



RESPONSES TO OPPONENTS' CONCERNS ABOUT THE EQUAL RIGHTS AMENDMENT

Q. Doesn't the US Constitution already guarantee equal rights regardless of sex?

A. Believe it or not, no.

A. Without the Equal Rights Amendment, the US Constitution does not prohibit discrimination on the basis of sex. It prohibits discrimination based on race, national origin, or religion, but it does not prohibit discrimination based on sex.

Q. The US doing better than other countries when it comes to sex equality, aren't we?

A. No, in fact we're doing worse.

A. Gender equality is included in 168 international constitutions, but not the US Constitution.

A. The US required Afghanistan to add gender equality to their constitution, despite it being missing from ours.

A. In 2018, the US was ranked as the 10th most dangerous country in the world for women. The US tied with Syria for third most dangerous when it comes to risk for sexual violence, harassment, and coercion into sex.

Q. Would the Equal Rights Amendment legalize abortion in the United States?

A. The Equal Right Amendment is about equal rights for all, regardless of sex. It is that simple. How courts decide to interpret the Equal Rights Amendment is an issue to be determined in the future.



A. No, but it would offer stronger protections of a women’s right to make reproductive health choices, including abortion.

A. Potential repercussions of the Equal Rights Amendment are irrelevant. The issue is one of ethics, not practicality. The question before each of us is simple: do you believe everyone in the US should have equal rights under the law, regardless of sex. Think about it In this context: when deciding on whether 16-year-olds should have the right to vote, should the decision rest on whether one believes a 16-year-old **should** have the right to vote or should it hinge on **how** a 16-year-olds is likely to vote.

A. No. The Equal Rights Amendment would make it illegal to discriminate based on sex. Future courts may interpret it to protect a women’s right to abortion, but the Equal Rights Amendment itself does not legalize abortion.

A. No, but the Equal Rights Amendment would make it harder for states or the federal government to make abortion illegal.

Q. Women have been making steady progress for fifty years without the Equal Rights Amendment in the US Constitution. Why is it suddenly necessary?

A. For decades, women have been protected from sex discrimination under the 14th Amendment protection of privacy. But in 2022, in the Dobbs decision overturning Roe v. Wade, the Supreme Court assumed a more rigid interpretation of the 14th Amendment protections, saying the 14th Amendment was not intended to apply to issues of sex discrimination – or to issues of contraception or same-sex marriage for that matter. The Equal Right Amendment not only restores these protections, but strengthens them.

A. The United States is now ranked as one of the most dangerous countries in the world for women – that is hardly steady progress.

A. In 2011, the United States was ranked 17th out of 135 countries in terms of gender equality; it is now no longer in the top third. In 2020, the US ranked 70th out of 135 countries in gender equality related to health and survival and 86th with regards to political power. This is not steady progress.

A. Women in the United States earn 77 cents for every dollar earned by a white man; this has changed little in the past 20 years. This adds up to close to \$1 million over a lifetime. For black and brown women, the pay gap is even greater with black women earning 64 cents on the dollar and Latina and Native American woman making little over 50 cents on the dollar.



The ERA will set a norm for equal pay and provide a basis laws and legal action to extend the same pay entitlements to women and men.

Q. Why do we need a Constitutional Amendment if we already have laws that protect from discrimination based on sex?

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A. Without the Equal Rights Amendment, state and federal laws advancing sex equality can be readily repealed or replaced as we have seen recently with bills being introduced to prohibit abortion and abortion medication such as mifepristone.

A. Without the Equal Rights Amendment, state-level laws and amendments, including Maryland’s Equal Rights Amendment, can be overridden.

Q. Our state has an Equal Rights Amendment, so why do we need an Equal Rights Amendment in the US Constitution?

A. Without the federal Equal Rights Amendment, Maryland’s state-level Equal Rights Amendment can be overridden.

A. Maryland residents who serve in the military or attend out-of-state colleges and universities are not protected by Maryland’s Equal Rights Amendment while they reside in another state.

Q. What about states that rescinded their ratification of the Equal Rights Amendment?



A. The US Constitution grants no power of rescission to the states, and based on precedent and statute, a state withdrawal of its ratification of a constitutional amendment has never been accepted as valid.

A. Rescissions have never been considered valid in the certification of amendments. In the cases of the 14th, 15th, and 19th amendments, states that retracted their ratifications were listed in the published list of ratifying states.

Q. Does the American public really care about whether the US Constitution guarantees equal rights regardless of sex?

A. Yes. Polls show that 85% of potential American voters support the Equal Rights Amendment being in the US Constitution, including 79% of potential Republican voters. When the same voters were informed that the time limit for ratifying the Equal Rights Amendment had expired, 81% of potential American voters supported Congress validating the Equal Rights Amendment regardless of the time limit, including 76% of potential Republican voters.

Q. If a strong majority of the American public supports equal rights regardless of sex being in the US Constitution, why is there so little media coverage of the Equal Rights Amendment?

A. Many people, including lawyers and state legislators, think the Equal Rights Amendment is already in the US Constitution. In fact, 70% of Americans mistakenly believe men and women are already guaranteed equal rights in the US Constitution.

A. Other issues take higher priority with many voters. For about a third of voters (and one-half of Republican voters), a candidate's stance on the Equal Rights Amendment does not affect the voter's decision at the ballot box.

Q. Why do we need the Equal Rights Amendment when we have Title IX?

A. Title IX is a federal law that requires federally-funded schools to provide students with equal opportunities regardless of sex. It only applies to schools and only to schools receiving federal funding.



A. Title IX, like any other federal legislation, can be repealed or replaced. As a constitutional amendment, the Equal Rights Amendment can only be repealed by another amendment to the US Constitution.

Q. Won't the Equal Rights Amendment destroy women's competitive sports by requiring men and transgender women be allowed compete on girls' and women's sports teams?

A. The Equal Right Amendment is about equal rights for all, regardless of sex. It is that simple. How courts decide to interpret the Equal Rights Amendment and / or define "sex" is an issue to be addressed in the future.

A. No. The Equal Rights Amendment would make it illegal to discriminate based on sex. Period. Future courts may interpret it to protect rights of boys and men and transgender individuals to participate in girls' and women's sports, but the Equal Rights Amendment itself does not require all sports teams to be open to all genders.

A. No, decisions would be specific to the case and context. But the Equal Rights Amendment would make it harder for entities to prohibit the participation of boys and men and transgender individuals in girls' and women's sports.

A. No, decisions would be specific to the case and context. Restriction of sports participation based on sex may be considered legal in cases where the court determines there is a compelling state interest – that is in cases where the court determines it is important enough that it justifies infringing on the right to sex equality.

Q. Isn't the Equal Rights Amendment dead because the time limit for ratification has passed?

A. No. The time limit set by Congress in 1972 was in the preamble to the Equal Rights Amendment, not the amendment itself. When states ratified the Equal Rights Amendment, they did not approve, consent, nor include the time limit in their ratifications.

A. No. Legal scholars and experts assert this is not the case and contend if Congress has the power to impose a time limit, it also has the power to remove one.



A. No. Although the US Constitution references many time limits (e.g., term limits, age to run for office, number of years of citizenship), it is silent about time limits for constitutional amendments.

A. No. In fact, the 27th Amendment (Madison Amendment) was certified and published by the Archivist in 1992, 203 years after Congress passed it and sent it to the states for ratification.

A. No. In fact, no fully ratified amendment has ever failed to be added to the US Constitution.

A. No. In fact, there are joint resolutions in Congress to affirm the ERA regardless of the time limit and direct the Archivist to certify and publish it as part of the US Constitution. This resolution has already passed in the House in two prior sessions of Congress and passed in the Senate in 2023, but did not meet the 60% majority required to move it out of committee.

Q. Will the Equal Rights Amendment provide protections for transgender individuals?

A. The extent to which the Equal Rights Amendment provides protections for transgender individuals will play out in the courts and will depend on how courts interpret the meaning of the word “sex” in the amendment.

A. Possibly, depending how courts interpret the meaning “sex” in the amendment. In a recent Supreme Court decision “sex” was held to include protections for LGBTQ+ individuals.

Q. Don't most Republicans oppose the Equal Rights Amendment?

A. No. Although Republicans tend to be more indifferent to the Equal Rights Amendment than Democrats, only 9% of Republicans actually oppose the Equal Rights Amendment.

Q. Will men and women be required to use the same bathrooms?

A. There are many public places where it is already commonplace to have universal restroom facilities (e.g., airplanes, restaurants, hotels, private homes, etc.) without an issue.



A. Existing privacy rights will continue to protect appropriate separation of facilities for performing intimate bodily functions.

A. Not on a universal basis. Separate bathroom accommodations based on sex may be found legal in cases where the court determines there is a compelling state interest – that is in cases where the court determines it is important enough that it justifies infringing on the right to sex equality.

Q. How will the Equal Rights Amendment impact our military?

A. Under the Equal Rights Amendment the military will not be able to discriminate based on sex. For example, women will no longer need to pay 10 times more than men for mandatory uniform items.

A. The military justice system will have a new framework with which to adjudicate cases of military sexual assault. About 20% of women seen by the Veteran’s Health Administration disclose they experienced military sexual trauma. The Equal Rights Amendment makes it easier for these women to find legal recourse.

