

Summary of Federal Administration LGBTQ+ Policies

Source: January 22, 2025 Human Rights Campaign press release written by Brandon Wolf, available at <https://www.hrc.org/press-releases/background-on-trump-day-one-executive-orders-impacting-the-lgbtq-community>

“On his first day in office as the 47th president of the United States, President Trump signed a slew of executive orders (EOs) that impact the LGBTQ+ community, as well as many others. It is important to note that executive actions do NOT have the authority to override the United States Constitution, federal statutes, or established legal precedent. Many of these directives do just that or are regarding matters over which the president does not have control. Given that, many of these orders will be difficult, if not impossible, to implement, and efforts to do so will be challenged through litigation.

Currently, much is unknown about whether or how the administration or other actors will comply with these directives, and in most instances rules will need to be promulgated or significant administrative guidance will need to be issued in order for implementation to occur. These are processes that take time and require detailed additional plans to be developed.

Newly Issued Executive Orders

A number of executive actions yesterday will impact the LGBTQ+ community. However, the below addresses only those executive orders that directly name or are targeted at LGBTQ+ people specifically:

“The Anti-Transgender Executive Order (titled “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”) attempts to end legal recognition of transgender and nonbinary people under federal law and greenlight discrimination against the full LGBTQ+ community in the workplace, education, housing, healthcare, and more. This EO is built on the lies of those like the [authors of Project 2025](#), referring to transgender people as an “ideology,” rather than reality – and the consensus of the medical community, including every major medical association, such as the American Medical Association, American Psychological Association, the American Academy of Pediatrics, and others. Enforcing this definition of sex defies decades of federal statute and legal precedent, violating the U.S. Constitution. It targets transgender people and includes significant negative impacts on LGBQ people as well.

This EO would make it the policy of the administration to recognize two sexes, male and female (as defined below), and refuse to accept that people can transition from one sex to another or recognize nonbinary people.

- **Definition of Sex:** The EO directs federal agencies that, for purposes of sex nondiscrimination laws, “‘Sex’ shall refer to an individual’s immutable biological classification as either male or female. ‘Sex’ is not a synonym for and does not

include the concept of ‘gender identity.’” HHS is directed to provide guidance expanding on these definitions in the next 30 days.

- **Direction to Defy *Bostock*:** The EO directs the Attorney General to immediately issue guidance to agencies to “correct the misapplication of the Supreme Court’s decision in *Bostock v. Clayton County*” (2020) to sex-based distinctions in agency activities. *Bostock* held that discrimination on the basis of sexual orientation and gender identity constitutes illegal sex discrimination. If implemented, this directive could allow federal agencies to refuse to acknowledge discrimination against the full LGBTQ+ community in the workplace, education, housing, health care, and more.
- **Refusal to Respect Transition - Including in Use of Pronouns and Bathrooms for Title VII regulated employers.** The order directs the Attorney General to issue guidance allowing people to refuse to use a transgender or nonbinary person’s correct pronouns, and to claim a right to use single-sex bathrooms and other spaces based on sex assigned at birth at any workplace covered by the Civil Rights Act of 1964 and federally funded spaces.
 - If implemented by the Attorney General, this could open a transgender or nonbinary person up to misgendering, harassment, and humiliation at work – simply for being themselves.
 - Note: the EEOC is the primary agency in charge of enforcing Title VII, and it is a quasi-independent agency that is not legally required to take direction from the President via an executive order. Legal precedent surrounding the use of bathrooms at work and respectful use of pronouns already exist, and would be in conflict with implementation of this directive.
- **Bathroom Bans on Federal Property:** Directs agencies to limit access to restrooms and other single-sex facilities based on the adopted definition of sex/sex assigned at birth. This may impact federal property that is owned, leased, or controlled by federal agencies.
 - If implemented, this could mean restricting access to restrooms for transgender and nonbinary people in federal offices, on military bases, and at national parks.
- **Implications for Federal Identity Documents:** The EO directs the Secretaries of State and Homeland Security to cease issuing federal identity documents (namely, passports, visas, and Global Entry cards) that conflict with the new definition of sex. **This means that transgender and non-binary people will no longer be able to access new or renewed passports that reflect their gender**

identity. Regulatory safeguards protect validly issued passports from rescission. In response to a request from NOTUS, White House Press Secretary Karoline Leavitt confirmed that the executive order will not be retroactive and thus will not rescind valid passports.

- **Other Implications for Sex Discrimination Employment Law (Including Federal & Title VII Employers).** This directive would be in direct conflict with much of the opinion in *Bostock v. Clayton County*, binding precedent from the United States Supreme Court interpreting Title VII's prohibition of discrimination on the basis of sex in the workplace. That precedent regulates both the federal government's employment practices as well as private employers covered by Title VII.
 - **Potentially broad implications for discrimination on the basis of sex in Title VII, including protections against sex stereotyping and sexual harassment.** Decades of case law, in the federal courts including the United States Supreme Court, have interpreted discrimination on the basis of sex to include any number of important protections that many Americans now take for granted - including that a non-transgender woman in the workplace who is perceived to be violating gender norms in terms of her dress, decision to work outside the home, affect or other presentation is protected from discrimination under Title VII. These long standing protections are known as "sex stereotyping" and are a critical component of enforcing Title VII. Protections from sexual harassment also spring from Title VII's prohibitions from discrimination on the basis of sex. Interpretation and enforcement of these other critical facets of Title VII could also be impacted by the adoption of this definition.
 - **Attempts to Add Bathroom Exemption Into Title VII:** Directs the Attorney General, Secretary of Labor, and the EEOC (an independent agency that does not answer directly to the President) to enforce Title VII so as to allow/enforce access to restrooms only consistent with this policy. If they were to do so, these agencies would penalize any private employers subject to Title VII for allowing transgender people to access restrooms consistent with their gender identity in the workplace. They would also enforce the same rules in the federal workforce.
- **Halt Federal Funding - including Grants and Contracts - Promoting "Gender Ideology" or Collecting Data on Gender Identity:** Agencies can no longer fund, via contracts or grants, any content that is deemed to be promoting "gender ideology". Additionally, the EO directs agencies to rescind various guidance,

toolkits, and memoranda from DOJ, Ed, the AG and the EEOC related to LGBTQ+ issues.

- **Reverse “Equal Access Rule” Protections for LGBTQ+ People in Housing and for Transgender Women in Shelters:** Directs HUD to repeal the Equal Access Rule (which protects LGBTQ+ people from discrimination in housing and has been in place since before the first Trump Administration), and to promulgate a rule that prevents transgender women from being able to access domestic violence shelters. *This would conflict with not only Bostock but also other federal laws*, and could create requirements for determining a person’s sex for admission into emergency shelters that would directly impact individuals who do not conform with sex stereotypes – even if they are not transgender.
- **Incarceration:** Directs agencies to issue regulations to force transgender women to be housed with men in prisons or detention centers, and directs Bureau of Prisons to cease providing gender-affirming care of any kind. Actions that place transgender women into unsafe incarceration placements are in conflict with the Prison Rape Elimination Act (PREA).
- **Implementation Reporting Within 120 Days:** Within 120 days each agency shall submit an update on implementation to OMB that includes changes to documents, changes in relationship to federally funded entities (including grantees and contractors). Additionally directs the drafting of a bill to codify this definition of sex into law.

Ending DEI in the Federal Workplace. This directive instructs the Office of Management and Budget (OMB), with assistance from the Attorney General and the Office of Personnel Management, to end DEI/DEIA “mandates, policies, programs, preferences, and activities” throughout the federal government, including instructing OMB to terminate all equity-related grants and contracts. Incredibly, “DEI” is not defined, and confusion and differing understandings of what DEI entails are likely to extend the regulatory process and may, in the meantime, have a chilling effect on any efforts that could potentially be considered “DEI.” Each agency is directed to assess the costs of DEI under the last administration, and inform the President of the prevalence and economic costs of DEI in the federal government. The preamble to the order includes a mention of the Project 2025 trope “gender ideology.”

Rescission of Existing EOs

Of the dozens of Executive Orders that were rescinded collectively yesterday, several touched specifically on LGBTQ+ Issues. Among the most important of these was the repeal of President Biden’s directive to agencies to implement the Supreme Court ruling in *Bostock v. Clayton County*, which found that Title VII’s prohibition of discrimination on the basis of sex includes prohibitions of discrimination on the basis of sexual orientation

and gender identity. While this clearly signals that the Trump administration is not planning to fully enforce Title VII's protections from employment discrimination on behalf of LGBTQ+ people, *Bostock v. Clayton County* remains binding Supreme Court precedent that the administration is not free to ignore.

- *Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government)*. Directed agencies to advance equity for underserved populations, including LGBTQ+ people.
- *Executive Order 13988 of January 20, 2021 (Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation)*. Directed agencies to update rules, policies, and guidance to implement the Supreme Court's decision in *Bostock v. Clayton County*.
 - **Note that *Bostock v. Clayton County* is binding Supreme Court precedent** that governs the implementation and enforcement of Title VII. The analysis adopted by the Court logically applies to other federal sex nondiscrimination statutes including Title IX and the Fair Housing Act. Neither an executive order nor its rescission impacts the validity of a binding decision by the United States Supreme Court.
- *Executive Order 14004 of January 25, 2021 (Enabling All Qualified Americans to Serve Their Country in Uniform)*. This Biden executive order rescinded President Trump's previous order that had allowed restrictions on transgender people serving in the military. Its recession opens the door to further restrictions being promulgated.
- *Executive Order 14020 of March 8, 2021 (Establishment of the White House Gender Policy Council)*. Created White House council to advance gender equity, including equity for LGBTQ+ people.
- *Executive Order 14021 of March 8, 2021 (Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity)*. Ensured that regulations implementing Title IX of the Education Amendments of 1972 reverse Trump era changes that made it harder for survivors of sexual violence to be supported at schools, and adding sexual orientation and gender identity as protected characteristics.
- *Executive Order 14075 of June 15, 2022 (Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals)*. Addressed access to medically necessary care for LGBTQI+ youth, discrimination and barriers faced by LGBTQI+ children, parents, caretakers and families in the child welfare

system; supports for LGBTQI+ children in educational institutions; supports for LGBTQ+ elders; and responsible data collection.

- *Executive Order 14091 of February 16, 2023 (Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government)*. Called for further action to advance equity for underserved populations, defined as inclusive of LGBTQ+ people.

Additional policies that the Trump Administration may enact in the future

Source: <https://www.aclu.org/trump-on-lgbtq-rights>

Prohibiting Gender Affirming Care in Federal Health Care Programs

“A second Trump administration would ban gender-affirming medical care for transgender people in federal health care programs, including Veterans’ Administration health care and Medicare. This would result in the disruption of medically necessary care for transgender people across the country who depend on it, and the implications would be catastrophic. Gender dysphoria is a serious medical condition that, if left untreated, can result in significant distress, depression, anxiety, self-harm, and suicidality.”

Ending Gender Affirming Medical Care for Youth

“A second Trump administration would attempt to halt gender-affirming medical care for adolescents nationwide by threatening to deny Medicaid funding for hospitals that provide that care, asserting — against the recommendations of all major medical associations — that it does not meet federal health and safety standards. This could coerce hospitals to discontinue care, making it difficult, if not impossible, for youth with gender dysphoria to access the treatment they need.”

Several hospitals around the country have already suspended or are reevaluating gender-affirming care programs for patients under 19, citing Trump’s executive order which threatened to cut federal funding and grants.