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A Timeline of the Biden Administration's Efforts To Support LGBTQ Equality in the First 100 Days

By [Caroline Medina](#) and [Theo Santos](#) | April 28, 2021, 9:01 am



Getty/Sarah Silbiger

The exterior of the White House is seen during a brief snowstorm on February 7, 2021, in Washington.

Since entering office, the Biden administration has made history by taking immediate and meaningful actions to strengthen the rights and improve the lives of LGBTQ people across the country. Such actions are critical to addressing [discrimination](#) and the resulting disparities that LGBTQ people encounter in employment, health, education, and housing, among other areas.

This column highlights significant executive orders and administrative policies that the Biden administration has implemented during its first 100 days that will directly affect LGBTQ people, their families, and their communities. While the administration still has [much more work](#) to do, these important first steps reflect a commitment to enforcing the civil rights of LGBTQ people and embracing an LGBTQ-inclusive approach to policymaking. Now, federal agencies must implement this framework to improve the lives of LGBTQ people.

Executive orders

Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation (EO 13988)

On President Joe Biden's first day in office, he signed a groundbreaking [executive order](#) (EO) directing all federal agencies that enforce federal laws prohibiting sex discrimination to also prohibit discrimination based on sexual orientation and gender identity (SOGI) in areas including but not limited to employment, housing, health care, education, and credit. From the time of the announcement, each agency has 100 days to develop plans to implement the executive order—meaning they are due this week.

These nondiscrimination protections are sorely needed: A nationally representative 2020 [survey](#) from the Center for American Progress revealed that 1 in 3 LGBTQ adults, including 3 in 5 transgender adults, experienced discrimination in just the past year. Executive Order 13988 implements the [Bostock v. Clayton County](#) U.S. Supreme Court decision throughout federal enforcement of major civil rights laws, offering LGBTQ people the same protections against [discrimination](#) that other protected classes receive. While this executive order represents one of the greatest expansions of LGBTQ civil rights in U.S. history, it is not permanent; in order to codify these protections into civil rights laws, it remains imperative for the Senate to pass the [Equality Act](#), which the current administration strongly [supports](#).

Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (EO 13985)

On Day One, President Biden also signed an [executive order](#) to rescind an [anti-diversity](#) EO from the Trump administration and to promote racial equity and support for underserved communities

through the U.S. government—including communities of color, people with disabilities, LGBTQ people, religious minorities, people living in rural areas, and people living in poverty. The order directs federal agencies to eliminate systemic barriers to care, such as unequal access to services and inadequate or lack of insurance coverage, and to provide equal access to opportunities and benefits for underserved and underrepresented communities. Agencies should increase resourcing, engagement, and coordination with these communities, and with civil rights groups, to promote more equitable policies, data collection, and budgetary investments. Agencies are expected to review programs and policies and to prepare plans for addressing inequities within 200 days of the signing of the order.

Executive orders to combat COVID-19 and ensure a data-driven and equitable response

During the first days of his presidency, Biden issued numerous executive orders to address the COVID-19 pandemic by taking a [strategic](#), [data-driven](#), and [equity-centered](#) approach. Provisions that may be used to support LGBTQ communities—which have been hit [particularly hard](#) during the pandemic—include actions to:

- Establish a new COVID-19 [Health Equity Task Force](#) to address the pandemic's disparate impacts on different demographic groups, including sexual and gender minorities.
- Enhance [data collection](#) on communities of color and [underserved communities](#)—including LGBTQ people—and improve the collaboration capabilities of all branches of government to better respond to public health crises.
- Direct the new White House coordinator and deputy coordinator of COVID-19 response to organize a governmentwide effort to [reduce disparities](#) in the response to, care of people with, and treatment of COVID-19, including but not limited to racial and ethnic disparities.

Enabling All Qualified Americans to Serve Their Country in Uniform (EO 14004)

On January 25, President Biden issued an [executive order](#) ending the previous administration's ban on transgender people serving openly in the military. The ban [undermined military readiness](#) in the service of discrimination and was opposed by [the military community itself](#). Thanks to the president's rescission of the ban, the military can quickly [restore inclusive service](#) and ensure no American will be forced to choose between living openly as themselves and serving in the military. On March 31, the U.S. Department of Defense [published](#) policy updates in support of transgender military service, which are set to go into effect on April 30. Notably, on February 24, the U.S. Department of Veterans

Affairs also [announced](#) a review of its policies to ensure compliance with Executive Order 13988 and Executive Order 14004.

Establishment of the White House Gender Policy Council (EO 14020)

On March 8, this [executive order](#) established the White House Gender Policy Council with the aim of implementing a governmentwide strategy to advance gender equity and equality with a specifically LGBTQ-inclusive mandate. Efforts to achieve this strategy include combating systemic biases and discrimination, including sexual harassment; increasing economic security and opportunity; supporting gender equity in education; increasing access to comprehensive health care; and combating gender-based violence. Gender equity is crucial to combat the discrimination, disparities, and violence that LGBTQ people of all genders face, much of which occurs along gendered lines or on the basis of nonconformity to traditional gender roles.

Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity (EO 14021)

On March 11, President Biden issued [Executive Order](#) 14021 with the aim of ensuring, in federally funded entities, an educational environment free from sexual harassment; sexual violence; and discrimination on the basis of sex, sexual orientation, and gender identity. This is much in line with the intent of [Title IX](#), the federal civil rights law that protects students from discrimination on the basis of sex in federally funded educational activities and programs. Given the [discrimination](#) and harassment that LGBTQ students experience regularly in schools and the [current wave](#) of dangerous and harmful state legislation targeting transgender and other gender-nonconforming students, this action is an important step toward fostering more inclusive, safe, welcoming, and affirming schools for all.

Other presidential actions

Various actions in support of LGBTQ communities globally

The administration has taken several actions intended to support LGBTQ people globally. A February 4 [memorandum](#) directs the administration to prioritize advancing the human rights of LGBTQI people—including intersex people—and directs agencies engaged abroad to support LGBTQI refugees and asylum-seekers. An [executive order](#) signed the same day, intended to direct and coordinate the reform and expansion of U.S. refugee programs, identified sexual orientation and gender identity and expression as vulnerabilities to persecution that refugee programs must accommodate. The proposed [Presidential Determination on Refugee Admissions for Fiscal Year 2021](#)

designated those persecuted on these bases as eligible for Priority 2 eligibility within the U.S. Refugee Admissions Program, allowing greater access to refugee admissions for LGBTQ people.

The memorandum and executive order have yet to be implemented, however, and while revising allocations, Biden [recently attempted to retain](#) the Trump administration's devastatingly low refugee admissions cap. After significant pressure from advocates, the White House reversed this decision and promised to raise the cap substantially in May: The new cap must significantly exceed the [previous administration's cap](#) of 15,000 people to reflect the dire needs of refugees around the world. While the administration's LGBTQI-supportive messaging and direction are laudable, these principles must be implemented through higher resettlement numbers and processes that ensure LGBTQI people fleeing persecution can meaningfully access protections.

Presidential proclamation on Transgender Day of Visibility

On March 31, President Biden issued the first presidential [proclamation](#) recognizing a Transgender Day of Visibility. The proclamation honors and celebrates the achievements of transgender people; praises the resiliency and activism of transgender communities in advancing the civil rights of transgender and nonbinary people; and recognizes the systemic discrimination and violence that continue to serve as barriers to equal treatment.

Actions from federal agencies

Department of Justice takes action to support the Affordable Care Act

The future of the entire Affordable Care Act (ACA) is [at stake](#) in *California v. Texas*, currently before the U.S. Supreme Court. The outcome of the case will affect the health care of millions of Americans, with potential losses of coverage and health benefits most detrimental for LGBTQ people, people with disabilities, and communities of color, all of whom have made significant [gains](#) under the law's passage. On February 10, the Department of Justice took action to [reverse](#) the Trump administration's stance that the ACA is unconstitutional. On the same day, the U.S. Department of Health and Human Services (HHS) issued a [motion](#) for a stay of proceedings related to a lawsuit challenging the Trump administration's rule gutting Section 1557 of the ACA—the health care law's primary civil rights provision, which extended critical nondiscrimination protections for LGBTQ people and other groups that experience disproportionate rates of discrimination in the health care system. HHS requested more time to assess the rule in light of Executive Order 13988, signaling that a new rule may restore nondiscrimination protections based on sexual orientation, gender identity, and sex stereotyping.

HUD issues memorandum interpreting that the *Bostock* decision applies to the Fair Housing Act

On February 11, the Office of Fair Housing and Equal Opportunity at the U.S. Department of Housing and Urban Development (HUD) issued a [memorandum](#) stating that HUD interprets the Fair Housing Act (FHA) to prohibit discrimination on the basis of SOGI and directing HUD offices and recipients of HUD funding to enforce the FHA accordingly. As a result, differential treatment will be prohibited in renting, selling, pricing, eviction, service provision, shelter access, homeowners insurance, mortgage lending, and other activities, along with harassment, coercion, and retaliation in the exercise of fair housing rights. The memo is one step in implementing the policies set forth in Executive Order 13988 and the president's January memorandum on "Redressing Our Nation's and the Federal Government's [History of Discriminatory Housing Practices and Policies](#)."

On April 22, HUD reaffirmed its commitment to nondiscrimination by formally [announcing](#) the withdrawal of a Trump-era proposed rule that would have allowed sex-segregated shelters to [discriminate](#) against transgender and gender-nonconforming people. Given that discrimination remains a major barrier to LGBTQ housing security and that transgender people experience [high rates](#) of homelessness and housing instability, policies to combat discrimination and promote safe, stable housing and shelter are imperative. Emergency housing access has been further fortified [by Biden's January 21 order for the Federal Emergency Management Agency \(FEMA\) to fully cover](#), through its FEMA Public Assistance program, "eligible costs related to coronavirus-related non-congregate sheltering for individuals experiencing homelessness." This enables advocates and officials to expand lifesaving programs that provide safer emergency housing during the pandemic.

CFPB issues interpretative rule strengthening LGBTQ discrimination protections

Issued on March 16, in accordance with the *Bostock* decision and Executive Order 13988, the Consumer Financial Protection Bureau (CFPB) issued an [interpretive rule](#) clarifying that the prohibition against discrimination because of sex under the Equal Credit Opportunity Act's Regulation B includes SOGI discrimination. As a result, differential treatment in credit transactions is prohibited and LGBTQ individuals cannot be denied car loans, mortgage loans, credit cards, student loans, or small-business loans due to their sexual orientation or gender identity.

Department of Justice issues memorandum clarifying protections for LGBTQ students

On March 26, in accordance with Executive Order 13988, the Department of Justice (DOJ) issued a [memorandum](#) confirming that the *Bostock v. Clayton County* [decision](#) applies to Title IX of the

Education Amendments of 1972, which protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. The memo clarifies that Title IX's prohibition of discrimination on the basis of sex also prohibits discrimination on the basis of gender identity and sexual orientation, marking a crucial step in protecting LGBTQ students across the country from discrimination and harassment. Notably, the Department of Justice also [withdrew](#) the Trump administration's statements in support of both the Alliance Defending Freedom's lawsuit in Connecticut [opposing](#) transgender inclusion in sports and the [Idaho](#) ban on transgender sports participation.

Department of Education issues letter to address needs of LGBTQ students experiencing harassment, discrimination, and violence

On April 6, in accordance with Executive Order 14021, the Department of Education's Office for Civil Rights (OCR) released a [letter](#) to students, educators, and other stakeholders across the country that outlines steps it will take to ensure that students who have experienced sexual harassment, including sexual violence, and discrimination based on SOGI in education programs and activities have their legal rights fully met and receive equal protection under the law. Reflecting this policy change from the previous administration, OCR also formally [withdrew](#) the Trump-era [revised letter](#) referring a complaint against Connecticut to the Department of Justice for a lawsuit under Title IX.

HHS proposes rule to restore access to family planning services

The Title X Family Planning Program is the only domestic federal program exclusively specializing in providing people with family planning services. Reversing a [harmful](#) Trump-era rule that significantly restricted access to and undermined the integrity of Title X programs, on April 15, HHS [proposed](#) a new rule to strengthen the programs so as to increase access to equitable, affordable, comprehensive, patient-centered, and high-quality reproductive and preventive health care, including contraceptive supplies and counseling, wellness exams, testing for sexually transmitted infections, and reproductive cancer screenings. Title X programs provide many [important health services](#) for LGBTQ people, who are often excluded by medical systems and providers due to discrimination and a lack of cultural competency.

DOJ files brief clarifying Eighth Amendment rights of incarcerated transgender people

On April 22, DOJ [filed a brief](#) in a lawsuit against the Georgia Department of Corrections brought by Ashley Diamond, an incarcerated transgender woman who alleges she was housed with men against her will and denied hormone treatment while in prison. The brief confirms that "the Eighth Amendment requires prison officials to conduct individualized assessments that lead to reasonably

safe conditions of confinement and adequate medical care for all prisoners.” This informs carceral institutions that denying safe, deliberate placement in sex-segregated facilities and gender-affirming treatment to incarcerated transgender people is a violation of constitutional rights. This is a return to [the Obama administration's position](#) and is critical to protect the health and safety of incarcerated transgender people.

Conclusion

The first 100 days of the Biden administration have seen numerous federal actions advancing protections and access to services for LGBTQ people. However, much work remains: Agencies must implement and robustly enforce newly clarified protections, support the programs and services needed for the safety and well-being of LGBTQ communities, and deliberately ensure that religious exemptions are not misused to harm LGBTQ people.

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