

## Federal court decisions on sex discrimination protections since May 2018

### Affordable Care Act

Below is a summary of federal court decisions on Section 1557's statutory protections of discrimination based on transgender status, issued since May 2018:

1. On July 25<sup>th</sup> a federal district court ruled that Wisconsin's Medicaid program exclusion of coverage for transition-related care constitutes "text-book discrimination based on sex" under Section 1557 of the Affordable Care Act and the Equal Protection Clause of the Constitution. The court issued a preliminary injunction ordering the state to cover this care for the two transgender plaintiffs ([Flack v. Wisconsin Department of Health Services](#), 18-cv-309, 2018 WL 3574875 (W.D. Wis. Jul. 25, 2018)).
2. On September 18<sup>th</sup> a federal court held that Wisconsin's state employee plan refusal to cover transition-related care constitutes sex discrimination in violation of Title VII, Section 1557 of the ACA, and the Equal Protection Clause ([Boyden v. Conlin](#), No. 17-cv-264-WMC, 2018 (W.D. Wis. September 18, 2018)).
3. On September 20<sup>th</sup>, a federal court found that a health care plan and its third-party administrator discriminated on the basis of sex by excluding coverage for health services related to gender dysphoria, in violation of Section 1557 of the ACA ([Tovar v. Essentia Health](#), No. 16-cv-00100-DWF-LIB (D. Minn. September 20, 2018)).

### Other statutes

Federal courts have continued to find that Title VII, Title IX and the Equal Protection Clause's sex discrimination protections apply to cases of discrimination based on transgender status:

1. [EEOC v. A&E Tire](#), 1:17-cv-02362 (D. Colo. Sept. 5, 2018) (holding that an employer that denied an applicant a job because he was transgender likely violated Title VII).
2. [Adams v. School Board of St. Johns County](#), 318 F.Supp.3d 1293 (M.D. Fla. Jul. 26, 2018) (holding that excluding transgender student from school restrooms consistent with his gender identity constituted sex discrimination under Title IX and the Equal Protection Clause).
3. [Doe v. Massachusetts Department of Correction, et al.](#), No. CV 17-12255-RGS, 2018 WL 2994403 (D. Mass. June 14, 2018) (holding that "where a State creates a classification based on transgender status, the classification is tantamount to discrimination based on sex" under the Equal Protection Clause).
4. [Grimm v. Gloucester County School Board](#), No. 4:15-cv-54 (E.D. Va. May 22, 2018) (holding that denying a transgender boy access to school restrooms matching his gender violated Title IX and the Equal Protection Clause).
5. [Parker v. Strawser Construction](#), No. 2:17-cv-541, 2018 WL 1942374 (S.D. Ohio Apr. 25, 2018) (affirming that Title VII protects against anti-transgender discrimination).
6. [Wittmer v. Phillips 66 Co.](#), No. CV H-17-2188, 2018 WL 1626366 (S.D. Tex. Apr. 4, 2018) (holding that Title VII protects transgender workers against discrimination).

You can find additional relevant cases [at NCTE's website](#).