
Executive Order 13988
*on Preventing and Combating Discrimination on
the Basis of Gender Identity or Sexual Orientation*

One of President Biden's first executive actions affirms that gender identity and sexual orientation are protected classes under federal sex discrimination laws. The order affects government agencies, Fortune 500 companies, nonprofits and any other agencies that have federal contracts or plan to apply for them, including educational institutions.

Background:

In 2017, the Trump administration rescinded an Obama-era Dear Colleague Letter directing schools to protect transgender students from discrimination and issued a ban on transgender people from serving in the military. In May 2018, the administration also decided that transgender prisoners should be housed according to their assigned sex at birth. Finally, one of the most harmful efforts of the administration was to finalize a Department of Health and Human Services administrative rule, which rolled back health care discrimination protections that effectively allowed doctors and insurance companies to refuse care to LGBTQ people.

This Executive Order:

Biden's executive order now rolls back many of the Trump administration's anti-LGBTQ policies:

- Directs all agencies to review and revise (if necessary) all existing orders, regulations, guidance documents, policies, programs, or other agency actions and take positive steps to uphold LGBTQ rights
- Commits to enforcing the holding of *Bostock v. Clayton County* throughout all federal agencies
 - In this case, the Supreme Court held that Title VII prohibited employers from discriminating on the basis of sexual orientation and gender identity
- Agencies have the next **100 days** (by April 30, 2021) to consider whether to issue new guidance documents to fully implement statutes that prohibit sex discrimination and the policy set forth in the order

Why This Order is Important:

- This is the most extensive executive order concerning gender identity and sexual orientation ever issued by a U.S. president, and is critical in rolling back Trump-era attacks of LGBTQ people
- By applying the reasoning in *Bostock* to all laws and implementing regulations that prohibit sex discrimination, Title IX now prohibits discrimination on the basis of gender identity and expression and sexual orientation
- This order signals future potential changes to Title IX from the Biden administration, though the administration is first expected to focus on coronavirus relief

*Prepared by Emily Gemar, Public Policy Fellow, OAESV

OAESV's Legislative Fact Sheet Series is funded by a generous grant from the George Gund Foundation, a private Ohio non-profit organization that has donated \$722 million dollars since 1952 to projects that advance human welfare and society.