

# Good example of employment non-discrimination act (enda) strategic triangle analy...

[Sociology](#), [Community](#)



Non-discrimination in employment is considered one of the more contentious issues in employment law in the United States today. Because discrimination is difficult to define and even more difficult to regulate, designing and implementing effective legislation regarding discrimination in employment situations has been difficult, although a number of attempts have been made over the years. The problems in non-discrimination in employment are reflective of two unique and opposing forces within American culture: the first is the fierce American trust in the free market, and the second is the traditional protections that the American government has made attempts to ensure that minority and unprotected groups receive. This is not to say that the American government has a flawless record when it comes to protecting the rights of the minority groups under its care, but philosophically and historically, the country has been built upon the theory of protection for minority groups that cannot protect themselves from the majority (Varona). There are a number of different protections that are already afforded to individuals who are legally employed in the United States. Many of these protections are guaranteed under the civil rights and civil liberties decisions made by the Warren Court in the 1960s (Varona). This means that these rights and liberties are guaranteed by law, but not due to a particular law that Congress passed to protect individuals in the workplace; instead, these rights and liberties are guaranteed by the decisions that the legal system made, ensuring that people could not be discriminated against in the workplace as a result of gender, race, religion or age (Varona). These are referred to as “protected classes,” and the protected classes of people are guaranteed protection by a number of Supreme Court decisions that set

important precedents for protection. One class that has never been protected legally by these same precedents, however, is the so-called “homosexual” community (Varona). The homosexual community is not limited to homosexuals, however; it encompasses gay, lesbian, bisexual, and transgender persons (Cartwright-Smith and Phelps).

People within the lesbian, gay, bisexual and transgender community (LGBT) often face significant discrimination in the workplace, according to scholars (Cartwright-Smith and Phelps). Although instances of outright violence against members of the community are becoming more rare, they still occur, and members of the LGBT community often face significant discrimination in the workplace if they are open about their sexuality in a community that is not a supportive enclave. Clearly, a solution must be found to ensure that people are not discriminated against in their jobs, particularly if the reason they are being discriminated against has no bearing at all on their job or their ability to do their job. However, before determining whether the Employment Non-Discrimination Act (ENDA) that has been proposed to Congress is a good policy decision or a bad one, it is important to look at the structure of the Act itself and determine what the possible outcomes of implementation could be. It is important to note that the Employment Non-Discrimination Act is a federal Act, meaning that some states already have institutional protections in place to protect members of the LGBT community-- however, if ENDA passes through Congress and is signed into law, it would normalize and give a basic standard that all States in the union must meet. States that have higher standards for non-discrimination in the workplace would still be allowed to keep their standards high-- ENDA would

form a baseline litmus test for States, and provide a number of failsafes and options for those who were still discriminated against in the workplace (Gates).

When analyzing the Employment Non-Discrimination Act, looking at the Act from the point of view of the strategic triangle is very helpful. First, the strategic triangle analysis algorithm suggests that a determination must be made regarding the viability and substantially valuable to society as a whole. In addition, determining whether the policy will be valuable in that it produces a monetary or concrete increase in value to overseers, clients, and beneficiaries at low cost. Aside from the most basic consideration-- employing people based on the job they are doing rather than their sexual orientation will help employment rates and the economy-- the positive environment and improvements in innovation that are created due to diversification in the workforce are well-documented (Cartwright-Smith and Phelps). Workplace diversification leads to greater innovation and improvements in morale for other minority groups within the workplace as well; creating an open and comfortable workplace for all should be a key consideration for employers concerned with their employees' well-being (Cartwright-Smith and Phelps).

The second facet to performing a strategic triangle analysis on the policy is determining whether or not the policy is politically legitimate and sustainable. According to a number of sources, ENDA in a variety of forms has been introduced to nearly every Congress since 1994-- meaning that ENDA, or a similar Act whose purpose was to protect the rights of the LGBT community, has been voted down consistently for nearly a decade

(Cartwright-Smith and Phelps). This indicates that the policy, while perhaps fiscally sound and an excellent decision insofar as business was concerned, was not supported by Congress because Congress deemed it to be socially unacceptable or likely that their constituency would be unhappy about a particular Congress member voting for the Act. This indicates that the policy was not politically viable each time it was introduced; socially, the United States was not ready to enact into law protections for the LGBT community that were already afforded to other minority groups (Gates). However, the social climate has taken a turn in recent years, and marriage equality as well as other legal protections have become standard in a number of States; this normalization of legal protections for members of the LGBT community may change the political and social climate in the United States enough to encourage a change in vote-casting in both the Senate and the House of Representatives.

The final side of the strategic triangle for this particular piece of legislation is actually the easiest piece to discuss: this part of the analysis asks for a consideration regarding the operation and administrative feasibility of the policy. Because the Employment Non-Discrimination Act in its current inception is very similar in protection to other protections already afforded to minority groups in the United States, it is unlikely that any protections extended forth from this particular policy will pose any new or insurmountable issue for employers. Employers are legally required to tolerate religious difference, for example; a legal requirement to tolerate differences in sexual orientation should make little difference in the administration of the workplace (Cartwright-Smith and Phelps). Because

ENDA also affords benefits to partners of LGBT couples, there may be some administrative considerations that are more complex, especially as the marriage situation for LGBT couples in the United States is still in flux, but these are not administrative considerations that are prohibitively complex by any means.

The gay, lesbian, bisexual and transgender community is a community that is often overlooked and sometimes even victimized by the law. Protecting this group against discriminatory employment practices is one of the jobs of the federal government, and it is one of the areas that the federal government of the United States of America has been severely lacking on in recent years. Without legal protections, places that are still biased against members of the gay, lesbian, bisexual and transgender community are apt to be subject to discriminatory hiring and firing practices. In an economic climate where jobs are scarce and many people do not have the means or ability to move around freely, losing gainful employment can be a serious setback in an individual's life.

While implementing ENDA may cost the federal government money in the short term, keeping people employed is one of the major concerns of the federal government, especially at this juncture. Ensuring that people are not being unfairly discriminated against in regards to things that have no bearing on their ability to do a particular job is an excellent reason for the federal government to pass legislation like ENDA that will protect LGBT individuals from discrimination in the workplace. There may be a number of legal situations that can be avoided as well, especially if all states and

employers are held to the same standard regarding discrimination in the workplace.

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