

What Higher Ed Needs to Know About the Trump Administration's EO on Gender Ideology

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Takeaways

- Federal agencies will be required to recognize only two sexes, male and female, without consideration for gender ideology, under the Trump Administration's executive order.
- The executive order will be applied through government actions by the federal agencies, impacting federally funded institutions.
- Institutions should carefully review their policies and practices with respect to sex/gender segregated spaces and references to sex, gender, gender expression, gender identity and gender ideology broadly.

Related Links

- [Higher Education and DEI: Assessing Next Steps After the New Presidential EOs](#)
- [New Presidential EO Says Federal Government Recognizes 'Two Sexes' Only](#)
- [What Schools Need to Know After Court Vacates Title IX Regulations Nationally](#)
- [Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#) (the EO)

Article

On January 20, 2025, the Trump Administration issued an executive order (EO) titled "[Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#)" (the EO). The EO's stated purpose is to defend women's rights by recognizing that "women are biologically female, and men are biologically male." The EO will have broad implications on the policies governing higher education students, faculty and employees.

What Does the EO Say?

The EO provides that "[i]t is the policy of the United States to recognize two sexes, male and female." To further this purpose, the EO broadly requires federal agencies and its employees (Agencies) to:

1. Adhere to the EO's distinct definitions of "sex."
Under the EO, agencies must enforce laws governing the rights, protections, opportunities and accommodations to protect men and women as two "biologically distinct sexes". Agencies are expected to enforce such laws using the term "sex" instead of "gender" in all federal documents and policies. The EO defines sex as "an individual's immutable biological classification as either male or female" without consideration for gender identity.
2. Refrain from the promotion of "gender ideology."

Related Services

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As part of its enforcement, Agencies are required to remove all references to “gender ideology” from statements, policies, regulations, forms, communications or other internal and external messages. Agencies may no longer publish forms that require or request information related to one’s gender identity. Similarly, Agencies may not provide federal funding to promote gender ideology. The EO describes gender ideology as being both inconsistent and replacing the biological category of sex with an “ever-shifting concept of self-assessed gender identity.” The EO states that gender ideology “includes the idea that there is a vast spectrum of genders that are disconnected from one’s sex.” The EO further directs that “federal funds shall not be used to promote gender ideology. Each agency shall assess grant conditions and grantee preferences and ensure grant funds do not promote gender ideology.”

3. Designate intimate spaces based solely on sex.

The EO requires that all “intimate spaces” designated for men and women (including the definitions of boys and girls) are designated by sex defined in the EO and not gender identity.

The EO expressly rejects the Biden Administration’s interpretation that the Supreme Court’s holding in *Bostock v. Clayton County*(2020) under Title VII requires access to single-sex spaces based on gender-identity under Title IX and directs the Attorney General to issue guidance to “correct the misapplication.”

The EO further directs the Attorney General to issue guidance to ensure the “freedom to express the binary nature of sex and the right to single-sex spaces in workplaces and federally funded entities covered by the Civil Rights Act of 1964.”

What Higher Education Institutions Should Know

As employers subject to Title VII of the Civil Rights Act and federally funded education institutions subject to Title IX, in addition to state and local laws relating to gender identity and expression, colleges and universities are in a challenging position with respect to compliance and risk management.

In light of the EO and in anticipation of further agency guidance, higher education institutions should review their policies and/or practices regarding:

- Restroom access on campuses.
- Gender/sex-specific housing.
- Mandatory student orientation and training programs and employee onboarding and training relating to pronouns, gender identity, gender expression and gender ideology.
- Pronoun identification and usage.
- Representations to third parties regarding gender identity/sex for accreditation, private funding, grants, research and other academic support programs.
- Transgender athletes.
- Religious accommodation requests.

Higher education institutions that accept federal funding should anticipate an increase in complaints about gender identity-related policies and practices and a related increase in agency investigation and enforcement actions. This is a developing situation, and we are continuing to analyze and understand the implications for

academic institutions. Please reach out to your Jackson Lewis attorney with questions and for guidance.

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