



IMPACT OF EXECUTIVE ORDER REVOKING NON-DISCRIMINATION PROTECTIONS

for LGBTQ Federal Employees and Employees of Federal Contractors

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On January 21, 2025, President Trump issued an executive order that broadly undermines longstanding federal civil rights protections and DEI programs and initiatives.¹ Among a number of policy changes, the order reverses protections for transgender federal government employees and LGBTQ employees of federal contractors extended through an executive order issued by President Obama in 2014.² President Trump's executive order further revokes non-discrimination protections for employees of federal contractors based on race, national origin, sex, and religion, which dates back to the Johnson administration.³

President Trump's executive order removes important workplace protections for the nearly 14,000 transgender employees of the federal government and over 100,000 LGBTQ employees of federal contractors, as well as many more employees of federal subcontractors.

BACKGROUND AND LEGAL LANDSCAPE

Until January 2025, federal employees and employees of federal contractors and subcontractors were expressly protected from sexual orientation and gender identity discrimination under executive orders issued by Presidents Clinton⁴ and Obama.⁵ These orders were reinforced across the federal government through an executive order issued by President Biden after the Supreme Court's decision in *Bostock v. Clayton County*,⁶ which interpreted sex discrimination to include discrimination on the basis of sexual orientation and gender identity.⁷ These executive

¹ Exec. Order, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, The White House, Jan. 21, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/ending-illegal-discrimination-and-restoring-merit-based-opportunity/>.

² Exec. Order No. 13,672, 79 Fed. Reg. 42,971 (July 21, 2014).

³ Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (Sept. 28, 1965).

⁴ Exec. Order No. 13,087, 63 Fed. Reg. 30,097 (May 28, 1998).

⁵ Exec. Order No. 13,672, 79 Fed. Reg. 42,971 (July 21, 2014).

⁶ *Bostock v. Clayton Cty.*, 590 U.S. 644 (2020).

⁷ Exec. Order No. 13,988, 86 Fed. Reg. 7,023 (Jan. 21, 2021).

orders not only explicitly prohibited sexual orientation and gender identity discrimination but provided additional enforcement mechanisms and remedies for federal employees and employees of contractors and subcontractors.

While executive orders have not been the only source of protection for LGBTQ federal employees and employees of federal contractors, they provide a clear statement that discrimination and harassment against LGBTQ workers is prohibited, help prevent such discrimination and harassment, and provide additional enforcement mechanisms for those who have experienced discrimination or harassment.

Federal employees, the employees of most federal contractors and subcontractors, and employees of the United States Postal Service are also protected by Title VII. The Supreme Court, the Equal Employment Opportunity Commission (EEOC), and the Biden administration have interpreted Title VII's prohibition on sex discrimination to also prohibit discrimination based on sexual orientation and gender identity.⁸ Federal courts have also held that the U.S. Constitution protects federal employees from sexual orientation and gender identity discrimination,⁹ and many employees of federal contractors would also be protected by state and local laws that include these characteristics.¹⁰

PRESIDENT TRUMP'S ACTIONS RELATED TO LGBTQ WORKPLACE DISCRIMINATION PROTECTIONS

On January 21, 2025, President Trump issued an executive order revoking protections for transgender federal government employees and LGBTQ employees of federal contractors and subcontractors. The order also limited the responsibilities of the Office of Federal Contract Compliance Programs, a division of the Department of Labor that enforced non-discrimination protection pertaining to employees of federal contractors and subcontractors.

- **Rescinding Executive Order 11246.** Executive Order 11246 was issued by President Johnson in 1965 and has been amended over time to prohibit discrimination on the basis of race, religion, sex, and national origin, as well as sexual orientation and gender identity.¹¹ The order protected employees of federal contractors and subcontractors. On January 21, President Trump issued an executive order revoking Executive Order 11246, as amended to include protections from sexual orientation and gender identity discrimination. The new executive order not only removes protections for LGBTQ employees of federal contractors and subcontractors but also protections from discrimination based on race, religion, sex, and national origin.
- **Rescinding Executive Order 13672.** Executive Order 13672, issued by President Obama in 2014, amended two prior executive orders to extend protections from employment discrimination based on sexual orientation and gender identity.¹² First, this order added sexual orientation and gender identity to the list

⁸ U.S. Equal Emp. Op. Comm., Protections Against Employment Discrimination Based on Sexual Orientation or Gender Identity, June 15, 2021, <https://www.eeoc.gov/laws/guidance/protections-against-employment-discrimination-based-sexual-orientation-or-gender>.

⁹ See, e.g., Taylor Flynn, *Federal Equal Protection*, in GENDER IDENTITY AND SEXUAL ORIENTATION DISCRIMINATION IN THE WORKPLACE: A PRACTICAL GUIDE (Christine Michelle Duffy et al., eds., 2014).

¹⁰ Movement Advancement Project, Employment Nondiscrimination, https://www.lgbtmap.org/equality-maps/employment_non_discrimination_laws (last visited Jan. 23, 2025).

¹¹ Office of Fed. Contractor Compliance Programs, U.S. Dep't of Labor, History of Executive Order 11246, <https://www.dol.gov/agencies/ofccp/about/executive-order-11246-history> (last visited Jan. 23, 2025).

¹² Exec. Order No. 13,672, 79 Fed. Reg. 42,971 (July 21, 2014).

of protected characteristics in Executive Order 11246, as described above. Executive Order 13672 also amended Executive Order 11478, which protects federal government employees from discrimination based on personal characteristics. Executive Order 11478 was first issued by President Nixon in 1969 to protect federal government employees from discrimination based on race, religion, sex, national origin, disability, and age.¹³ It was amended to include sexual orientation as a protected characteristic by President Clinton in 1998.¹⁴ President Obama amended Executive Order 11478 to include gender identity in 2014. President Trump's executive order revokes Executive Order 13672, removing protections from gender identity discrimination in federal government employment.

- **Limiting the Responsibilities of the Office of Federal Contract Compliance Programs.** The Office of Federal Contract Compliance Programs (OFCCP), part of the Department of Labor, is responsible for “protect[ing] workers, promot[ing] diversity, and enforc[ing] the law.”¹⁵ The OFCCP's ability to prevent discrimination is powerful because its enforcement mechanisms include prohibiting entities from receiving future federal contracts if they discriminate. President Trump's executive order specifically prohibits the OFCCP from taking actions to ensure diversity and equal opportunity in federal contractor employment. It severely limits OFCCP's duties by revoking Executive Order 11246, one of the primary laws enforced by the office.¹⁶

IMPACT ON LGBTQ WORKERS

President Trump's executive order targets non-discrimination protections for the nearly 14,000 transgender employees of the federal government and over 100,000 LGBTQ employees of federal contractors.¹⁷ This estimate does not include employees of federal subcontractors, who are also protected under Executive Order 11246.¹⁸

Experiences of Discrimination and Harassment Among LGBTQ Employees

In a series of reports, the Williams Institute has explored the workplace experiences of LGBTQ employees.¹⁹ These reports have found that workplace discrimination and harassment against LGBTQ employees continue to be persistent and widespread. In 2023, almost half (47%) of LGBTQ employees reported experiencing unfair treatment at work, including being fired, not hired, not promoted, or harassed because of their sexual orientation or gender identity during their lifetime.

¹³ Exec. Order No. 11,478, 34 Fed. Reg. 12,985 (Aug. 8, 1969).

¹⁴ Exec. Order No. 13,087, 63 Fed. Reg. 30,097 (May 28, 1998).

¹⁵ Office of Fed. Contractor Compliance Programs, U.S. Dep't of Labor, About Us, <https://www.dol.gov/agencies/ofccp/about> (last visited Jan. 23, 2025).

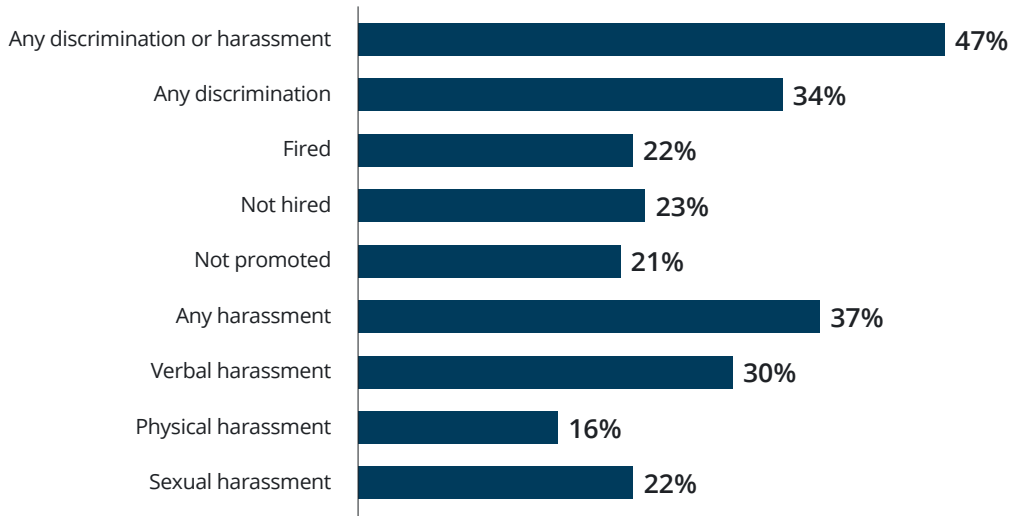
¹⁶ Office of Fed. Contractor Compliance Programs, *supra* note 11.

¹⁷ Brad Sears, Williams Inst., Impact of Proposed Cuts to the Federal Workforce on LGBTQ Employees (2025), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Federal-Workforce-Reduction-Jan-2025.pdf>.

¹⁸ *Id.*

¹⁹ BRAD SEARS ET AL., WILLIAMS INST., LGBTQ PEOPLE'S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT (2024), available at <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>.

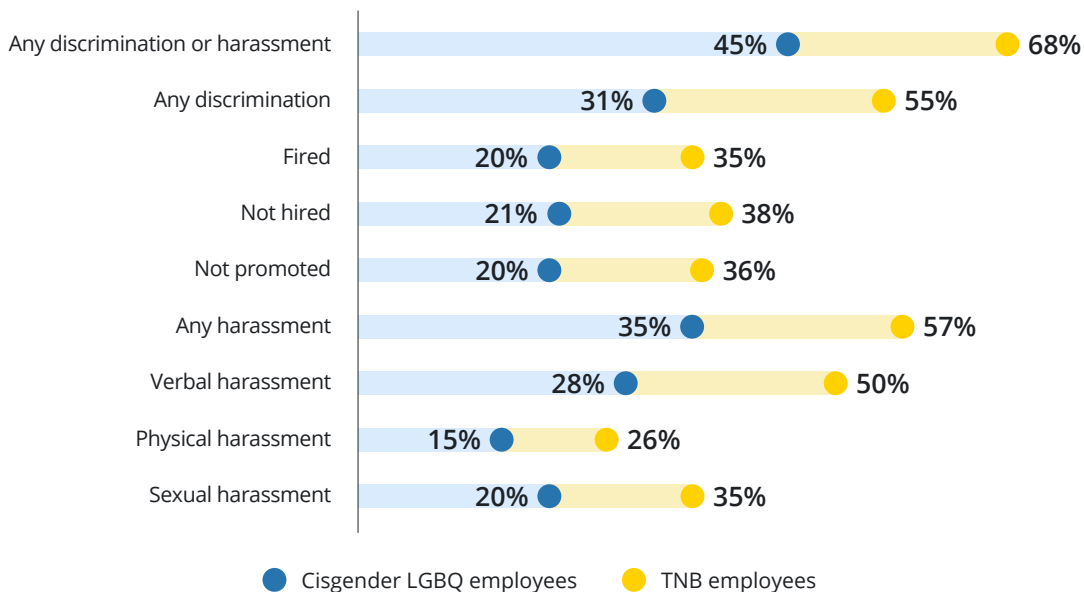
Figure 1. Lifetime experiences of discrimination and harassment against LGBTQ employees



Within the past year, more than one in ten LGBTQ employees reported that they had been fired, not hired, or not promoted because of their sexual orientation or gender identity (11%) or had experienced at least one form of harassment at work (12%).

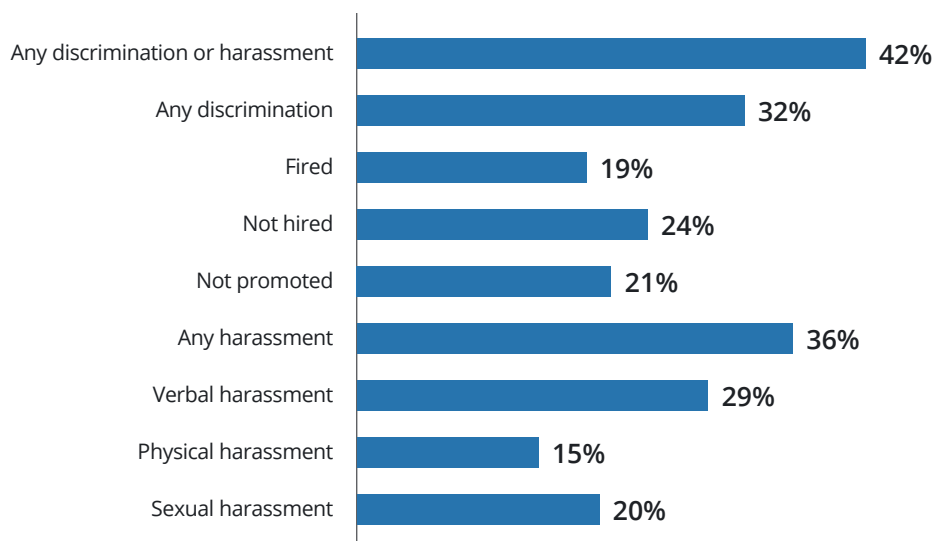
Notably, across all six primary measures of lifetime experiences of discrimination and harassment, transgender and nonbinary employees reported higher rates than cisgender employees, people of color reported higher rates than white employees, and those who were out reported higher rates than those who were out to no one in the workplace.

Figure 2. Lifetime experiences of discrimination and harassment based on LGBTQ status among LGBTQ employees by gender identity



Further, Williams Institute research has also explored the workplace experiences of LGBTQ public sector employees, including federal employees.²⁰ Over one in ten LGBTQ adults in the workforce are employed in the public sector. Prior Williams Institute research has shown that patterns of discrimination and harassment in the public sector are similar to those in the private sector.²¹ Based on a survey conducted in 2023, approximately 42% of LGBTQ workers in the public sector reported experiencing employment discrimination (including being fired, not hired, not promoted) or harassment (including being verbally, physically, or sexually harassed) because of their sexual orientation or gender identity at some point in their careers.²²

Figure 3. Lifetime experiences of discrimination and harassment of LGBTQ public sector employees



In addition to the Williams Institute reports, the 2023 Federal Employee Viewpoint Survey shows the vulnerability of transgender federal employees in particular. For example:

- While 69% of cisgender federal employees strongly agreed or agreed with the statement that they “would recommend their organization as a good place to work,” that was true for only 39% of transgender employees.²³
- While 13% of transgender federal employees disagreed or strongly disagreed with the statement that “my supervisor treats me with respect,” only 6% of cisgender employees provided a similar response.²⁴
- While 19% of transgender employees disagreed or strongly disagreed with the statement “employees in my unit make me feel like I belong,” only 7% of cisgender employees felt similarly.

²⁰ Brad Sears et al., Williams Inst., Workplace Experiences of LGBTQ Public Sector Employees (2025), <https://williamsinstitute.law.ucla.edu/publications/public-sector-workplace-discrim/>.

²¹ Brad Sears et al., Williams Inst., Workplace Experiences of LGBTQ Public Sector Employees (2025), <https://williamsinstitute.law.ucla.edu/publications/public-sector-workplace-discrim/>.

²² Brad Sears et al., Williams Inst., Workplace Experiences of LGBTQ Public Sector Employees (2025), <https://williamsinstitute.law.ucla.edu/publications/public-sector-workplace-discrim/>.

²³ U.S. Office of Personnel Mgmt., 2023 Office of Personnel Management Federal Employee Viewpoint Survey: Report by Demographics, [2023-demographic-report-excel.xlsx](https://www.opm.gov/pers-data/opev/2023-demographic-report-excel.xlsx).

²⁴ Id.

- Finally, nearly three times as many transgender federal employees disagreed or strongly disagreed (29%) with the statement that “I can be successful in my organization being myself” compared to cisgender employees (11%).²⁵

Impact on LGBTQ Workers Most Vulnerable to Discrimination and Harassment

By revoking Executive Order 11246 entirely, President Trump’s executive order repeals protections from employment discrimination based on race, sex, national origin, and other bases that have been in place for over six decades. Most LGBTQ employees have multiple marginalized identities because of their race, sex, gender, religion, disability status, and other personal characteristics. The complete repeal of Executive Order 11246 leaves most LGBTQ workers vulnerable to discrimination on multiple bases.

The Williams Institute report on workplace experiences of LGBTQ employees found that 52% of LGBTQ employees are LGBTQ women, and 7% are nonbinary.²⁶ Further, almost half of LGBTQ employees are people of color (46%), including 26% who are Latinx, 11% who are Black, 4% who are Asian, and 4% are another race or multiracial.²⁷ Williams Institute research also indicates that LGBTQ people with multiple marginalized identities face higher rates of sexual orientation and gender identity discrimination in the workplace and that this discrimination is frequently intersectional.²⁸ In other words, the person or people discriminating against them verbalize that the harassment and discrimination is not only based on their sexual orientation but their race, sex, gender, religion, or other identities as well.

Figure 4. Lifetime experiences of discrimination and harassment based on LGBTQ status among LGBTQ employees by race/ethnicity



²⁵ Id.

²⁶ Analysis on file with authors.

²⁷ Sears et al., *supra* note 19 at 7.

²⁸ Id.

CONCLUSION

Protections from discrimination and harassment based on sexual orientation and gender identity provided by executive orders are important to hundreds of thousands of LGBTQ federal employees and employees of federal contractors and subcontractors. President Trump's January 21 executive order eliminates these protections and protections based on other personal characteristics. The order will have a particularly severe impact on transgender and nonbinary workers and LGBTQ people with multiple marginalized identities.

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