Skadden

Executive Briefing

Latest Updates on the Trump Administration

February 18, 2025

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Lara A. Flath
Partner / New York
212.735.3717
lara.flath@skadden.com

Amy Van Gelder
Partner / Chicago
312.407.0903
amy.vangelder@skadden.com

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West
New York, NY 10001
212.735.3000

320 S. Canal St.
Chicago, IL 60606
312.407.0700

Ban on Transgender Women From Female Sports Is Challenged in Court

On February 5, 2025, President Donald Trump signed Executive Order 14201, "Keeping Men Out of Women's Sports," which aims to prohibit transgender women and girls from participating in female sports across all educational levels.

The executive order adopts the strict biological interpretation of sex previously established by Executive Order 14168. It sets forth new U.S. policies to rescind federal funding from educational programs that allow transgender women and girls to compete on female teams and oppose transgender women's and girls' participation in female sports more broadly.

The order requires the secretary of Education to continue to comply with the recent nationwide *vacatur* of 2024 regulations expanding Title IX protections to include gender identity and take all appropriate actions — including Title IX enforcement actions against educational institutions — to ensure the mandate of the order is carried out.

It also directs additional actions in furtherance of its purpose, including convening state attorneys general to identify best practices in support of the executive order and promoting standards consistent with the order at the United Nations and the International Olympic Committee.

Once the executive order was issued, the Department of Education immediately undertook a review of athletics policies of universities and athletic associations that supported the participation of transgender women and girls in female sports for possible Title IX violations. Also on the heels of the order, the NCAA revised its participation policy for transgender student-athletes.

At least one legal challenge has emerged in response to the executive order. On February 12, 2025, two transgender high school students in New Hampshire filed a lawsuit against the Trump administration, claiming that Executive Orders 14168 and 14201 discriminate against transgender individuals in violation of the Constitution and Title IX.

Such challenges are expected to raise the U.S. Supreme Court's decision in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), which concluded under Title VII that discrimination based on gender identity inherently involves treating individuals differently because of their sex.

The executive order has also prompted action at the municipal level. On February 11, 2025, Worcester, Massachusetts, voted to become the latest transgender sanctuary city, committing to refuse cooperation with entities that infringe on the rights of transgender individuals.

© Skadden, Arps, Slate, Meagher & Flom LLP. All rights reserved.