

Congress of the United States
Washington, DC 20515

August 20, 2020

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

Dear Mr. President,

As members of the Transgender Equality Task Force, we are deeply alarmed by a report suggesting your Administration is considering furthering its assault on transgender rights for political gain.^[1] Since you took office, we have been constantly disgusted by your Administration's repeated attacks on transgender people. Despite promising to "do everything in my power to protect our LGBTQ citizens ..." during your 2016 Republican National Convention acceptance speech, your Administration has continuously pursued the roll back of transgender protections, more than any other in modern history. **We demand that you not only abandon all attacks on the transgender community that your Administration is considering, but to revoke the enacted policies we outline below as well.** Should you continue your assault on transgender people and other vulnerable communities, rest assured we will continue to fight relentlessly for justice and equal protection for all at every turn.

Time and again, your Administration has demonstrated its gross disconnect with the values of our nation through its attacks on transgender people. Within weeks of taking office, the Department of Justice (DOJ) and Department of Education rescinded landmark guidance clarifying Title IX, which bans sex discrimination in education programs and activities, also protects students who are transgender. This guidance was formulated to create a safe learning environment for transgender students who face higher rates of bullying, anxiety, and harassment and was based on existing law. The decision by your Administration to rescind it was unlawful and cruel and, sadly, foreshadowed the anti-trans animus that has become a staple of your Administration.

On July 26, 2017, you announced, on Twitter, that the United States Government would reverse the then-existing policy of allowing transgender servicemembers to serve openly in order to implement a discriminatory ban on transgender people from serving in the Armed Forces. Numerous respected medical organizations from across the globe have come out in strong opposition to your discriminatory policy, including the American Medical Association, the American Psychological Association, and the American Psychiatric Association. In 2018, every military Chief of Staff at the time testified publicly that the policy of allowing the estimated 15,000 transgender servicemembers to honorably serve their country had zero adverse effects on military readiness.

^[1] <https://www.politico.com/news/magazine/2020/08/07/wedge-issue-dividing-trumpworld-392323>

On October 4, 2017, your Department of Justice issued a directive reversing the Department's interpretation that Title VII of the Civil Rights Act of 1964 protected workers from discrimination based upon their gender identity. Then-Attorney General Jeff Sessions' policy reversed a policy put forward by the Obama Administration that protected transgender workers from discrimination under federal law.

In May 2018, your Federal Bureau of Prisons revised the Transgender Offender Manual to remove language that had directed the Transgender Executive Council to take into account an inmate's gender identity, not the sex they were assigned at birth, when recommending housing facilities for transgender inmates. Instead, the guidelines now direct the Transgender Executive Council to use "use biological sex as the initial determination" for facility assignment for transgender inmates, and allow transgender inmates to be assigned to facilities based on their gender-identity only "in rare cases." This policy places transgender prisoners at risk of great harm and is inconsistent with existing law.

Almost every segment of the transgender population has been targeted by your administration. Transgender students, transgender elders, transgender military service members, transgender asylees, transgender workers, transgender patients. Even homeless transgender Americans have been the target of your Administration's anti-transgender animus. In May 2019, less than a day after Secretary of Housing and Urban Development (HUD) Ben Carson assured Congress that the agency would not rollback protections for homeless transgender people, the Department unveiled a proposed rule to do exactly that. HUD's proposed rule would allow federally-funded homeless shelters to turn away transgender people from emergency shelters. Denying transgender Americans, nearly one-third of whom have experienced homelessness according to the National Center for Transgender Equality's 2015 report, admission to shelters put these individuals at further risk of harm.^[2]

On August 16, 2019, your DOJ filed a brief to the Supreme Court arguing, "Title VII does not prohibit discrimination against transgender persons based on their transgender status," an interpretation that would allow transgender people to be fired from their jobs simply for who they are. Fortunately, on June 15, 2020, the Supreme Court rejected your argument in *Bostock v. Clayton County* by holding that an employer who fires an individual merely for being gay or transgender violates Title VII of the Civil Rights Act of 1964. Title VII has been a proud firewall in this country's efforts to ensure economic access, justice, and opportunity for all Americans. Its enactment resulted in tremendous social progress by forcing a dramatic shift away from intolerance and towards inclusion, and your attempts to undermine it are unconscionable.

On November 19, 2019, your Department of Health and Human Services (HHS) issued a proposed rule to eliminate discrimination protections in its grant programs for LGBTQ Americans. If finalized, this rule would invite federally funded child welfare programs, including foster care and adoption agencies to discriminate against prospective LGBTQ parents. In doing so, this proposal by your administration seeks to significantly curtail the ability of millions to access critical programs and services.

^[2] <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

On June 12, 2020, your HHS published a final rule seeking to rollback key regulations implementing the Health Care Rights Law, Section 1557, of the Affordable Care Act (ACA). The new rule your administration seeks to enforce invites discrimination for an estimated two million transgender patients who already face significant barriers to care. In doing so, your administration's proposal completely ignores the statutory text of the Health Care Rights Law and congressional intent in order to deny transgender Americans access to potentially life-saving care simply because of who they are. Given the Supreme Court's *Bostock* decision, the new rule is obviously invalid and should be withdrawn immediately.

LGBTQ asylum-seekers also have been adversely affected by decisions made by your Administration. Transgender Americans who arrive at our nation's borders often seek asylum as their last refuge for survival from widespread gang-related violence and/or state-sponsored persecution. The policy effectuated by your Customs and Border Protection agency to limit the number of people who can request asylum has denied many of these individuals from lawfully seeking refuge. Transgender asylum-seekers who have successfully entered the country have been treated inhumanely by your Immigration and Customs Enforcement (ICE) agency. For instance, Johana Medina Leon, a transgender asylum-seeker who lived with HIV, died after weeks of neglect in ICE custody in June 2019. The year prior, Roxsana Hernández Rodríguez, a transgender asylum-seeker from Honduras living with HIV, also passed away following ICE neglect.

For transgender federal employees, information regarding their rights has been erased from federal websites across the federal government. The Office of Personnel Management has removed guidance specific to protections for transgender federal employees. HUD has removed information for key resources from its website informing emergency shelters on best practices for serving transgender people facing homelessness. HHS has changed its public-facing language regarding the ACA's ban on sex discrimination, specifically removing language about gender identity protections and transgender medical care.

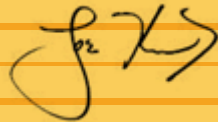
On May 17, 2019, the House of Representatives resoundingly passed H.R. 5, the Equality Act, critical, bipartisan legislation that would provide non-discrimination protections for LGBTQ people in various areas, including in employment, housing, public accommodations, education, credit, and jury service. Despite the Supreme Court's *Bostock* decision and its implications for housing, education, healthcare and credit as well as employment, the Equality Act is urgently needed because LGBTQ Americans can still be denied service by places of public accommodation in about half the states. Moreover, due to confusion about coverage by existing federal nondiscrimination laws, many people continue to encounter wrongful discrimination because of their sexual orientation or gender identity in covered contexts. Despite the injustices LGBTQ Americans continue to face, you have announced your opposition to the Equality Act and stand in the way of fairness and equal treatment under the law.

Finally, the federal judges you have appointed to serve lifetime appointments on the federal bench possess extensive anti-LGBTQ records and underscore the betrayal of your campaign pledge. As an example, Matthew Kacsmaryk, nominated and confirmed to serve on the U.S. District Court for the Northern District of Texas, referred to homosexuality as "disordered" and that being transgender is a "delusion" and a "mental disorder." Howard Nielson, nominated and

confirmed to serve on the U.S. District Court for the District of Utah, argued the judge presiding over California's Proposition 8 should have recused himself simply because he was gay. Kyle Duncan, nominated and confirmed to serve on the U.S. Court of Appeals for the Fifth Circuit, has an extensive record of targeting the rights of LGBTQ Americans, including by disparaging same-sex marriage and representing defenders of North Carolina's "bathroom ban bill."

All Americans, regardless of their gender identity, should be treated with dignity and respect. In light of the landmark *Bostock* decision, the aforementioned callous policies must be withdrawn immediately. While reports suggest your administration is considering furthering its anti-transgender platform, we remain committed to the tenants of equality and will resist your efforts relentlessly.

Sincerely,



Joseph P. Kennedy, III
Member of Congress

/s/

Deb Haaland
Member of Congress

/s/

Ro Khanna
Member of Congress

/s/

Alan Lowenthal
Member of Congress

/s/

Eleanor Holmes Norton
Member of Congress

/s/

Mike Quigley
Member of Congress

/s/

Mary Gay Scanlon
Member of Congress

/s/

Jan Schakowsky
Member of Congress

/s/

Jackie Speier
Member of Congress

/s/

Bonnie Watson Coleman
Member of Congress

/s/

Jennifer Wexton
Member of Congress