, and obligation of being a citizen of the United States, but also unfairly creates a second class of citizenship for LGBT victims, witnesses, plaintiffs, and defendants.

---

*Source:* S. 1858 – Equality Act, 114<sup>th</sup> Congress (2015-2016), [www.congress.gov/bill/114th-congress/senate-bill/1858/text?format=txt](http://www.congress.gov/bill/114th-congress/senate-bill/1858/text?format=txt).

## **1E(4): Reading : Arguments against Amending the Civil Rights Act of 1964**

The Equality Act was proposed in 2015. It would amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of sexual orientation or gender identity.

Opponents of the act make three major claims: (1) the Equality Act is unnecessary, (2) the Equality Act creates special rights, and (3) the Equality Act is a threat to religious liberty.

### **The Equality Act Is Unnecessary**

Opponents of the Equality Act argue that this effort is a solution in search of a problem. No one supporting this legislation, they say, can give a specific example of a person being denied housing or employment simply because they are a lesbian or gay. The fact that the EEOC considers both sexual orientation and gender identity to be covered under Title VII of the Civil Rights Act makes the new act even less necessary. As Andrew Walker of the Southern Baptist Convention points out, “there has never been a systematic regime of laws aimed at demeaning the existence of LGBT individuals comparable to Jim Crow.” [Jim Crow laws were state laws designed to keep African Americans from voting, using public facilities and public accommodations, and in general achieving equality with whites.] Furthermore, In addition, the 2015 Obergefell v. Hodges decision extending the right to marry to gays and lesbians indicates that this group has achieved equality under the law without this act.

### **The Equality Act Creates Special Rights**

Many opponents of the Equality Act also oppose similar parts of the Civil Rights Act of 1964 and its amendments. In their view, the Act has created inequity in U.S. society because it has designated “protected classes” of people. These groups, including racial and ethnic minorities, women, and disabled people, have special rights that others in society do not have. The Equality Act, opponents say, would extend these special rights to new groups—people who are lesbian, gay, bisexual, transgender, or questioning their gender or sexual identity. All Americans should rely on the Fourteenth Amendment to protect their rights and not ask the federal government to grant them special rights.

### **The Equality Act is a Threat to Religious Liberty**

Members of some religions believe that LGBT people are acting in an immoral way. Their religions teach that what they see as “sexually permissive understandings of human nature” are wrong. They believe that including sexual orientation and gender identity in the Civil Rights Act will equate them with racists, even though their views are based on sincere religious beliefs while the views of racists were based on prejudice alone.

Furthermore, opponents argue, the Equality Act would limit the religious freedom of many Americans. Parents could not be confident that public schools would rightfully fear that public schools would provide an education that conflicted with their religious convictions on sexuality and gender. Other problems would also arise:

All public accommodations and programs would be prohibited from denying any good or service to persons on the basis of sexual orientation and gender identity. This sounds acceptable in theory, but it leaves no room for accommodating the viewpoints of those whose services, speech, or creativity are used to serve wedding ceremonies. Consider the cases of florists, photographers, and bakers who have had no problems serving gay customers for years, but have objected to providing their services for gay weddings. The Equality Act leaves these individuals defenseless by failing to accommodate their sincere religious beliefs and by failing to distinguish between the dignity of gay individuals and the particular conduct (such as wedding ceremonies) in which some cannot in good conscience participate.

The Equality Act would require all entities receiving federal funding not to consider sexual orientation or gender identity as a factor in their programs. Again, this sounds acceptable in theory, but it would require withdrawing any public funds from institutions that believe that marriage is the union of one man or one woman or that men and women are not interchangeable categories. Moreover, it isn't clear whether religious colleges who receive federal funding would be required to alter their student conduct expectations to align with federal law. (*Walker 2015*)

Opponents of the Equality Act say that they support treating all people with respect and dignity. They believe that the market will solve the problem of discrimination. People can refuse to spend their money at businesses that discriminate. Over time, such actions can solve the problem of discrimination in public accommodations and employment.

*Source:* Andrew T. Walker, "The Equality Act: Bad Policy that Poses Great Harms," *The Public Discourse* (July 24, 2015), [www.thepublicdiscourse.com/2015/07/15381](http://www.thepublicdiscourse.com/2015/07/15381).

## 1F: Handout: Building an Argument

---

Building a strong argument requires knowledge of the issue, including the arguments on both sides. It also requires clear thinking. Using guidelines like those below can help you organize and clarify your ideas.

<b>I. Introduction</b>	
A.	GRAB your audience with a powerful question, anecdote, quote, etc. You probably will not want to write this grabber until after you have worked through your arguments. But save space/time for it!
B.	State the focus question and your position clearly.
C.	Briefly list three reasons policymakers should take your position.
<b>II. Reason 1</b>	
A.	Explain your first reason. Use an example, evidence, or personal story to support your reason.
B.	Provide additional detail.
C.	Provide additional detail.
<b>III. Reason 2</b>	
A.	Explain your second reason. Use an example, evidence, or personal story to support your reason.
B.	Provide additional detail.
C.	Provide additional detail.
<b>IV. Reason 3</b>	
A.	Explain your third reason. Use an example, evidence, or personal story to support your reason.
B.	Provide additional detail.
C.	Provide additional detail.
<b>V. Countering the Opposition</b>	
A.	Acknowledge the best argument of the opposition and then . . .
B.	Explain why that argument does not hold up to closer scrutiny.
<b>VI. Conclusion</b>	
A.	Bring the entire argument together in a very brief conclusion.
B.	End with a PUNCH. Then go back and write your grabber.

## 1G: Activity: Town Meeting

---

### Objective

In this activity, students take part in a simulated town meeting to discuss with elected officials whether they support the amendments to the Civil Rights Act of 1964, known as the Equality Act that would ban discrimination on the basis of sexual orientation and gender identity. The activity will give students the opportunity to deepen their understanding of the arguments on both sides of the issue.

### Procedures

1. Tell students that members of Congress are holding town meetings around the state to find out what people think about the Equality Act. A town meeting provides members of a community an opportunity to participate in the decision-making process of their leaders. In this case it will be advisory in nature, providing elected representatives with the views of citizens.
2. Have students work in groups of three or four. Organize the town meeting by assigning groups to each of the following roles:
  - a. Members of the Illinois congressional delegation, including some who support the legislation and some who oppose it.
  - b. Community members
    - i. Possible roles include: young people, employers (including conservative religious business owners as well as corporations supporting the bill, such as Apple, Levis, and Dow Chemical), religious organizations, representatives of labor unions, members of civil rights organizations, members of the LGBTQ community.
    - ii. Alternatively, if students' opinions are sufficiently diverse to allow all sides to be represented, you may want to let students present their own opinions at the town meeting.
3. Allow time for students to prepare for the town meeting. Students representing the members of Congress can plan the agenda (see **Handout 1H**) and prepare brief opening remarks and questions they might ask. Students representing citizens can plan their presentations using arguments prepared in the previous activity. If time permits, students can interview community members to find out about their views and do additional research to strengthen their arguments.
4. Have the students assigned as members of Congress conduct the town meeting according to **Handout 1H**.
5. Debrief the town meeting using the following questions:
  - What were the most compelling reasons for each side?
  - Were there any areas of agreement?

--What questions do you still have? Where can you get more information?

--What are some reasons why discussing this issue is important in a democracy?

6. Have students complete the individual reflections on the town meeting and the focus question (**Handout 11**). The final question on the handout asks students to write an email to their Member of Congress; after checking the drafts, encourage students to send their emails.

## **1H: Handout: Preparing for and Conducting the Town Meeting**

---

As the organizers of the town meeting, the members of Congress will organize the agenda and conduct the meeting.

### **Prepare for the Town Meeting:**

1. Set an agenda for the meeting. Below is an agenda for the meeting that you can adapt and expand.
2. Establish a time limit for each group's presentation and include these times in the agenda. Also consider setting rules for the meeting on how community members will be called upon to speak and how/if they may ask questions or make comments.
3. Decide on the order of group presentations (e.g., all the people on one side present, followed by people on the other side; or alternating between presentations by supporters and opponents.)
4. Decide when you will ask questions (e.g., after each presentation or after all the presentations have been). Be aware that some community members may also wish to ask questions.
5. Prepare opening remarks.

### **Sample Agenda**

Opening Remarks by Senators and Representatives

Review of Rules for the Town Meeting

Presentations by Community Members

Question-and-Answer Period

Open Discussion

### **Conduct the Town Meeting:**

1. Following the outline of events on your agenda, you may begin by providing a brief summary of the Civil Rights Act of 1964 and the proposed Equality Act. Members for and against the amendment can make brief statements about their views.
2. Review with community members the time limits and any other rules of the meeting you have established.
3. Invite community members to present their opinions and listen carefully to their concerns and opinions.
4. Ask questions of community member presenters that are respectful of their opinions and show that you have listened to their comments and concerns.

5. After all groups have made their presentations, facilitate an open discussion in which community members can address questions to each other and to you.
6. At the end of the town meeting, you may choose to share your views, or simply take the information that you have gathered “under advisement.”

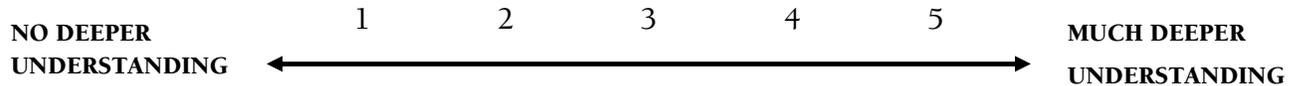
---

Adapted from “Town Meeting,” *Law-Related Education in Juvenile Justice Settings* (Washington, DC: Youth for Justice. 1993, 1999, 2003).

## 11: Handout: Student Reflection on Town Meeting and Focus Question

---

1. Which number best describes your understanding of the focus issue after the town meeting? [circle one]



2. What new insights did you gain?
3. What did you do well during the town meeting? What could you do better?
4. What did someone else in the class do or say that was particularly helpful?
5. Has your view of the issue changed as a result of taking part in the town meeting? Compare your views now to those at the beginning of the unit. Explain any changes in your view.
6. Compose an email to your Member of Congress that reflects your view on the unit focus question: *Should the U.S. Congress amend the Civil Rights Act of 1964 to make discrimination on the basis of sexual orientation or gender identity illegal?* Keep your email brief; clearly state the issue about which you are writing, your position on the issue, and how action on the issue will affect you and others (a personal anecdote—if short—can be effective); and ask the official to take action. After your teacher checks your email, you may want to actually send it to your Member of Congress and Illinois' two Senators.

## LGBTQ Americans and the Civil Rights Act of 1964: Glossary

---

**bisexual:** romantically and sexually attracted to both men and women.

**civil rights:** rights of individuals to receive equal treatment in such settings as employment, housing, and education

**Civil Rights Act of 1964:** a landmark piece of legislation that protects people from discrimination on the basis of race, color, religion,

**discrimination:** the unfair treatment of a group of people when compared to how other people are treated.

**Equality Act:** a bill proposed in 2015 to amend the Civil Rights Act of 1964 to include protection against discrimination on the basis of gender identity and sexual orientation.

**gay:** attracted to someone of the same sex; most often but not exclusively used to refer to homosexual men

**gender expression/presentation:** how a person represents themselves to be in their dress or appearance

**gender identity:** the gender or combination of genders that a person knows themselves to be, which may or may not match the sex assigned at birth

**Jim Crow laws:** state laws designed to keep African Americans from voting, using public facilities and public accommodations, and in general achieving equality with whites

**LGBTQ:** Acronym for lesbian, gay, bisexual, transgender, and questioning

**lesbian:** a woman romantically or sexually attracted to women

**protected class:** group having a characteristic that, under the law, protects them from discrimination

**provisions:** clauses in a legal document calling for or prohibiting particular actions

**public accommodations:** facilities, publicly or privately owned, that are used by the public (e.g., stores, hotels, restaurants, schools, recreation centers and parks, health care facilities)

**questioning:** still figuring out one's sexual orientation and/or gender identity

**sex stereotype:** an oversimplified idea about the roles and characteristics of men and women

**sexual orientation:** one's romantic or sexual attraction to the opposite, same, or both sexes

**straight:** romantically or sexually attracted to the opposite sex

**town meeting:** a local meeting with a format that provides everyone with the opportunity to ask a question or make a statement about issues on the agenda.

**transgender:** a person whose gender identity—the gender or combination of genders they know themselves to be—does not match their assigned sex. Being transgender does not imply that a person is either gay or straight.

**transsexual:** a transgender person who undergoes surgery as part of his/her transition to the gender identified with

## LGBTQ Americans and the Civil Rights Act of 1964: Selected Resources

---

### Sources

- Civil Rights Act of 1964, National Park Service (n.d.), [www.nps.gov/subjects/civilrights/1964-civil-rights-act-htm](http://www.nps.gov/subjects/civilrights/1964-civil-rights-act-htm).
- Facts about Discrimination in Federal Government Employment Based on Marital Status, Political Affiliation, Status as a Parent, Sexual Orientation, and Gender Identity, U.S. Equal Employment Opportunity Commission (2015), [www.eeoc.gov/federal/otherprotections.cfm](http://www.eeoc.gov/federal/otherprotections.cfm).
- Ford, Zack, “The Equality Act Could End Legal LGBT Discrimination for Good,” Think Progress (July 23, 2015), [thinkprogress.org/lgbt/2015/07/23/3683728/equality-act-introduction/](http://thinkprogress.org/lgbt/2015/07/23/3683728/equality-act-introduction/).
- Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2014* (New York: National Coalition of Anti-Violence Programs, 2015), [www.avp.org/storage/documents/Reports/2014\\_HV\\_Report-Final.pdf](http://www.avp.org/storage/documents/Reports/2014_HV_Report-Final.pdf).
- Pallone, Jr., Frank, Pallone Introduces the Equality Act with Colleagues to End LGBT Discrimination (July 23, 2015), [pallone.house.gov/press-release/pallone-introduces-equality-act-colleagues-end-lgbt-discrimination](http://pallone.house.gov/press-release/pallone-introduces-equality-act-colleagues-end-lgbt-discrimination).
- S. 1858 – Equality Act, 114<sup>th</sup> Congress (2015-2016), [www.congress.gov/bill/114th-congress/senate-bill/1858/text?format=txt](http://www.congress.gov/bill/114th-congress/senate-bill/1858/text?format=txt).
- Transcript of Civil Rights Act (1964), Our Documents, National Archives (n.d.), [www.ourdocuments.gov/doc.php?flash=true&doc=97#](http://www.ourdocuments.gov/doc.php?flash=true&doc=97#).
- Walker, Andrew T., “The Equality Act: Bad Policy that Poses Great Harms,” *The Public Discourse* (July 24, 2015), [www.thepublicdiscourse.com/2015/07/15381](http://www.thepublicdiscourse.com/2015/07/15381).

### Court Cases

- Brown v. Board of Education*, 347 U.S. 483 (1954).
- David Baldwin v. Department of Transportation*, EEOC Appeal No. 120133080 (2015).
- Heart of Atlanta Motel v. United States*, 379 U.S. 241 (1964).
- Macy v. Department of Justice*, EEOC Appeal No. 0120120821 (2012).
- Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015).
- Plessy v. Ferguson*, 163 U.S. 537 (1896).
- Romer v. Evans*, 517 U.S. 620 (1996).

## *Information and Analysis*

American Civil Liberties Union, [www.aclu.org/](http://www.aclu.org/).

Family Research Council, [www.frc.org/](http://www.frc.org/).

Gay and Lesbian Advocates and Defenders, [www.glad.org/](http://www.glad.org/).

Heritage Foundation, [www.heritage.org](http://www.heritage.org)

Human Rights Campaign, Explore Transgender, [www.hrc.org/explore/topic/transgender](http://www.hrc.org/explore/topic/transgender).

National Center for Transgender Equality, [www.TransEquality.org/](http://www.TransEquality.org/).

U.S. Equal Employment Opportunity Commission, [www.eeoc.gov](http://www.eeoc.gov).

