



What You Want to Know About Executive Orders: Their Limitations + Potential Impact

In the early days of the administration, over two dozen Executive Orders (EOs) and related administrative actions were issued, with many more following. Some of these EOs may have implications for youth homelessness service providers. While EOs carry the force of law, they cannot impose new legal requirements or prohibitions beyond existing statutes or regulations, nor can they contradict current laws. As a result, many of these orders are likely to face challenges in federal court even as the Administration seeks to implement them.

Although an executive order cannot override statutory rights or constitutional protections established by federal laws or Supreme Court rulings—such as those safeguarding immigrants' access to education—it can influence how federal agencies interpret or prioritize enforcement within the boundaries of existing legal frameworks. Here's a breakdown:

Limitations of Executive Orders

- **Cannot Override Federal Law or Court Decisions**
 - Executive orders must align with existing statutes passed by Congress and constitutional rulings.
 - For example, an executive order cannot invalidate legal rights granted under statutes such as the Civil Rights Act, the Americans with Disabilities Act, or other federal protections tied to grants or public services.
- **Subject to Judicial Review**
 - Courts can strike down executive orders that exceed presidential authority or conflict with constitutional rights.
- **Cannot Direct States or Grantees to Violate Federal Law**
 - Federal agencies and grant recipients must continue to comply with statutory and regulatory requirements, regardless of any conflicting executive order (we know this is tough to navigate).

Potential Impact of Executive Orders

While executive orders cannot directly limit legal protections, they can:

- **Change Enforcement Priorities:** Executive orders may instruct federal agencies to adjust enforcement priorities, potentially impacting grant compliance oversight or regulatory enforcement.
- **Resource Allocation:** Orders can redirect federal resources or budgetary priorities, affecting the availability or administration of grants across agencies, such as in education, healthcare, housing, or public safety programs.
- **Administrative Delays:** Orders might introduce new conditions or operational requirements for agencies, potentially slowing federal reviews, grant disbursements, or service delivery.

In summary, while executive orders have significant influence over the functioning of federal agencies and programs, they cannot negate or undermine statutory rights or obligations established by law. Congress and the judiciary act as key checks on any executive overreach.



What is Still True

- **Until a federal agency directly tells you to do something differently, continue to serve young people using the best practices all of our young people need.**
- **Executive orders cannot change existing law and protections so these laws and protections are still in place (this is not an exhaustive list):**

Civil Rights & Anti-Discrimination

Civil Rights Act of 1964 (Title VII): Prohibits discrimination based on race, color, religion, sex, or national origin in employment and public accommodations.

Fair Housing Act (as amended) (Title VIII of the 1968 Civil Rights Act): Prohibits discrimination in the sale, rental, and financing of housing based on race, color, religion, sex, disability, familial status, or national origin.

Age Discrimination in Employment Act (ADEA) of 1967: Protects individuals 40 years of age or older from employment discrimination.

Equal Pay Act of 1963: Requires equal pay for equal work regardless of sex.

Rehabilitation Act of 1973 (Section 504): Prohibits discrimination based on disability in programs conducted by federal agencies or receiving federal assistance.

Americans with Disabilities Act (ADA) (as amended) of 1990: Prohibits discrimination against individuals with disabilities in employment, public accommodations, transportation, and other areas.

Pregnancy Discrimination Act of 1978: Prohibits discrimination based on pregnancy, childbirth, or related medical conditions.

Title IX of the Education Amendments of 1972: Prohibits discrimination based on sex in federally funded education programs and activities.

Civil Rights Act of 1991: Provides additional protections against employment discrimination and strengthens civil rights laws.

Labor & Employment Protections

National Labor Relations Act (NLRA): Protects workers' rights to organize, form unions, and engage in collective bargaining.

Family and Medical Leave Act (FMLA) of 1993: Provides eligible employees with unpaid, job-protected leave for family and medical reasons.

Uniformed Services Employment and Reemployment Rights Act (USERRA): Protects the employment rights of individuals serving in the military.

Fair Labor Standards Act (FLSA) (as amended) of 1938: Establishes minimum wage, overtime pay, and child labor protections.

Health & Welfare Protections

Affordable Care Act (ACA) of 2010: Includes protections for pre-existing conditions and prohibits discrimination in healthcare coverage.

Medicare and Medicaid Acts (1965): Provide healthcare protections for older Americans, low-income individuals, and people with disabilities.

Patient Protection and Affordable Care Act (Section 1557): Prohibits discrimination based on race, color, national origin, sex, age, or disability in health programs receiving federal funds.

LGBTQ+ Protections

Bostock v. Clayton County (2020): Supreme Court ruling interpreting Title VII to protect LGBTQ+ individuals from employment discrimination.

Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (2009): Extends hate crime protections to crimes motivated by a victim's sexual orientation, gender identity, or disability.

Education Protections for Immigrant Students

Plyler v. Doe (1982): In this landmark Supreme Court case, the Court ruled that states cannot deny access to public elementary and secondary education based on a child's immigration status. The decision was grounded in the Equal Protection Clause of the 14th Amendment, which ensures that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

Title VI of the Civil Rights Act of 1964: Prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance, including public schools.

Equal Educational Opportunities Act (EEOA) of 1974: Requires states and school districts to overcome barriers to equal participation in education, including language barriers faced by immigrant students.

Every Student Succeeds Act (ESSA) of 2015: Reaffirms requirements for schools to provide educational support for English learners, including immigrant children.

Family Educational Rights and Privacy Act (FERPA): Protects the privacy of student education records. Schools cannot disclose immigration status to third parties, including immigration enforcement agencies, without parental consent or legal authorization.

Additional Considerations

- Schools are prohibited from requiring Social Security numbers or proof of immigration status for enrollment.
- Schools must provide language assistance services to students who are not proficient in English, ensuring meaningful access to education.

Executive Order Summary Resources

Other organizations have written summaries of Executive Orders. Here is a resource list:

- **National Council of Nonprofits**: [The Impacts of the Recent Executive Orders on Nonprofits](#)
- **Coalition on Human Needs**: [Trump Administration Threats – Attacks on Federal Funding and EO Library](#)
- **Collier Collective**: [List of Presidential Actions issued by the Trump administration](#)
- **American Bar Association**: [Trump Executive Order Tracker](#)

The National Homelessness Law Center is available to help youth homelessness providers connect with legal resources during this time. Please reach out to Katie Scott, Youth Homelessness Director, at kmeyerscott@homelesslaw.org if you have legal questions or concerns.

Conclusion

Stay encouraged and vigilant. While some protections are being challenged and may face ongoing litigation, your work remains essential. Keep serving young people with best practices and care, and be prepared to adapt if federal funding or enforcement priorities shift. Together, we can navigate these uncertainties and continue making a positive impact.