

Supreme Court Rules Employers Cannot Discriminate Against LGBTQ Employees: Key Takeaways

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Title VII prohibits discrimination in the workplace "because of sex." Courts across the country, long split as to whether this prohibition applies to discrimination on the basis of sexual orientation and transgender status, now have guidance from the U.S. Supreme Court:

Employers *cannot* discriminate against employees on either basis. In an [opinion](#) written by Justice Neil Gorsuch, the Court made clear that discrimination against individuals on the basis of their sexual orientation or gender identity is "inextricably bound up with sex," and, therefore, unlawful.

What does this mean for employers?

First, review your written policies and handbooks to ensure that prohibited discrimination is described in a manner consistent with the Court's decision. Does your handbook explicitly state that discrimination against individuals on the basis of their sexual orientation, transgender status, or gender identity will not be tolerated? Do your benefit plans adequately account for this change in the law? If not, now is a good time for updates.

Second, be sure to educate your company's decisionmakers, such as officers, managers, and supervisors, that adverse treatment of employees on the basis of their sexual orientation or transgender status is no longer simply indecent, it is now unlawful under federal law, and may subject your company (and, possibly, such individuals, personally) to liability.

Finally, if you haven't already done so, schedule harassment compliance training for all of your employees which, in Illinois and many other jurisdictions, is required annually.

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