

ERA Coalition Blog

“Equality of Rights under the law shall not be denied or abridged by the United States or by any state on account of sex.”



ERA Coalition/FFWE Call on Attorney General Garland to Rescind Previous Administration's Office of Legal Counsel Opinion on the ERA

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October 28, 2021

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Carol Jenkins: "The role the Office of Legal Counsel plays in this matter may affect the life of every woman in America."

Washington, DC — The Equal Rights Amendment Coalition / Fund for Women's Equality today sent a letter calling on Attorney General Merrick Garland to rescind the previous administration's Office of Legal Counsel (OLC) opinion on the Equal Rights Amendment (ERA), which improperly weighed in on

the merits of still-pending congressional action to change and remove the arbitrary time limit that Congress included when they passed the ERA in 1972.

“At this critical juncture in the fight for women’s equality, the Department of Justice must reverse the previous administration’s improper overreach into the Constitutional amendment process,” **said ERA Coalition and Fund for Women’s Equality President and CEO Carol Jenkins**. “Millions of people are pushing to enshrine legal protections against sex discrimination for all Americans in the Constitution, and the Executive Branch should not be party to an attempt to obstruct those protections. The role the Office of Legal Counsel plays in this matter may affect the lives of every woman in America.”

On January 6, 2021, the OLC, under the previous administration, issued an [opinion](https://www.justice.gov/olc/file/1232501/download) (<https://www.justice.gov/olc/file/1232501/download>), saying the Equal Rights Amendment can no longer be ratified because the deadline had passed. Despite meeting all constitutional requirements for the ERA to become the 28th Amendment to the Constitution with ratification by 38 states, the National Archives, which managed the constitutional amending process, has not yet published the ERA due to the OLC’s opinion. Assistant Attorney General Shroeder has the power to reverse OLC’s opinion and remove a major barrier in giving women full equality under the Constitution.

The letter, signed by nearly 80 organizations representing millions of people with a shared goal of seeing the ERA become part of the Constitution, comes after the U.S. Senate confirmed Christopher Shroeder as the Department of Justice Assistant Attorney General of the OLC.

View the full text of the letter [here](https://www.eracoalition.org/wp-content/uploads/2021/07/ERA-Coalition-Letter-to-AG-Garland.pdf) (<https://www.eracoalition.org/wp-content/uploads/2021/07/ERA-Coalition-Letter-to-AG-Garland.pdf>).

Linda Coberly, chair of the ERA Coalition’s Legal Task Force; Jessica Neuwirth, president Emerita of ERA Coalition/Fund for Women’s Equality; and ERA Coalition / Fund for Women’s Equality President and CEO Carol Jenkins are available to speak to members of the press about the call to rescind the OLC opinion and the significance of Christopher Shroeder’s confirmation in the fight for women’s equality.

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The ERA Coalition was founded in 2014 to bring concerted, organized action to the effort to ratify the Equal Rights Amendment. The ERA Coalition has a sister organization, the Fund for Women’s Equality, which promotes public education and outreach on the need for constitutional equality. Comprised of nearly 200 organizations across the country, the Coalition provides education and advocacy on Constitutional Equality.

While the effort to amend the constitution to include sex equality began nearly a century ago, our renewed efforts are centered on Black, Indigenous and Women of Color, gender-nonconforming and transgender women and girls, and nonbinary people— those who are most impacted by systemic inequities.

www.eracoalition.org (<http://www.eracoalition.org>) | www.fundforwomensequality.org
(<http://www.fundforwomensequality.org>)





July 2021

Attorney General Garland
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Merrick Garland,

We write to you as the ERA Coalition, a woman-of-color-led nonprofit, representing millions of people, more than 200 partner and allied organizations, and leaders across the country. Our shared goal is to see the Equal Rights Amendment recognized as part of the U.S. Constitution.

When Virginia became the 38th state to ratify the ERA on January 27, 2020, all constitutional requirements for the ERA to become the 28th Amendment to the U.S. Constitution were satisfied. Yet, the ERA has not been published by the Archivist, who is deferring to a January 6, 2020 opinion issued by the previous Administration's Office of Legal Counsel.

We urge you to direct your Office of Legal Counsel to withdraw the January 6, 2020 opinion. Among other things, the opinion reaches beyond the issues before the OLC at the time, weighing in on the merits of still-pending congressional action to change and remove the time limit that Congress included in the proposing clause of its 1972 joint resolution. In this respect, the January 2020 OLC opinion conflicts with a prior OLC opinion and intrudes on matters appropriately left to the Legislative Branch.

We believe that in issuing its 2020 opinion on the Equal Rights Amendment, the OLC demonstrated an overreach of power by the Executive Branch in an effort to apparently serve the Administration's political agenda. The Constitution does not give any power to the Executive Branch during the amending process. The rights of all Americans should not be obstructed because of this misstep. You have the unique opportunity to correct this error and let history be made.

We request that you take immediate action on this important issue, promoting equality and preventing the denial of equal rights on account of sex in our great nation.

Most Respectfully,

A handwritten signature in black ink, appearing to read 'Carol Jenkins', with a horizontal line extending to the right.

Carol Jenkins
President & CEO, ERA Coalition