

LEGAL UPDATE



Trump Revokes Biden Executive Order Preventing Gender Identity and Sexual Orientation Discrimination

On **Jan. 20, 2025**, President Donald Trump issued an [executive order \(EO\)](#) to revoke [EO 13988](#), signed by former President Joe Biden on Jan. 20, 2021. EO 13988 aimed to prevent and combat discrimination on the basis of an individual's gender identity or sexual orientation, including in the workplace.

Background

Title VII of the Civil Rights Act (Title VII) prohibits discrimination based on certain protected traits, including sex. On June 15, 2020, in *Bostock v. Clayton County*, the U.S. Supreme Court held that Title VII's prohibition on discrimination because of sex covers discrimination on the basis of gender identity and sexual orientation.

In light of the Supreme Court ruling, Biden issued EO 13988, which ordered all federal agencies, including the Equal Employment Opportunity Commission (EEOC), to review all policies that implement nondiscrimination protections on the basis of sex under Title VII and other federal laws and to extend those protections to include sexual orientation and gender identity. For example, in response to EO 13988, the EEOC updated its [Enforcement Guidance on Harassment in the Workplace](#) to include explicit protections from harassment on the basis of an individual's gender identity and sexual orientation.

Trump's Executive Order

Trump's EO revokes the policy goals set forth in EO 13988. While there is no immediate effect on employer obligations under Title VII or other laws that protect employees or applicants from discrimination on the basis of sex, the Trump EO instructs the heads of each federal agency to take steps to end the implementation of the now-revoked EO 13988. Therefore, federal agencies, including the EEOC, may modify existing guidance to remove reference to federal discrimination protections on the basis of an individual's sexual orientation or gender identity in the future.

Employer Takeaways

Following Trump's EO, employees should monitor the EEOC and other federal agencies for modified enforcement and interpretative guidance regarding Title VII and other anti-discrimination laws. However, until new guidance is issued, employers may continue to follow existing discrimination and harassment guidance from the EEOC and other federal agencies. Further, many states and municipalities have enacted laws that prohibit workplace discrimination on the basis of an individual's sexual orientation or gender identity. Therefore, employers should ensure continued compliance with such state and local laws.

HIGHLIGHTS

- On **Jan. 20, 2021**, Biden issued EO 13988 to prevent and combat discrimination on the basis of an individual's gender identity or sexual orientation.
- On **Jan. 20, 2025**, Trump issued a new EO to revoke EO 13988 and instruct federal agencies to take steps to end the implementation of the now-revoked EO 13988.