



# **D.C. CATHOLIC CONFERENCE**

*ADVANCING GOSPEL VALUES IN THE DISTRICT OF COLUMBIA*

## **Statement to the Committee on the Judiciary and Public Safety**

### **Human Rights Amendment Act of 2014**

**Submitted by  
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The D.C. Catholic Conference represents the public policy interests of the Archdiocese of Washington within the District of Columbia. We submit this testimony with regard to the *Human Rights Amendment Act of 2014*. We thank Chairman Tommy Wells for the opportunity to engage in this discussion.

The *Human Rights Amendment Act of 2014* (the “Act”) would, *inter alia*, repeal D.C. Code § 2-1402.41(3), which recognizes the settled constitutional right of private, religious organizations to act in accordance with their sincerely held religious beliefs with regard to human sexuality.

Under D.C. Code § 2-1402.41(3), religiously-affiliated educational institutions need not endorse, nor provide “the use of any fund, service, facility, or benefit,” to “any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.” Without this protection, a religiously-affiliated educational institution’s exercise of its freedom to determine “the use of or access to, any of its facilities, services, programs, or benefits of any program” would constitute an “unlawful discriminatory practice” and could subject them to serious legal consequences. *See* D.C. Code §2-1402.41(1).

The definition of “educational institution” under D.C. Code §2-1402.02 (8) includes: “any public or private institution including an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system or university; and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution” (hereinafter, collectively referred to as “Schools”).

Accordingly, the Act would not only affect major universities such as The Catholic University of America, but also smaller sectarian schools. There are twenty Catholic elementary and secondary schools located in the District of Columbia, eleven of which operate directly under the auspices of the Archdiocese of Washington.

In this context, the D.C. Catholic Conference strongly opposes the portion of the Act which would repeal § 2-1402.41(3) as an unjustifiable violation of these Schools’ rights to advance their sincerely held religious beliefs regarding human sexuality. Specifically, religiously-affiliated Schools are not only obligated by their religion, but also permitted

by the Constitution to freely teach and act according to their faith. Many parents who entrust their children to these Schools make that decision precisely on the basis of the School's mission and identity as well as their academic excellence. A repeal of § 2-1402.41(3) would imperil this freedom. Neither the Council, nor the Act's proponents, have provided compelling reasons sufficient to justify such a heavy burden on the schools' religious practice, as required by the First Amendment of the U.S. Constitution and *Religious Freedom Restoration Act of 1993* (RFRA).

### **Freedom of Religion**

The Act disregards one of our nation's first and most cherished freedoms, the right to exercise religion free from government interference. Under the First Amendment and RFRA, which applies to actions of the Council of the District of Columbia, the government cannot substantially burden the free exercise of religion unless it is done for the most significant reasons and in the narrowest way possible.

The First Amendment also protects the right to organize and profess one's beliefs without penalty from the government. An organization's beliefs are often expressed through its membership, leadership, and other associations. Every organization has the right to decide for itself the content of its own beliefs and the points of view it wishes to espouse without having to embrace messages or members who have contrary views. *See Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston, Inc.*, 515 U.S. 557, 575 (1995) (holding that a private organization has the First Amendment right to "exclude an applicant whose manifest views were at odds with a position taken by the club's existing members."); *see also, Roberts v. United States Jaycees*, 468 U.S. 609 (1984) ("freedom of association...plainly presupposes a freedom not to associate.") *Boy Scouts of America et al v. Dale*, 530 U.S. 661 (2000) ("While the law is free to promote all sorts of conduct in place of harmful behavior, it is not free to interfere with speech for no better reason than promoting an approved message or discouraging a disfavored one...").

### **Conclusion**

The law is clear that the government may not force religious Schools into advancing a viewpoint or policy that conflicts with their sincerely held beliefs. To remove the protections afforded to religious Schools under D.C. Code §2-1402.41 (3) would be an unjustifiable intrusion of the Schools' Constitutional rights. The D.C. Catholic Conference therefore urges the Committee to strike the portion of the Act which calls for the repeal of D.C. Code §2-1402.41(3).