

The Trump Administration's Greatest Hits to LGBTQ Rights

- Opposition to the Equality Act. The Equality Act would provide explicit protections for LGBTQ people in the areas of employment, housing, and public accommodations. Despite support from almost every segment of the US population and Republican voters, President Trump has threatened to veto the Equality Act. In May 2019 the House passed the Equality Act. Since that time the Senate Leadership (Mitch McConnell) has refused to bring the bill forth for committee hearings and a vote.
- Transgender Military Ban- Through a tweet, President Trump reinstated a ban on openly transgender people serving in the military. The ban had been lifted during the Obama Administration. The reinstatement of the ban went against the expert advice of military leadership, medical authorities, budget analysts, 70% of Americans and the armed forces of allied countries. There are five separate lawsuits in federal courts challenging this ban, but the United States Supreme Court majority has permitted the ban to take effect pending the litigation. This means that openly transgender people cannot enlist, those already in the military who come out as trans cannot necessarily transition nor access medical care. Those already serving as openly trans before the ban, can continue doing so.
- Rolled back Obama Justice Department policy that discrimination against LGBTQ people is sex discrimination prohibited under various federal civil rights laws. Trump DOJ argued against the plaintiffs in three cases before the United States Supreme Court (including Aimee Stephens' case) that
- LGBTQ people are not protected against discrimination under Title VII (the civil rights law that prohibits sex discrimination in employment).
- Section 1557 Rule: The Department of Health and Human Services proposed a major change to the administrative rule interpreting Section 1557 of the Affordable Care Act (the non-discrimination provision), which removes protections against discrimination for LGBTQ people in accessing health care services and health insurance coverage for medical care.
- Medical Conscience Rule: Administration issued a rule aimed at significantly expanding protections for health care providers to refuse medical services because of religious or moral objections. The rule has been challenged in several lawsuits and was blocked by three federal judges. Experts and advocates have expressed concern that the broad definitions in the rule could reduce health care access for LGBTQ people- including emergency care (which lawyers for the Trump Administration admitted in one of the lawsuits that an ambulance driver could refuse to transport an LGBTQ patient, citing religious or moral objections).

- Department of Education withdrew guidance under Title IX regarding transgender students earlier issued by the Obama Administration. Guidance instructed public schools to treat students according to their gender identity, including using students' preferred names and pronouns and allowing access to bathrooms and other gender-separated facilities that match their gender identity. Axing this guidance opens the door for schools to misinterpret or resist requirements to accommodate transgender students and keep them safe.
- Department of Education confirmed to multiple media news outlets that it was no longer investigating or taking action on complaints filed by transgender students who were barred from restrooms or other facilities that match their gender identity. In addition, according to a 2019 report by the Center for American Progress, the Trump Department of Education has drastically scaled back civil rights enforcement for LGBTQ students. The report found that complaints involving LGBTQ discrimination were nine times less likely to result in corrective action under the Trump Administration than the Obama Administration.
- What the Department of Education Office for Civil Rights is investigating is a Connecticut policy that allows transgender high school student athletes to compete as the gender with which they identify. A complaint was filed by the conservative legal group, Alliance Defending Freedom, on behalf of three cisgender girls who claim they are being discriminated against by having to compete in track events against "boys who claim a transgender identity to compete in girls' athletic events." Concern is that the administration may use this case to argue that Title IX requires schools to drop trans-inclusive athletics policies.
- Department of Health and Human Services announced a proposed rule that would allow the agency to issue grants to organizations that deny services to LGBTQ people (this could include HIV prevention and education programs, substance abuse treatment, youth homelessness, and elder care). Specifically the administration announced that it would immediately drop enforcement and will be seeking to roll back Obama regulations that prohibited grant recipients from denying services on the basis of sexual orientation, gender identity and religion.
- In addition, the Department of Health and Human Services announced a new rule that would allow adoption and foster care agencies that receive funding from the Department to turn away prospective foster parents who are LGBTQ, based on the agencies' religious beliefs.
- Department of Housing and Urban Development announced a plan to gut Obama era protections that gave transgender people equal access to homeless shelters by instead giving federally funded shelters broad permission to use their own religious, privacy and safety concerns to "consider and individual's sex" when making determination about how

and whether to accommodate someone seeking shelter. This could include turning transgender women away from women's shelters or housing them with men.

- The Federal Bureau of Prisons approved new policy guidelines, rolling back Obama era policies that recommended housing transgender inmates by gender identity "when appropriate." The new guidelines direct staff to use inmate's "biological sex" to make initial housing and facilities assignments. The new manual states that exceptions to those assignments should be rare.
- The Census Bureau has removed proposed questions about sexual orientation and gender identity from the final 2020 Census. Several federal agencies and many advocacy groups had proposed asking questions in order to better understand and track LGBTQ demographics in the country. Data from the census is used to help distribute billions in federal funds and without questions, advocates worry that the LGBTQ community's needs are not being met.
- The Department of Justice sent two memos to all executive branch departments that interpret religious liberty protections in way that give broad exemptions from federal anti-discrimination laws to agencies and contractors. This could effectively gut Obama policy that prohibited federal agencies and contractors from discriminating in employment on the basis of sexual orientation and gender identity.
- On January 20, 2017, President Trump's inauguration day, the administration scrubbed all mentions of LGBTQ people from the websites of the White House, Department of State, and Department of Labor.

AND THEN THERE ARE THE FEDERAL COURTS

- President Trump has appointed two Justices to the US Supreme Court- Neil Gorsuch and Brett Kavanaugh, both of whom have conservative records in the federal court of appeals on civil rights issues. These appointments have given the Court a clear 5-4 conservative majority.
- President Trump in three years of office has appointed more judges to the federal bench than President Obama was able to do in 8 years of office. 50 Circuit Court Judges and 133 District Court Judges confirmed.
- The Trump Administration, enabled by Senate Majority Leader Mitch McConnell and Senate Judiciary Committee Chairman Lindsey Graham, and advised by a powerful network of right wing organizations, has worked tirelessly to confirm ideologically driven judges (most of whom are young) to lifetime appointments in order to further their ultra-conservative policy objectives through the federal courts.
- There are approximately 170 active serving circuit court judges. The Trump Administration has confirmed 50 of those judges. In other words, almost one-third of

these courts are now Trump nominees. Circuit court judges exert tremendous influence in shaping our nation's laws and have a profound impact on the lives of everyday lives of Americans. The Supreme Court takes up only around one hundred cases a year, but the circuit courts take up tens of thousands of appeals, effectively making them the courts of last resort. For example, during the term ending in 2019, the Supreme Court heard 79 cases. The US Courts of Appeals had 49,363 cases filed.

- One in three of Trump's Circuit Court of Appeals nominees (36%) have a demonstrated history of anti-LGBT bias. They include:

-Steve Menashi, who supported banning LGBT people from the military and denigrated the marriage equality ruling in Obergefell v Hodges.

-Lawrence Van Dyke who claimed that marriage equality harms children and society.

-Eric Murphy who argued against marriage equality in the US Supreme Court

-Chad Reader who had his fingerprints on almost every Trump-Pence initiative seeking to undermine LGBT protections while serving in the Department of Justice.

- Eight of the Country's 12 Circuit Courts are now composed of 25% of Trump Judges.
- Over 85 percent of Trump's Circuit Court nominees are members of Federalist Society, which has been vocal about their desire to "pack the courts" with conservative judges to undo what they call the "Judicial Legacy of Barack Obama."
- 85% of Trump's circuit court nominees are white and almost 80% of the nominees are men. 0% of Trump's circuit court nominees are African-American and only 1 of Trump's nominees is Latinx.