



LOG CABIN  
**REPUBLICANS**

**THE IMPORTANCE OF MAINTAINING  
THE LGBT NON-DISCRIMINATION  
EXECUTIVE ORDER**

# THE IMPORTANCE OF MAINTAINING THE LGBT NON-DISCRIMINATION EXECUTIVE ORDER

A white paper authored by Log Cabin Republicans in conjunction with the Liberty Education Forum and presented to the Donald J. Trump Presidential Transition Team on January 18, 2016.

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## **ABOUT LOG CABIN REPUBLICANS**

**Log Cabin Republicans stand for the proposition that we are all created equal—worthy of the same rights to freedom, liberty, and equality as all Americans.**

Log Cabin Republicans are LGBT Republicans and straight allies who support equality under the law for all, free markets, individual liberty, limited government, and a strong national defense.

Since 1977, Log Cabin Republicans has worked to promote the core values of limited government, individual liberty, personal responsibility, free markets, and a strong national defense while advocating for the freedom and equality of lesbian, gay, bi-sexual, and transgender (LGBT) Americans. We emphasize that these principles and the moral values on which they stand are consistent with conservative values and the pursuit of equal treatment under the law.

## EXECUTIVE SUMMARY

- At the present time, there is no federal law prohibiting discrimination on the basis of sexual orientation or gender identity.
- Executive orders prohibiting discrimination against minority communities have a decades-long history with support from both Republican and Democratic presidents.
- Federal prohibitions against gay discrimination have been a matter of United States policy via executive order since 1998, and were maintained in the administration of Republican President George W. Bush.
- The amended executive order prohibiting discrimination based on gender identity has been a matter of realized policy for nearly two years.
- Maintaining the LGBT Non-Discrimination Executive Order is not only right, but popular: 68% of Americans support workplace protections for LGBT individuals.
- Maintaining the LGBT Non-Discrimination Executive Order would send a strong signal that President Trump is the “real friend” to the LGBT community that he vowed to be while campaigning for the presidency.

## BACKGROUND

The Executive Order prohibiting discrimination against the LGBT community by federal contractors has its origins in the 1960s when President Lyndon B. Johnson signed Executive Order 11246, “granting supervision of federal contract compliance to the Secretary of Labor, and creating the department’s first Office of Federal Contract Compliance. The EO ordered federal departments and agencies to impose non–discrimination and affirmative action rules in all federal contracts and federally–assisted construction projects.”<sup>1</sup>

Further federal provisions prohibiting discrimination were instituted by President Richard Nixon in 1969 with Executive Order 11478.<sup>2</sup>

The aforementioned non-discrimination policies applied to federal employees and contractors on the basis of “race, color, religion, sex, national origin, handicap, or age.”

In 1998, President Bill Clinton amended Nixon’s EO with his own: Executive Order 13087, which added sexual orientation to United States federal non-discrimination policy for the first time.<sup>3</sup>

This policy preventing discrimination against gay federal employees and contractors was maintained—without controversy—by President George W. Bush.

On July 21, 2014, President Barack Obama “signed Executive Order 13672, amending Executive Order 11246, to prohibit federal contractors and subcontractors from discriminating on the basis of sexual orientation or gender identity. This Executive Order prohibits federal contractors from discriminating against lesbian, gay, bisexual, and transgender employees and applicants. The Executive Order directed the Secretary of Labor to prepare regulations implementing the new protections. As a result, the Department of Labor published a Final Rule in the Federal Register on December 9, 2014, changing OFCCP’s regulations to require federal contractors and subcontractors to treat applicants and employees without regard to their sexual orientation or gender identity. This Final Rule took effect on April 8, 2015. Contractors covered by the new rule will have to ensure that agreements modified or entered into after the effective date of the final

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<sup>1</sup> [https://www.dol.gov/ofccp/regs/compliance/ca\\_11246.htm](https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm)

<sup>2</sup> <https://www.archives.gov/federal-register/codification/executive-order/11478.html>

<sup>3</sup> <https://www.gpo.gov/fdsys/pkg/CFR-1999-title3-vol1/pdf/CFR-1999-title3-vol1-eo13087.pdf>

rule, as well as job solicitations and postings, contain appropriate references to the new prohibited forms of discrimination. Contractors will need to revise their EEO and affirmative action policies and statements to include sexual orientation and gender identity as protected classes.”<sup>4</sup>

President Obama’s executive order amends orders signed by two of his predecessors. It alters order 11246, signed by Lyndon Johnson—which requires federal contractors not to discriminate on the basis of race, color, religion, sex, or national origin—to include sexual orientation and gender identity. It also adds to order 11478, signed by Richard Nixon, which extends similar protections to federal employees.<sup>5</sup>

Both Republican and Democratic presidents have a history of advocating against discrimination in federal employment and contracting via executive order. Standing against discrimination has known no partisanship in the executive branch, and preserving present non-discrimination executive orders would maintain that balance.

During his campaign, on the day after the terrorist massacre at the gay nightclub Pulse in Orlando, President-Elect Trump stated he would be a “real friend” to the country’s LGBT community.<sup>6</sup> In addition to being the right thing to do, preserving the LGBT Non-Discrimination Executive Order would show the nation that our 45<sup>th</sup> President is committed to keeping that promise.

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<sup>4</sup> <https://www.dol.gov/ofccp/about/50thAnniversaryHistory.html>

<sup>5</sup> <http://www.politico.com/story/2014/07/obama-signs-lgbt-protection-federal-workers-contractors-109174>

<sup>6</sup> <http://www.cnn.com/2016/06/13/politics/donald-trump-lgbt-community/>

## STATISTICS

The LGBT Non-Discrimination Executive Order addresses quantifiable disparities in equality.

At the present time, there is no federal law prohibiting discrimination on the basis of sexual orientation or gender identity. States have a pastiche of laws and gubernatorial executive orders—some prohibiting discrimination based on sexual orientation and gender identity, and some only on the basis of sexual orientation, while 28 states have no statutes protecting members from the LGBT community from discrimination at all.<sup>7</sup>

For FY2016, \$1.8 trillion contract dollars were awarded in states that have no state-level non-discrimination protections for gender identity/expression, with \$1.7 trillion of that total going to states that also have no protections for sexual orientation.<sup>8</sup>

More than 61% of the 26 states that received \$50 billion or more in federal contracts in 2016 have no employment non-discrimination laws explicitly covering sexual orientation, and 65% lack laws covering gender identity.<sup>9</sup>

Of the 20 states with the most EEOC complaints, only five have non-discrimination protections covering sexual orientation and gender identity.<sup>10</sup>

The lack of formal, federal non-discrimination legislation allows the LGBT Non-Discrimination Executive Order to address the plight of the nearly four in 10 (38%) LGBT employees who were “out” at work who reported harassment and discrimination in the past five years, compared to only 10% of LGBT employees who were “not out.”<sup>11</sup>

Transgender workers face the most harassment; 90% of transgender and gender non-conforming employees experienced harassment, mistreatment, or discrimination on the job.<sup>12</sup>

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<sup>7</sup> [http://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](http://www.lgbtmap.org/equality-maps/non_discrimination_laws)

<sup>8</sup> Per the Movement Advancement Project

<sup>9</sup> *IBID*

<sup>10</sup> *IBID*

<sup>11</sup> <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>

<sup>12</sup> [http://www.transequality.org/sites/default/files/docs/resources/NTDS\\_Report.pdf](http://www.transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf)

Protecting the LGBT community from discrimination is not only right, but popular: an overwhelming majority of Americans (68%) support workplace non-discrimination protections for LGBT workers.<sup>13</sup>

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<sup>13</sup> [http://images.politico.com/global/2013/09/29/enda\\_poll\\_2013-09-08\\_natl\\_memo.html](http://images.politico.com/global/2013/09/29/enda_poll_2013-09-08_natl_memo.html)



## APPENDIX

### AUTHOR BIOGRAPHY



Gregory T. Angelo is the current President of Log Cabin Republicans, a position he has held since 2013. Mr. Angelo also serves as the President of Liberty Education Forum, the non-partisan sister think tank of Log Cabin Republicans dedicated to advocating LGBT acceptance among conservatives and people of faith. Prior to his current position, Mr. Angelo served as the Chairman of Log Cabin Republicans of New York State. He was an Alternate Delegate for Newt Gingrich in the 2012 election cycle and has been featured in numerous media outlets, including *The O'Reilly Factor*, *Hardball with Chris Matthews*, *The Wall Street Journal*, Fox News, *USA Today*, CNBC, ABC News, NPR, NBC, C-SPAN, and more.

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