

Congress of the United States
Washington, DC 20510

July 9, 2020

President Donald Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Trump:

In light of the Supreme Court’s landmark decision in *Bostock v. Clayton County*, we request that your Administration direct all relevant agencies to undertake a review of all regulations, executive orders, and agency policies that implicate legal protections for LGBTQ individuals under federal civil rights laws.

Since taking office, your Administration has repeatedly issued dozens of regulatory and agency actions premised almost entirely on the claim that federal bans on sex discrimination do not prohibit discrimination based on sexual orientation or gender identity. This argument attempts to sanction discrimination against LGBTQ people in a broad range of critical arenas, including in employment, health care, housing, and education. (See Attachment).

On June 15th, the Supreme Court decisively rejected this argument when it ruled in *Bostock v. Clayton County* that prohibitions on sex discrimination in federal civil rights laws include sexual orientation and gender identity discrimination. As the Court explained in a 6-3 decision authored by Justice Neil Gorsuch “[a]n employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.”

The Supreme Court’s opinion in *Bostock* addressed the meaning of “sex” discrimination under Title VII. But the Court’s reasoning applies with equal force to the term “sex” as used in several other federal civil rights laws – including those passed alongside Title VII to ban discrimination in housing and education, amongst others.

Your Administration argued against the employees in *Bostock* – taking the position that employers were free to fire LGBTQ workers simply because of their sexual orientation or gender identity. Specifically, your Administration argued that Title VII’s “plain text makes clear that it does not” “forbid employment discrimination because of sexual orientation” and that applying Title VII to gender identity discrimination “would transform Title VII into a blanket prohibition on all sex-specific workplace practices.”

The Supreme Court’s unambiguous rejection of these discriminatory arguments means that the harmful policies put in place by your Administration to permit discrimination against the LGBTQ community must immediately be reviewed and revoked or revised to make clear that protections apply to all people regardless of their sexual orientation or gender identity. The law requires this action. We therefore ask that the Administration immediately:

1. Identify the steps it is taking to implement the *Bostock* decision and fully enforce our nation’s civil rights laws that prohibit sex discrimination.
2. Review and revoke or revise all federal agency regulations, federal agency policies, and executive orders permitting discrimination against LGBTQ people, including but not limited to those on the attached list, and conduct a complete review to address all potentially discriminatory regulations, policies, or actions that require revocation or revision because they are now in direct conflict with the law.

All people should have confidence that their federal government is working to protect – not undermine – their rights. We therefore ask that you take immediate steps to ensure that LGBTQ people enjoy the full protections of the nation’s federal civil rights laws.

We appreciate your immediate attention to this important matter.

Sincerely,

/s/ Dianne Feinstein

Dianne Feinstein
United States Senator

/s/ Patty Murray

Patty Murray
United States Senator

/s/ Jerrold Nadler

Jerrold Nadler
Member of Congress

/s/ Chris Pappas

Chris Pappas
Member of Congress

/s/ Ron Wyden

Ron Wyden
United States Senator

/s/ Edward J. Markey

Edward J. Markey
United States Senator

/s/ Sheldon Whitehouse

Sheldon Whitehouse
United States Senator

/s/ Bernard Sanders

Bernard Sanders
United States Senator

/s/ Tammy Duckworth

Tammy Duckworth
United States Senator

/s/ Cory A. Booker

Cory A. Booker
United States Senator

/s/ Patrick Leahy

Patrick Leahy
United States Senator

/s/ Debbie Stabenow

Debbie Stabenow
United States Senator

/s/ Margaret Wood Hassan

Margaret Wood Hassan
United States Senator

/s/ Mazie K. Hirono

Mazie K. Hirono
United States Senator

/s/ Richard Blumenthal

Richard Blumenthal
United States Senator

/s/ Tammy Baldwin

Tammy Baldwin
United States Senator

/s/ Kamala D. Harris

Kamala D. Harris
United States Senator

/s/ Jeffrey A. Merkley

Jeffrey A. Merkley
United States Senator

/s/ Catherine Cortez Masto

Catherine Cortez Masto
United States Senator

/s/ Kirsten Gillibrand

Kirsten Gillibrand
United States Senator

/s/ Robert P. Casey, Jr.

Robert P. Casey, Jr.
United States Senator

/s/ Sherrod Brown

Sherrod Brown
United States Senator

/s/ Richard J. Durbin

Richard J. Durbin
United States Senator

/s/ Brian Schatz

Brian Schatz
United States Senator

/s/ Amy Klobuchar

Amy Klobuchar
United States Senator

/s/ Robert Menendez

Robert Menendez
United States Senator

/s/ Jack Reed

Jack Reed
United States Senator

/s/ Maria Cantwell

Maria Cantwell
United States Senator

/s/ Chris Van Hollen

Chris Van Hollen
United States Senator

/s/ Christopher A. Coons

Christopher A. Coons
United States Senator

/s/ Tina Smith

Tina Smith
United States Senator

/s/ Elizabeth Warren

Elizabeth Warren
United States Senator

/s/ Jacky Rosen

Jacky Rosen
United States Senator

/s/ Thomas R. Carper

Thomas R. Carper
United States Senator

/s/ Christopher S. Murphy

Christopher S. Murphy
United States Senator

/s/ Zoe Lofgren

Zoe Lofgren
Member of Congress

/s/ Jamie Raskin

Jamie Raskin
Member of Congress

/s/ Madeleine Dean

Madeleine Dean
Member of Congress

/s/ Jennifer Wexton

Jennifer Wexton
Member of Congress

/s/ Andy Levin

Andy Levin
Member of Congress

/s/ Gilbert R. Cisneros, Jr.

Gilbert R. Cisneros, Jr.
Member of Congress

/s/ Peter Welch

Peter Welch
Member of Congress

/s/ Eleanor Holmes Norton

Eleanor Holmes Norton
Member of Congress

/s/ TJ Cox

TJ Cox
Member of Congress

/s/ Sean Patrick Maloney

Sean Patrick Maloney
Member of Congress

/s/ Eliot L. Engel

Eliot L. Engel
Member of Congress

/s/ Stephen F. Lynch

Stephen F. Lynch
Member of Congress

/s/ Alan Lowenthal

Alan Lowenthal
Member of Congress

/s/ Nydia M. Velázquez

Nydia M. Velázquez
Member of Congress

/s/ Eric Swalwell

Eric Swalwell
Member of Congress

/s/ Jackie Speier

Jackie Speier
Member of Congress

/s/ Lauren Underwood

Lauren Underwood
Member of Congress

/s/ Judy Chu

Judy Chu
Member of Congress

/s/ Danny Davis

Danny Davis
Member of Congress

/s/ Grace Meng

Grace Meng
Member of Congress

/s/ Derek Kilmer

Derek Kilmer
Member of Congress

/s/ Betty McCollum

Betty McCollum
Member of Congress

/s/ Gwen S. Moore

Gwen S. Moore
Member of Congress

/s/ Scott H. Peters

Scott H. Peters
Member of Congress

/s/ Diana DeGette

Diana DeGette
United States Senator

/s/ Earl Blumenauer

Earl Blumenauer
Member of Congress

/s/ Kathleen Rice

Kathleen Rice
Member of Congress

/s/ Deb Haaland

Deb Haaland
Member of Congress

/s/ Suzanne Bonamici

Suzanne Bonamici
Member of Congress

/s/ Seth Moulton

Seth Moulton
Member of Congress

/s/ Susan A. Davis

Susan A. Davis
Member of Congress

/s/ David Trone

David Trone
Member of Congress

/s/ Mark Takano

Mark Takano
Member of Congress

/s/ Katie Porter

Katie Porter
Member of Congress

/s/ Sylvia R. Garcia

Sylvia R. Garcia
Member of Congress

/s/ Joseph P. Kennedy III

Joseph P. Kennedy III
Member of Congress

/s/ Adam Schiff

Adam Schiff
Member of Congress

/s/ Jared Huffman

Jared Huffman
Member of Congress

/s/ Mike Quigley

Mike Quigley
Member of Congress

/s/ Debbie Wasserman Schultz

Debbie Wasserman Schultz
Member of Congress

/s/ Jan Schakowsky

Jan Schakowsky
Member of Congress

/s/ Grace Napolitano

Grace Napolitano
Member of Congress

/s/ Brendan F. Boyle

Brendan F. Boyle
Member of Congress

/s/ John B. Larson

John B. Larson
Member of Congress

/s/ Gregory W. Meeks

Gregory W. Meeks
Member of Congress

/s/ Pramila Jayapal

Pramila Jayapal
Member of Congress

/s/ Veronica Escobar

Veronica Escobar
Member of Congress

/s/ Alcee L. Hastings

Alcee L. Hastings
Member of Congress

/s/ Mark DeSaulnier

Mark DeSaulnier
Member of Congress

/s/ José E. Serrano

José E. Serrano
Member of Congress

/s/ Ro Khanna

Ro Khanna
Member of Congress

/s/ Carolyn B. Maloney

Carolyn B. Maloney
Member of Congress

/s/ Katherine M. Clark

Katherine M. Clark
Member of Congress

/s/ Susan Wild

Susan Wild
Member of Congress

/s/ Frank Pallone, Jr.

Frank Pallone, Jr.
Member of Congress

/s/ Karen Bass

Karen Bass
Member of Congress

/s/ John Yarmuth

John Yarmuth
Member of Congress

/s/ Darren Soto

Darren Soto
Member of Congress

/s/ Julia Brownley

Julia Brownley
Member of Congress

/s/ Bonnie Watson Coleman

Bonnie Watson Coleman
Member of Congress

/s/ Lori Trahan

Lori Trahan
Member of Congress

/s/ Ayanna Pressley

Ayanna Pressley
Member of Congress

/s/ Joseph D. Morelle

Joseph D. Morelle
Member of Congress

/s/ Sharice L. Davids

Sharice L. Davids
Member of Congress

/s/ Linda T. Sánchez

Linda T. Sánchez
Member of Congress

/s/ Albio Sires

Albio Sires
Member of Congress

/s/ Bill Foster

Bill Foster
Member of Congress

/s/ Mary Gay Scanlon

Mary Gay Scanlon
Member of Congress

/s/ Salud Carbajal

Salud Carbajal
Member of Congress

/s/ Alexandria Ocasio-Cortez

Alexandria Ocasio-Cortez
Member of Congress

/s/ Tim Ryan

Tim Ryan
Member of Congress

/s/ Jason Crow

Jason Crow
Member of Congress

/s/ Angie Craig

Angie Craig
Member of Congress

/s/ David N. Cicilline

David N. Cicilline
Member of Congress

/s/ Elissa Slotkin

Elissa Slotkin
Member of Congress

/s/ Ted Lieu

Ted Lieu
Member of Congress

/s/ Peter A. DeFazio

Peter A. DeFazio
Member of Congress

/s/ Ami Bera, M.D.

Ami Bera, M.D.
Member of Congress

/s/ Tom Suozzi

Tom Suozzi
Member of Congress

/s/ Ilhan Omar

Ilhan Omar
Member of Congress

/s/ Mark Pocan

Mark Pocan
Member of Congress

/s/ Kim Schrier, M.D.

Kim Schrier, M.D.
Member of Congress

/s/ Jimmy Panetta

Jimmy Panetta
Member of Congress

/s/ Ann Kirkpatrick

Ann Kirkpatrick
Member of Congress

/s/ Kathy Castor

Kathy Castor
Member of Congress

CC:

Russell Vought
Acting Director, Office of Management and Budget
725 17th St NW
Washington, DC 20503

Attachment

1. February 23, 2017: The Department of Education rescinded Title IX protections for transgender students in schools. [[*Department of Education Dear Colleague Letter re: Title IX of the Education Amendments of 1972 20 U.S.C. §1681 et seq., and 34 C.F.R. §106.33*](#)]
2. May 4, 2017: President Trump issued Executive Order 13798 – Promoting Free Speech and Religious Liberty. This Executive Order allows for discrimination against the LGBTQ community. [[*Presidential Executive Order Promoting Free Speech and Religious Liberty*](#)]
3. June 15, 2017: The Department of Education limited the ability of the Office for Civil Rights to investigate civil rights complaints filed by LGBTQ students. [[*The New York Times: Education Dept. Says it Will Scale Back Civil Rights Investigations*](#)]
4. June 16, 2017: An internal memo from the Department of Education Office for Civil Rights revealed guidelines for dismissing complaints about bathroom access filed by transgender students. [[*Memo from OCR Instructions to the Field re: Complaints Involving Transgender Students*](#)]
5. August 25, 2017: President Trump directed the Pentagon to ban transgender service members from openly serving in the U.S. military. [[*White House Memorandum for the Secretary of Defense and the Secretary of Homeland Security re: Military Service by Transgender Individuals*](#)]
6. September 7, 2017: The Justice Department filed a brief in support of religious exemptions that would allow discrimination against same-sex couples. [[*Brief for the United States, Case No. 16-111, Masterpiece Cakeshop v. Colorado Civil Rights Commission*](#)]
7. October 4, 2017: The Justice Department reversed an internal policy protecting transgender employees from workplace discrimination. [[*Memo from the Attorney General to U.S. Attorneys re: Revised Treatment of Transgender Employment Discrimination Claims Under Title VII*](#)]
8. October 6, 2017: The Justice Department issued guidance allowing workplace discrimination against LGBTQ federal employees. [[*Memo to Executive Departments and Agencies from the Attorney General re Exec. Order No. 13798 §4, 82 Fed. Reg. 21675*](#) and [*Memo from the Attorney General to all Component Heads and United States Attorneys re Exec. Order 13798, §4*](#)]

9. January 18, 2018: The Department of Health and Human Services created a new department that shields healthcare workers who refuse to treat LGBTQ workers or those living with HIV by claiming moral or religious objections. [[*Department of Health and Human Services Press Release re: New Conscience and Religious Freedom Division*](#)]
10. February 12, 2018: The Department of Education confirmed it will not investigate or take action on complaints filed by transgender students who are banned from restrooms matching their gender identity. [[*NPR: The Education Department Says It Won't Act on Transgender Student Bathroom Access*](#)]
11. March 5, 2018: The Department of Housing and Urban Development removed from the agency's mission statement a commitment to inclusive and discrimination-free communities. [[*The Hill: HUD Removes Promises of Inclusive, Discrimination-free Communities from Mission Statement*](#)]
12. March 23, 2018: President Trump announced a revised ban on transgender people from serving in the military. [[*83 FR 13367*](#)]
13. May 11, 2018: The Bureau of Prisons adopted a policy requiring the use of biological sex to determine housing and program eligibility for transgender inmates. [[*DOJ Transgender Offender Manual, No. 5200.04 CN-1*](#)]
14. July 30, 2018: The Justice Department created a Religious Liberty Task Force to enforce the administration's guidance for religious exemptions. [[*Transcript of Attorney General Session's Remarks, July 30, 2018*](#)]
15. October 1, 2018: The State Department announced a policy that same-sex, unmarried partners of United Nations employees will not be granted visas to stay in the U.S. [[*Special Briefing hosted by the State Department: Senior Administration Officials on Visas for Same-Sex Domestic Partners of G-4 and Diplomatic Visa Holders*](#)]
16. October 21, 2018: The Department of Health and Human Services proposed a change to the legal definition of sex under Title IX. [[*The New York Times: 'Transgender' Could be Defined Out of Existence Under Trump Administration*](#)]
17. December 21, 2018: The Justice Department filed a Statement of Interest in a case in support of a student group that discriminated against LGBTQ students. [[*Department of Justice Press Release – Justice Department Files Statement of Interest*](#)]
18. January 23, 2019: The Department of Health and Human Services approved a waiver request by South Carolina Governor McMaster to allow faith-based adoption agencies to prohibit LGBTQ couples from adopting. [[*Letter from Administration for Children &*](#)

[Families to Governor McMaster Re: Request for Deviation or Exception from HHS Regulations 45 CFR § 75.300 \(c\)](#)

19. March 12, 2019: The Department of Defense announced plans to implement a ban on transgender service members from openly serving in the U.S. military. [[Memorandum from the Deputy Secretary of Defense re: Military Service by Transgender Persons and Persons with Gender Dysphoria](#)]
20. May 21, 2019: The Department of Health and Human Services finalized a rule allowing doctors and physicians to deny health care services to LGBTQ patients. [[84 FR 23170](#)]
21. May 22, 2019: The Department of Housing and Urban Development announced that it would rescind a rule requiring federally funded homeless shelters to permit transgender residents access to facilities that correspond with their gender identity. [[Revised Requirements Under Community Planning and Development Housing Programs, RIN: 2506-AC53](#)]
22. August 14, 2019: The Department of Labor’s Office of Federal Contract Compliance Programs released a rule that would federal contractors to discriminate against LGBTQ employees. [[41 CFR part 60-1, RIN: 1250-AA09](#)]
23. August 2019: The Justice Department filed briefs arguing that Title VII does not protect employees from discrimination on the basis of sexual orientation and gender identity. [[Brief of the United States, Case Nos. 17-1618 and 17-1623, Bostock v. Clayton County; Brief of the United States, Case No. 18-107, RG GR Harris Funeral Homes v. Equal Employment Opportunity Commission](#)]
24. September 19, 2019: The Department of Education removed “sexual orientation” and “gender identity” as terms to track bullying data. [[Data Groups for Civil Rights Data Collection for School Year 2019-20](#)]
25. September 27, 2019: The Justice Department filed a “Statement of Interest” in a case in support of a religious school that fired a gay teacher because of his sexual orientation. [[Superior Court, State of Indiana, County of Mario, Joshua Payne-Elliott v. Roman Catholic Archdiocese of Indianapolis Cause No. 49D01-1907-PL-027728](#)]
26. November 1, 2019: The Department of Health and Human Services announced a rule allowing taxpayer-funded adoption agencies to deny placement of children with LGBTQ parents. [[45 CFR Part 75, RIN: 0991-AC16](#)]
27. March 24, 2020: The Justice Department filed a “Statement of Interest” in a case in support of an athletic association that precludes transgender athletes from competing in

sports consist with their gender identity. [[Selina Soule v. Connecticut Association of Schools, No. 3:20-cv-00201-RNC](#)]

28. May 19, 2020: Numerous agencies, including the Justice Department, Health and Human Services, Labor, and Housing and Urban Development, issued regulations to promote religious exemptions in accordance with the White House Faith and Opportunity Initiative, Executive Order 13831. [[Executive Order 13831](#), [85 FR 2921](#) (DOJ), [85 FR 2974](#) (HHS), [85 FR 2929](#) (Labor), [85 FR 8215](#) (HUD), [85 FR 2938](#) (Veterans Affairs), [85 FR 2889](#) (DHS), [85 FR 2897](#) (USDA), [85 FR 3190](#) (Education), [85 FR 2916](#) (USAID)]
29. June 3, 2020: The Justice Department filed a brief in support of faith-based adoption agencies that seek to prevent LGBTQ couples from using their adoption services. [[Brief of the United States, Case No. 19-123, Fulton v. City of Philadelphia](#)]
30. June 19, 2020: The Department of Health and Human Services finalized regulations removing protections for LGBTQ people in health care. [[85 CFR 37160](#)]
31. June 19, 2020: The Justice Department filed a “Statement of Interest” in a case in support of an Idaho law that discriminates against transgender athletes. [[Brief of the United States, Case No. 1:20-cv-00184-DCN, Hecox v. Little](#)]
32. July 1, 2020: The Department of Housing and Urban Development announced a proposed rule that would weaken protections for transgender individuals experiencing homelessness by allowing federally funded homeless service providers to deny them shelter. [[HUD Updates Equal Access Rule, July 1, 2020](#)]