

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

Rapides Parish School Board,

Plaintiff,

v.

**United States Department of
Health and Human Services, et al.,**

Defendants.

Case No. 1:25-cv-00070-DDD-JPM

Judge Dee D. Drell

**Magistrate Judge Joseph H.L.
Perez-Montes**

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ NOTICE OF
SUPPLEMENTAL AUTHORITY**

Plaintiff Rapides Parish School Board respectfully responds to Defendants’ Notice of Supplemental Authority (ECF 47), to complete the record with five additional developments.

1. EEOC’s Updated Websites on “Transgender Status.” EEOC has updated four webpages to address “transgender status.”
 - a. EEOC, *Sex-Based Discrimination*, <https://www.eeoc.gov/sex-based-discrimination> (downloaded May 8, 2026), attached as Exhibit 1;
 - b. EEOC, *Sex Discrimination*, <https://www.eeoc.gov/youth/sex-discrimination> (downloaded May 8, 2026), attached as Exhibit 2;
 - c. EEOC, *Harassment*, <https://www.eeoc.gov/harassment> (downloaded May 8, 2026), attached as Exhibit 3;
 - d. EEOC, *Prohibited Employment Policies/Practices*, <https://www.eeoc.gov/prohibited-employment-policiespractices> (downloaded May 8, 2026), attached as Exhibit 4.

2. USDA’s Rescission of its *Bostock* Rules. Memorandum from James C. Miller, Administrator, Food and Nutrition Service, U.S. Department of Agriculture, *Guidance on the Interpretation of Discrimination Based on “Sex” in USDA Child Nutrition Programs* (July 7, 2025), available at <https://www.usda.gov/sites/default/files/guidance-documents/fns.cn-bostock-policy-recission-070725.pdf>, attached as Exhibit 5.

Respectfully submitted this 11th day of May, 2026.

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Exhibit 1



Sex-Based Discrimination

Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex, including the person's sexual orientation, transgender status, or pregnancy.

Discrimination against an individual because of sexual orientation or transgender status is discrimination because of sex in violation of Title VII.

Sex Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Sex Discrimination Harassment

It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Employer Coverage

Time Limits

180 days to **file a charge** (<https://www.eeoc.gov/employees/charge.cfm>)

(may be extended by state laws)

Federal employees have 45 days to **contact an EEO Counselor** (https://www.eeoc.gov/federal/fed_employees/complaint_overview.cfm).

For more information, see:

- **Title VII of the Civil Rights Act of 1964** (<https://www.eeoc.gov/laws/statutes/titlevii.cfm>)
- **Regulations: 29 C.F.R. Part 1604** (<http://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol4/xml/CFR-2016-title29-vol4-part1604.xml>)
- **Policy & Guidance** (https://www.eeoc.gov/laws/types/sex_guidance.cfm)
- **Statistics** (<https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0>)

See also:

- **Equal Pay and Compensation Discrimination** (<https://www.eeoc.gov/laws/types/equalcompensation.cfm>)
- **Pregnancy Discrimination** (<https://www.eeoc.gov/laws/types/pregnancy.cfm>)
- **Sexual Harassment** (https://www.eeoc.gov/laws/types/sexual_harassment.cfm)
- **Employer Best Practices for Workers with Caregiving Responsibilities** (<https://www.eeoc.gov/policy/docs/caregiver-best-practices.html>)

- **Break Time for Nursing Mothers under the FLSA**
(<http://www.dol.gov/whd/regs/compliance/whdfs73.htm>) (U.S. Dept of Labor, Wage and Hour Division)
- **Questions and Answers: The Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking**
(<https://www.eeoc.gov/laws/guidance/questions-and-answers-application-title-vii-and-ada-applicants-or-employees-who>)
- **Older Women at Work: The Intersection of Age and Sex Discrimination**
(<https://www.eeoc.gov/older-women-work-intersection-age-and-sex-discrimination>)

Exhibit 2



U.S. Equal Employment Opportunity Commission



Sex Discrimination

EEOC enforces two laws that protect you from sex discrimination at work (including when you apply for a job):

- Title VII of the Civil Rights Act prohibits an employer from treating you differently, or less favorably, because of your sex, which is defined to include pregnancy, sexual orientation, and transgender status. In addition, Title VII prohibits employment discrimination based on transgender status or sexual orientation. These protections apply even if state or local laws take a different position. Everyone, regardless of gender, is protected from sex discrimination under Title VII.
- The Equal Pay Act requires employers to give male and female employees equal pay for equal work. This means that employers have to pay men and women equally for doing substantially the same work at the same workplace.

The laws enforced by EEOC also prohibit sex harassment at work. Sex harassment includes conduct that is sexual in nature, such as sexual jokes, photos, or touching, or requests for sexual favors, and non-sexual conduct that is based on gender, such as comments that men or women don't belong in certain jobs, or comments questioning men's or women's skills or abilities. Harassment based on sexual orientation, pregnancy, or transgender status is also prohibited.

The law protects you from being harassed by your supervisor, a supervisor in another area, a co-worker, and others in your workplace, such as a client or customer. A harasser can be the same sex as you, or a different sex.

Finally, the laws enforced by EEOC protect you from being punished or harassed at work because you or someone you closely associate with (for example, a relative or close friend) complains about sex discrimination, or takes other actions protected by the laws enforced by EEOC. We call this your right to be protected from **retaliation (<https://www.eeoc.gov/youth/retaliation>)**.

If you would like more information after reading the frequently asked questions, see the EEOC's **[Sex-Based Discrimination page \(https://www.eeoc.gov/sex-based-discrimination\)](https://www.eeoc.gov/sex-based-discrimination)**, **[Equal Pay and Compensation Discrimination page \(https://www.eeoc.gov/equal-paycompensation-discrimination\)](https://www.eeoc.gov/equal-paycompensation-discrimination)**.

[Example \(https://www.eeoc.gov/youth/sex-discrimination-example\)](https://www.eeoc.gov/youth/sex-discrimination-example) **[FAQs \(https://www.eeoc.gov/youth/sex-discrimination-faqs\)](https://www.eeoc.gov/youth/sex-discrimination-faqs)**

Exhibit 3



Harassment

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, transgender status, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

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- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Prevention is the best tool to eliminate harassment in the workplace. Employers are encouraged to take appropriate steps to prevent and correct unlawful harassment. They should clearly communicate to employees that unwelcome harassing conduct will not be tolerated. They can do this by establishing an effective complaint or grievance process, providing anti-harassment training to their managers and employees, and taking immediate and appropriate action when an employee complains. Employers should strive to create an environment in which employees feel free to raise concerns and are confident that those concerns will be addressed.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

Employer Liability for Harassment

The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove that: 1) it reasonably tried to prevent and promptly correct the harassing behavior; and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g., independent contractors or customers on the premises), if it knew, or should have known about the harassment and failed to take prompt and appropriate corrective action.

When investigating allegations of harassment, the EEOC looks at the entire record: including the nature of the conduct, and the context in which the alleged incidents occurred. A determination of whether harassment is severe or pervasive enough to be illegal is made on a case-by-case basis.

If you believe that the harassment you are experiencing or witnessing is of a specifically sexual nature, you may want to see EEOC's information on **sexual harassment** (<https://www.eeoc.gov/sexual-harassment>).

Employer Coverage

15 or more employees under Title VII and the ADA, 20 or more employees under the ADEA

Time Limits

180 days to **file a charge** (<https://www.eeoc.gov/employees/charge.cfm>).

(may be extended by state laws)

Federal employees have 45 days to **contact an EEO counselor**

(https://www.eeoc.gov/federal/fed_employees/complaint_overview.cfm).

For more information:

- **Title VII of the Civil Rights Act** (<https://www.eeoc.gov/laws/statutes/titlevii.cfm>)
- **The Age Discrimination in Employment Act**
(<https://www.eeoc.gov/laws/statutes/adea.cfm>)
- **The Americans with Disabilities Act** (<https://www.eeoc.gov/laws/statutes/ada.cfm>)

See Also:

Questions and Answers for Employees: Harassment at Work

(<https://www.eeoc.gov/questions-and-answers-employees-harassment-work>)

Small Business Fact Sheet: Harassment in the Workplace (<https://www.eeoc.gov/small-business-fact-sheet-harassment-workplace>)

Promising Practices for Preventing Harassment in the Federal Sector

(<https://www.eeoc.gov/federal-sector/reports/promising-practices-preventing->

Select Task Force on the Study of Harassment in the Workplace

(https://www.eeoc.gov/eeoc/task_force/harassment/index.cfm)

- **Report of the Co-Chairs of the Select Task Force**
(https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm)
- **Executive Summary and Recommendations**
(https://www.eeoc.gov/eeoc/task_force/harassment/report_summary.cfm)
- **Checklists and Chart of Risk Factors for Employers**
(https://www.eeoc.gov/eeoc/task_force/harassment/checklists.cfm)
- **Highlights of the Report: PowerPoint Presentation**
(https://www.eeoc.gov/sites/default/files/migrated_files/eeoc/task_force/harassment/rebooting_harassment_prevention.pdf)(PDF)
- **Promising Practices for Preventing Harassment**
(<https://www.eeoc.gov/laws/guidance/promising-practices-preventing-harassment>)

Promising Practices for Preventing Harassment in the Construction Industry (HTML)

(<https://www.eeoc.gov/promising-practices-preventing-harassment-construction-industry>)(PDF) (https://www.eeoc.gov/sites/default/files/2024-06/Construction%20Harassment%20Promising%20Practices_508.pdf)

Exhibit 4



Prohibited Employment Policies/Practices

Under the laws enforced by EEOC, it is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The law forbids discrimination in every aspect of employment.

The laws enforced by EEOC prohibit an **employer or other covered entity** (<https://www.eeoc.gov/employers/coverage-0>) from using neutral employment policies and practices that have a disproportionately negative effect on applicants or employees of a particular race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), or national origin, or on an individual with a disability or class of individuals with disabilities, if the policies or practices at issue are not job-related and necessary to the operation of the business. The laws enforced by EEOC also prohibit an employer from using neutral employment policies and practices that have a disproportionately negative impact on applicants or employees age 40 or older, if the policies or practices at issue are not based on a reasonable factor other than age.

Job Advertisements

It is illegal for an employer to publish a job advertisement that shows a preference for or discourages someone from applying for a job because of his or her race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

For example, a help-wanted ad that seeks "females" or "recent college graduates" may discourage men and people over 40 from applying and may violate the law.

It is also illegal for an employer to recruit new employees in a way that discriminates against them because of their race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

For example, an employer's reliance on word-of-mouth recruitment by its mostly Hispanic work force may violate the law if the result is that almost all new hires are Hispanic.

Application & Hiring

It is illegal for an employer to discriminate against a job applicant because of his or her race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not refuse to give employment applications to people of a certain race.

An employer may not base hiring decisions on stereotypes and assumptions about a person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

If an employer requires job applicants to take a test, the test must be necessary and related to the job and the employer may not exclude people of a particular race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, or individuals with disabilities. In addition, the employer may not use a test that excludes applicants age 40 or older if the test is not based on a reasonable factor other than age.

If a job applicant with a disability needs an accommodation (such as a sign language interpreter) to apply for a job, the employer is required to provide the accommodation, so long as the accommodation does not cause the employer significant difficulty or expense.

Background Checks

See "**Pre-Employment Inquiries**" below.

Job Referrals

It is illegal for an employer, employment agency or union to take into account a person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national

Job Assignments & Promotions

It is illegal for an employer to make decisions about job assignments and promotions based on an employee's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not give preference to employees of a certain race when making shift assignments and may not segregate employees of a particular national origin from other employees or from customers.

An employer may not base assignment and promotion decisions on stereotypes and assumptions about a person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

If an employer requires employees to take a test before making decisions about assignments or promotions, the test may not exclude people of a particular race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), or national origin, or individuals with disabilities, unless the employer can show that the test is necessary and related to the job. In addition, the employer may not use a test that excludes employees age 40 or older if the test is not based on a reasonable factor other than age.

Pay And Benefits

It is illegal for an employer to discriminate against an employee in the payment of wages or employee benefits on the bases of race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. Employee benefits include sick and vacation leave, insurance, access to overtime as well as overtime pay, and retirement programs. For example, an employer may not pay Hispanic workers less than African-American workers because of their national origin, and men and women in the same workplace must be given equal pay for equal work.

In some situations, an employer may be allowed to reduce some employee benefits for older workers, but only if the cost of providing the reduced benefits is the same as the cost of providing benefits to younger workers.

Discipline & Discharge

An employer may not take into account a person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information when making decisions about discipline or discharge. For example, if two employees commit a similar offense, an employer may not discipline them differently because of their race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

When deciding which employees will be laid off, an employer may not choose the oldest workers because of their age.

Employers also may not discriminate when deciding which workers to recall after a layoff.

Employment References

It is illegal for an employer to give a negative or false employment reference (or refuse to give a reference) because of a person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

Reasonable Accommodation & Disability

The law requires that an employer provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer.

A reasonable accommodation is any change in the workplace (or in the ways things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.

Reasonable accommodation might include, for example, providing a ramp for a wheelchair user or providing a reader or interpreter for a blind or deaf employee or applicant.

Reasonable Accommodation & Pregnancy, Childbirth, or Related Medical Conditions

The law requires that an employer provide reasonable accommodation to a qualified employee or job applicant with a known limitation related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless doing so would cause significant difficulty or expense for the employer.

A reasonable accommodation is any change in the workplace (or in the ways things are usually done) to help a person with a known limitation apply for a job, perform a job, or enjoy the benefits and privileges of employment.

Reasonable accommodation might include, for example, allowing additional break times for the worker to rest, drink, eat, or use the restroom, allowing a worker who usually stands to perform their job to sit, telework, or leave for medical appointments or to recover from childbirth.

Reasonable Accommodation & Religion

The law requires an employer to reasonably accommodate an employee's religious beliefs or practices, unless doing so would cause difficulty or expense for the employer. This means an employer may have to make reasonable adjustments at work that will allow the employee to practice his or her religion, such as allowing an employee to voluntarily swap shifts with a co-worker so that he or she can attend religious services.

Training & Apprenticeship Programs

It is illegal for a training or apprenticeship program to discriminate on the bases of race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not deny training opportunities to African-American employees because of their race.

In some situations, an employer may be allowed to set age limits for participation in an apprenticeship program.

It is illegal to harass an employee because of race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

It is also illegal to harass someone because they have complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Harassment can take the form of slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct. Sexual harassment (including unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature) is also unlawful. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal if it is so frequent or severe that it creates a hostile or offensive work environment or if it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Harassment outside of the workplace may also be illegal if there is a link with the workplace. For example, if a supervisor harasses an employee while driving the employee to a meeting.

Read more about **harassment** (<https://www.eeoc.gov/harassment>).

Terms & Conditions Of Employment

The law makes it illegal for an employer to make any employment decision because of a person's race, color, religion, sex (including transgender status, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. That means an employer may not discriminate when it comes to such things as hiring, firing, promotions, and pay. It also means an employer may not discriminate, for example, when granting breaks, approving leave, assigning work stations, or setting any other term or condition of employment - however small.

Pre-Employment Inquiries (General)

As a general rule, the information obtained and requested through the pre-employment process should be limited to those essential for determining if a person is qualified for the job; whereas,

Employers are explicitly prohibited from making pre-offer inquiries about disability.

Although state and federal equal opportunity laws do not clearly forbid employers from making pre-employment inquiries that relate to, or disproportionately screen out members based on race, color, sex, national origin, religion, or age, such inquiries may be used as evidence of an employer's intent to discriminate unless the questions asked can be justified by some business purpose.

Therefore, inquiries about organizations, clubs, societies, and lodges of which an applicant may be a member or any other questions, which may indicate the applicant's race, sex, national origin, disability status, age, religion, color or ancestry if answered, should generally be avoided.

Similarly, employers should not ask for a photograph of an applicant. If needed for identification purposes, a photograph may be obtained after an offer of employment is made and accepted.

Pre-Employment Inquiries and:

- **[Race \(https://www.eeoc.gov/pre-employment-inquiries-and-race\)](https://www.eeoc.gov/pre-employment-inquiries-and-race)**
- **[Height & Weight \(https://www.eeoc.gov/pre-employment-inquiries-and-height-weight\)](https://www.eeoc.gov/pre-employment-inquiries-and-height-weight)**
- **[Financial Information \(https://www.eeoc.gov/pre-employment-inquiries-and-financial-information\)](https://www.eeoc.gov/pre-employment-inquiries-and-financial-information)**
- **[Unemployed Status \(https://www.eeoc.gov/pre-employment-inquiries-and-unemployed-status\)](https://www.eeoc.gov/pre-employment-inquiries-and-unemployed-status)**
- **[Background Checks \(https://www.eeoc.gov/background-checks\)](https://www.eeoc.gov/background-checks)**
- **[Religious Affiliation Or Beliefs \(https://www.eeoc.gov/pre-employment-inquiries-and-religious-affiliation-or-beliefs\)](https://www.eeoc.gov/pre-employment-inquiries-and-religious-affiliation-or-beliefs)**
- **[Citizenship \(https://www.eeoc.gov/pre-employment-inquiries-and-citizenship\)](https://www.eeoc.gov/pre-employment-inquiries-and-citizenship)**
- **[Marital Status, Number Of Children \(https://www.eeoc.gov/pre-employment-inquiries-and-marital-status-or-number-children\)](https://www.eeoc.gov/pre-employment-inquiries-and-marital-status-or-number-children)**
- **[Gender \(https://www.eeoc.gov/pre-employment-inquiries-and-gender\)](https://www.eeoc.gov/pre-employment-inquiries-and-gender)**

- **[Disability \(https://www.eeoc.gov/pre-employment-inquiries-and-disability\)](https://www.eeoc.gov/pre-employment-inquiries-and-disability)**
- **[Medical Questions & Examinations \(https://www.eeoc.gov/pre-employment-inquiries-and-medical-questions-examinations\)](https://www.eeoc.gov/pre-employment-inquiries-and-medical-questions-examinations)**

Dress Code

In general, an employer may establish a dress code which applies to all employees or employees within certain job categories. However, there are a few possible exceptions.

While an employer may require all workers to follow a uniform dress code even if the dress code conflicts with some workers' ethnic beliefs or practices, a dress code must not treat some employees less favorably because of their national origin. For example, a dress code that prohibits certain kinds of ethnic dress, such as traditional African or East Indian attire, but otherwise permits casual dress would treat some employees less favorably because of their national origin.

Moreover, if the dress code conflicts with an employee's religious practices and the employee requests an accommodation, the employer must modify the dress code or permit an exception to the dress code unless doing so would result in undue hardship.

Similarly, if an employee requests an accommodation to the dress code because of his disability, the employer must modify the dress code or permit an exception to the dress code, unless doing so would result in undue hardship.

Constructive Discharge/Forced To Resign

Discriminatory practices under the laws EEOC enforces also include constructive discharge or forcing an employee to resign by making the work environment so intolerable a reasonable person would not be able to stay.

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For information on working at the EEOC, visit our **EEOC Careers page** (<https://www.eeoc.gov/careers>).



About the Agency - English (<https://youtu.be/VUfmv-1hrKU>)

Sobre la Agencia - Español (https://youtu.be/Jwj_t6Co758)

About the Agency - ASL (<https://www.youtube.com/watch?v=xB6lSD1Gfil>)

Exhibit 5



Food and Nutrition Service

U.S. DEPARTMENT OF AGRICULTURE

July 7, 2025

To: Regional Directors
All Food and Nutrition Service Programs
All Regions

State Directors
All Food and Nutrition Service Programs
All Regions

From: James C. Miller
Administrator
Food and Nutrition Service

Subject: Guidance on the Interpretation of Discrimination Based on “Sex” in USDA Child Nutrition Programs

The U.S. Department of Agriculture’s (USDA) Food and Nutrition Service (FNS) administers child nutrition programs that reduce hunger for vulnerable children including USDA’s National School Lunch Program. For each of several reasons set forth below, USDA has rescinded the Biden Administration’s May 2022 *Bostock* policy update that sought to require federally-funded food and nutrition service programs to redefine discrimination by reason of “sex” under Title IX of the Education Amendments of 1972 (Title IX) and the Food and Nutrition Act of 2008 (FNA) as not based on just male or female, but also “gender identity.” Today’s guidance eliminates the illegal threats issued under the Biden Administration that mandated compliance with ever-evolving concepts of gender ideology as a condition for participation in USDA school programs.

State agencies are reminded that, in 2024, the Supreme Court permitted injunctions to remain in place against the Biden Administration’s regulatory definition of sex discrimination under Title IX to include gender identity. *Department of Education v. Louisiana*, 603 U.S. 866 (2024). Likewise, the legal basis for the Biden Administration’s May 5, 2022, FNS *Bostock* Policy Update has been rejected by numerous recent federal court decisions. Courts have determined that discrimination based on “sex” does not, under Title IX, include discrimination on the basis of “gender identity.” *Adams v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 812 (11th Cir. 2022) (*en banc*); *Tennessee v. Cardona*, 2025 WL 63795, at *3 (E.D. Ky. Jan. 9, 2025), as amended (Jan. 10, 2025) (“when Title IX is viewed in its entirety, it is abundantly clear that discrimination on the basis of sex means discrimination on the basis of being a male or female”); *Texas v. Cardona*, 743 F. Supp. 3d 824, 871 (N.D. Tex. 2024) (indicating that, in 1972, when Title IX was enacted, “ ‘sex’ carried an unambiguously binary meaning”), *appeal filed*, No. 24-10910 (5th Cir. Oct. 7, 2024); *Neese v. Becerra*, 640 F. Supp. 3d 668, 678 n.6 (N.D. Tex. 2022) (observing that, in 1972, “ ‘sex’ was commonly understood to refer to physiological differences between men and women – particularly with respect to reproductive functions”), *vacated*, 123 F.4th 751 (5th Cir. 2024), *reh’g denied*, 127 F.4th 601 (5th Cir. 2025). Accordingly, USDA

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concluded the Biden Administration’s May 5, 2022, FNS Bostock Policy Update was legally flawed. For this reason, USDA rescinds the May 2022 Bostock policy update and related guidance documents implementing that policy.¹

USDA determined that its rescission was a reasonable exercise of its discretion to avoid the litigation risk it faced as a defendant in *Rapides Parish School Board v. HHS, USDA, et al.*, no. 8:23-cv-00889-CEH, in which a public school board sued USDA, challenging the legality of the May 2022 policy update and related provisions. On July 2, 2025, the Department of Justice, on behalf of USDA, executed an agreement securing plaintiff’s dismissal of its complaint against USDA, in exchange for USDA’s rescission of the Biden Administration’s May 2022 policy update and related documents and guidance.

USDA also concluded that its rescission of the May 2022 policy update and related documents and guidance will conserve resources by exercising its enforcement discretion to terminate pending compliance reviews and by avoiding the waste of resources on future reviews and potential litigation to the extent they would be based on the now-rescinded 2022 policy update.

USDA will therefore apply the interpretation under the binding principles and provisions of the Department of Education’s 2020 Title IX Rule and USDA’s longstanding Title IX regulations, which are themselves consistent with President Trump’s Executive Order *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*.

Each of the foregoing reasons provided USDA with an independently sufficient reason to rescind the May 2022 Bostock policy update and related documents and guidance.

FNS therefore interprets “on the basis of sex” in Title IX of the Education Amendments of 1972 and other relevant sex-nondiscrimination laws to protect sex-based equality, which is at odds with the concept of gender ideology. USDA therefore has rescinded its 2022 policy update, which advanced an incorrect interpretation of discrimination on the basis of “sex” under Title IX in conflict with controlling sex discrimination law. *See, e.g., Louisiana*, 603 U.S. 866. This now-cancelled policy resulted in harmful impacts on child nutrition programs. Because USDA’s 2022 policy update is rescinded in its entirety, state agencies, schools and other organizations administering FNS’s child nutrition programs should cease any reliance on this incorrect, and now-rescinded 2022 USDA/FNS *Bostock* policy update.

Sincerely,



James C. Miller
Administrator
Food and Nutrition Service

¹ A list of the rescinded policy update and related guidance documents is attached.

Rescinded Documents

The following documents are withdrawn based on a change in administration policy consistent with Executive Order 14168:

1. USDA Memorandum from Roberto Contreras, Director of Civil Rights Division, Food and Nutrition Service, to Regional and State Directors Regarding CRD 01-2022 Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing—Policy Update (May 5, 2022)
2. USDA Memorandum from Food and Nutrition Service to Regional and State Directors Regarding Questions and Answers Related to CRD 01-2022 Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing—Policy Update (May 5, 2022); and
3. USDA Cover Letter from Roberto Contreras, Director of Civil Rights Division, Food and Nutrition Service, to Regional Program Directors and State Agencies Regarding Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing—Policy Update (May 5, 2022).