

WASHINGTON
LEGISLATIVE OFFICE



November 7, 2007

RE: ACLU Position on Vote on Final Passage of the Employment Non-Discrimination Act

Dear Representative:

The American Civil Liberties Union recommends that you support the Employment Non-Discrimination Act on final passage, and oppose any motion to recommit. The ACLU also urges any member who plans to vote against final passage based on a disagreement with the narrowing of the bill, to instead vote "present."

Although the ACLU is recommending support for final passage of ENDA, our support is contingent on the commitment of the sponsors and other supporters to work toward enactment of a bill during the next Congress that protects the full lesbian, gay, bisexual, and transgender community. The ACLU believes that the way that ENDA was brought to the floor was a mistake. We worked hard over the past two months to urge that committee and floor consideration should wait until there is majority support for protection of the entire LGBT community. However, the question before the House will only be on whether to pass the narrower bill. Since your only options at this point are "yes," "no," or "present," there is no option of voting for the fully inclusive bill that we and the entire civil rights community support.

The ACLU is urging support for final passage at this point because, even in this form, ENDA would be an advance for civil rights, by protecting against employment discrimination based on sexual orientation. If ENDA became law, many people across the country would no longer face the prospect of an employer firing or refusing to hire an employee because of the person's sexual orientation. A strong vote on final passage will make inclusion of gender identity more likely in future versions of ENDA.

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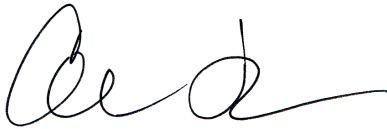
A vote against ENDA is not warranted, despite frustration with how this version of ENDA came to the floor. Although the strategy of cutting gender identity protections out of the legislation may make it more difficult to add those protections back into the bill in a later Congress, the vote on the floor will be on substance, not on strategy. On the substance of the legislation, no one's workplace protections are harmed and millions of workers would gain protections. The ACLU sees no reason to vote no on final passage.

We understand, and support, the interest of several members to use the vote on final passage to express disagreement with the strategy of splitting protections for the LGBT community by bringing a narrow bill to the floor. However, we recommend that those members vote "present" instead of voting "no" on final passage. A vote of present would make clear that the disagreement is with strategy, but not that the legislation causes any substantive harm.

The ACLU urges members, after passing this legislation, to turn to the difficult task of building support for a version of ENDA that does not split the LGBT community and does not leave behind a segment of the community that has experienced pervasive and severe discrimination. We urge support for the bill that will be on the floor, but we even more strongly urge you to work towards building support for ENDA as introduced.

We appreciate your consideration of these concerns. Please call us at 202-675-2308 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caroline', with a long, sweeping horizontal line extending to the right.

Caroline Fredrickson
Director

A handwritten signature in black ink, appearing to read 'Chris E. Anders', with a stylized, cursive script.

Christopher E. Anders
Legislative Counsel