

# Treating American Workers Fairly

## *The Employment Non-Discrimination Act of 2007*

### Myths vs. Facts

**Myth:** *The Employment Non-Discrimination Act confers “special rights” on gay, lesbian, and bisexual Americans, such as setting preferential hiring quotas for them.*

**Fact:** The legislation confers no special rights on anyone on the basis of sexual orientation. It specifically prohibits quotas based on sexual orientation. ENDA also allows heterosexual plaintiffs to sue if they are discriminated against because of their sexual orientation.

**Myth:** *ENDA’s protection against discrimination on the basis of “perceived sexual orientation” is vague and will lead to needless litigation.*

**Fact:** The bill protects against discrimination on the basis of a person’s *actual homosexuality, heterosexuality, or bisexuality* and on the basis of a person’s *perceived homosexuality, heterosexuality, or bisexuality*. Prohibiting discrimination based on perceived sexual orientation is necessary to prevent discrimination against heterosexual employees wrongly thought to be homosexual.

**Myth:** *ENDA will require religious organizations to hire gay, lesbian, and bisexual applicants. Religious organizations that don’t hire gay, lesbian, and bisexual applicants will face lawsuits.*

**Fact:** ENDA contains the broad religious exemption found in Title VII of the Civil Rights Act of 1964. Under Title VII, religious organizations are exempt from religious discrimination claims. ENDA will allow that same exemption from sexual orientation discrimination claims. While neutral on the bill itself, the U.S. Conference of Catholic Bishops, the Union of Orthodox Jewish Congregations of America and the Seventh-Day Adventist Church support the religious exemption language, calling it “an indispensable protection for the free exercise rights of religious organizations.”

Religious schools do not need to be affiliated with any particular church or denomination to qualify for the religious exemption in ENDA. The legislation and an amendment offered to it by Congressman George Miller will make clear that any religious corporation, school, association or society that qualifies for the religious exemptions of Title VII of the 1964 Civil Rights Act is also exempt from ENDA.

**Myth:** *ENDA requires employers to give benefits to partners of gay, lesbian and bisexual employees.*

**Fact:** The legislation expressly states that it does not require an employer to offer employee benefits to the unmarried partner of an employee. Under the bill, denying benefits to same-sex couples does not constitute employment discrimination pursuant to federal law.

**Myth:** *ENDA fails to respect the right of each state to preserve its own definition of marriage.*

**Fact:** Nothing in ENDA affects federal or state marriage laws. Under ENDA, states will still be allowed to define marriage as one woman and one man if they so choose. Moreover, ENDA does not alter the federal Defense of Marriage Act in any way. The federal definition of marriage will remain one man and one woman.