



Factsheet: Senate Bill 1016

Overview

Senate Bill 1016 lifts regulations that requires public contractors to provide multi-occupancy restrooms based on gender, rather than sex assigned at birth, on job sites. The bill seeks to undermine anti-discrimination protections that, under federal law, extend to gender identity and sexual orientation. Federal anti-discrimination protections based on gender and sexual orientation were established in 2014, and SB 1016 does not supersede these protections. Instead, SB 1016 applies in select instances of locally and state funded public works projects, and only to the job sites of these projects.

What does SB 1016 mean for you?

The intent of SB 1016 is to erode the civil rights of transgender people and create stigma around gender nonconforming and transgender communities. Practically, however, the bill has a relatively narrow scope. SB 1016 only applies to contractors engaged in public contracts, and only to multi-occupancy restrooms or other facilities on job sites. The bill will only impact select public works contract job sites. SB 1016 does not apply to completed public works projects or public squares, parks, airports, libraries, or other public sites.

Importantly, SB 1016 states that public contractors are not *required* to provide restrooms and other facilities to employees based on gender, rather than sex assigned at birth. That is, the bill does not prohibit contractors from providing restrooms and other facilities to employees based on gender. SB 1016 only applies to public contracts and does not apply to private contracts.

The bill applies only to contractors that are working on locally and state funded projects. Any public works contract that receives federal funds, such as grants or aid, is not affected by SB 1016. That's because federally funded public works projects must continue to adhere to federal anti-discrimination laws, including those that protect transgender and gender nonconforming people from discrimination.

Navigating SB 1016

SB 1016 is a workaround bill that aims to erode the constitutional rights of transgender people and their protections from discrimination. The bill is a “workaround” because it allows contractors in Idaho to avoid a federal law that prohibits discrimination based on gender.

Work environments across Idaho that respect all individuals is important not only as a matter of principle, but is also required by Title VII of the Civil Rights Act of 1964. In 2020, the US Supreme Court held that Title VII prohibits discrimination based on sex. Because it is impossible to discriminate against transgender people without discriminating based on sex, all Idahoans – including transgender and gender nonconforming Idahoans – have a protected right to equal treatment. Employers in Idaho, including public works contractors, are required to create respectful workplaces and implement policies that reflect the law, including laws that prohibit discrimination.

SB 1016 applies only to job sites of publicly funded contracts, only those public works projects that are funded by state or local funds, and only to job sites themselves. The bill does not apply to any federally funded project, even if federal funding is only part of the project’s funds. Finally, SB 1016 does not apply to completed projects, nor to other public spaces like parks, public airports, public universities, or public museums.

Resources

[F.V. v. Barron, 286 F. Supp. 3d 1131 \(D. Idaho 2018\)](#)

The Idaho Department of Health and Welfare categorically denied applications submitted by transgender individuals to change the sex listed on their birth certificates. The IDHW’s practice was found unconstitutional under the Equal Protection Clause and intermediate scrutiny applies to transgender status in this case

[Edmo v. Corizon, Inc., 935 F.3d 757 \(9th Cir. 2019\)](#)

This case found an incarcerated transgender person’s 8th amendment rights were violated when her treating psychiatrist denied the patient gender affirming surgery.

[E.E.O.C. v. Rent-a-Center East, Inc., 264 F. Supp. 3d 952 \(C.D. Ill. Sept. 8, 2017\)](#)

This case held that discrimination against transgender workers violates Title VII.

[Mickens v. Gen. Elec. Co. , No. 16-603, 2016 WL 7015665 \(W.D. Ky. Nov. 29, 2016\)](#)

This case held that termination of employee based on transgender status violates Title VII.

ACLU of Idaho. Know your rights - LGBTQ rights. <https://www.acluidaho.org/en/know-your-rights/lgbtq-rights>

ACLU. Transgender rights. <https://www.aclu.org/issues/lgbtq-rights/transgender-rights>

Idaho Human Rights Commission. File a complaint. <https://humanrights.idaho.gov/Idaho-Law/Contexts/File-a-Complaint/>

Idaho State Bar, 2022. Discrimination based on gender: reconciling *Bostock* in a rapidly evolving workplace. <https://isb.idaho.gov/blog/discrimination-based-on-gender-reconciling-bostock-in-a-rapidly-evolving-workplace/>