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Separation of Powers and the Presidential War Against Gender Ideology

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Immediately after starting his second term as president, Donald Trump declared war on so-called "gender ideology." President Trump issued an executive order establishing national policy that there are two genders: male and female. The article examines the use of unitary executive branch theory by the second Trump administration to create moral panic by arguing that so-called gender ideology seeks to corrupt American youth by having them question their gender identity and the social equity movement. The social equity movement argues that the discipline of public administration should recognize social equity as a foundation, alongside efficiency, equity, and economy. The constitutional school of public administration argues that the discipline must recognize the rule of law as its foundation. Many social equity scholars trace the birth of the social equity movement to the 1968 Minnowbrook Conference. Social equity theory argues that public administrators must work to eliminate social inequities in the United States and around the globe. The constitutional school of public administration argues that all residents of the United States deserve protection against violations of their fundamental constitutional and statutory rights. The article argues that social equity and the constitutional school of public administration must join forces to prevent the second Trump administration from creating moral panic by perpetuating the myth of gender ideology.

Keywords
gender ideology, unitary executive branch theory, transgender rights

The article seeks to answer the question of whether President Trump has the constitutional and legal authority to make use of the power of the federal government to seek to destroy the gender identity rights movement. The article seeks to answer the question of why the discipline of public administration ignored the threat to social equity created by the emergence of unitary executive branch theory (Blessett and Meyer 2025). The article also seeks to answer the question of the likelihood of the federal judiciary, including the U.S. Supreme Court, to stop or limit President Trump's war on gender ideology. Finally, the article seeks to answer the question of how the gender identity rights movement may reduce the long-term damage it has suffered with or without the staunch support of the federal judiciary.

Research Design

To answer the above questions, the article examines the second Trump administration's legal and constitutional authority to prevent federal agencies from recognizing people on the gender identity spectrum. The article also examines the legal and constitutional authority of the second Trump administration to ban so-called "gender ideology" from any public or private organization receiving federal grants and contracts. Administrative history indicates that the federal judiciary has played a key role in expanding social equity protections for members of historically marginalized groups in American society (Frederickson 1990). In *Bostock v. Clayton County* (2022), the U.S. Supreme Court broadened the workplace protection afforded by Title VII of the 1964 Civil Rights Act by holding that Title VII prohibited employment discrimination based on sexual orientation and gender identity. More recently, a much more socially conservative U.S. Supreme Court has limited constitutional protection for individuals living on the gender identity spectrum. In *United States v. Skrmetti* (2025), the U.S. Supreme Court held that the State of Tennessee only needed a rational basis to prohibit gender affirming care within the boundaries of the state. Finally, the article examines the legal and constitutional authority of the second Trump ad-

ministration to use the federal bureaucracy to demonize people living on the gender identity spectrum. The use of government propaganda to spread myths regarding so-called "gender ideology" does profound damage to people living on the gender identity spectrum (Rudin, Billing, Farro, and Yang 2023, 723).

In 1991, a group of lawyers created an organization to address the lack of legal protections for transgender people. Between 1992 and 1997, the International Conference on Transgender Law and Employment Policy (ICTLEP) held a series of conferences in Houston, Texas, to mobilize support for expanding the scope of the gay rights movement to include transgender people (Frye 2021). The 2000s saw an expansion of the gay rights movement to include the need to protect people living on the gender identity spectrum. Gradually, some local and state governments granted people living on the gender identity spectrum protection from discrimination (Colvin 2007). The mid-2010s saw social equity and justice movements embrace a "new understanding of sexual orientation and gender identity" (Elias, Johnson, Ovando, and Ramirez 2018, 54). With this recognition, the social equity movement began to advocate for the rights of people on the gender identity spectrum. A historical recognition of the impact of unitary executive branch theory on the social equity reform movement helps to provide much-needed insight into how the second Trump presidential campaign convinced a significant number of Americans that gender ideology constituted a serious threat to their well-being and the well-being of their family members, when such a threat did not exist (Blessett and Meyer 2025).

Findings

Research supports the argument that the discipline of "public administration has contributed to the erosion of the rule of law by grounding itself in the nonpolitical value of 'efficiency,' 'merit,' and performance, defining itself as a field of management rather than government" (Rosenbloom 2019, 2). A careful examination of the evolution of unitary executive branch theory supports the finding that the discipline of public administration sanctioned giving the president more power in the name of government efficiency, economy, effectiveness, and accountability. The discipline of public administration ignored the impact of social equity reform if an authoritarian president came to power and used bureaucratic power to persecute members of historically marginalized groups.

The late 1960s saw the social equity reform movement correctly criticize the discipline of public administration for ignoring social equity issues in the day-to-day administration of public programs (Stoken, Hatch, and Overton 2022). It recognized that individuals and groups could block governments from embracing social equity reform and make use of public administrators to do so. Social equity reformers turned to the courts for relief (Stoken, Hatch, and Overton 2022). Federal courts to intervene to guarantee "[d]ue process and equal protection of laws irrespective of group identity/membership" and "[e]qual access to policies, programs, and funding levels by group membership" (Stoken, Hatch, and Overton 2022, 1432). The judicialization of social equity reform forced the local, state, and federal governments to acknowledge the constitutional foundation of social equity and the need for legislation to extend social equity protections beyond constitutional protections (Frederickson 1990). The present social equity reform crisis did not develop overnight (Blessett and Meyer 2025; Roberts, Resh, Basu, Onyango, Sullivan, Peci, Kapucu, Schomaker, and Mele 2024). The resistance to the social equity reform has become a characteristic of cultural, social, and political polarization in American society. The 2024 presidential election saw Donald Trump do well with working-class white Americans persuaded to believe that the crusade for social equity constitutes another way to give the undeserving preferential treatment. Enough crucial swing voters in battleground states rejected "inclusion as a universal human right" and helped elect Donald Trump to a second term (Gooden 2025, 253). The history of administrative evil and moral inversion teaches us that bureaucratic power may be used for good. It may also be used to cause severe harm to some of the most vulnerable members of society (Adams 2011).

An examination of judicial review of President Trump's gender ideology purge through the end of 2025 reveals that the federal judiciary granted the second Trump administration considerable discretion to prohibit federal agencies from recognizing people living on the gender identity spectrum, including transgender people. A review also finds that the second Trump administration has faced more difficulty obtaining judicial approval to strip or deny public and private organizations of federal funds for refusing to repudiate the existence of people living on the gender identity spectrum. Finally, the review finds that public and private organ-

izations face intense pressure to submit to the "gender ideology" purge demands of the second Trump administration because of the fear of losing federal funds. This fear has led some private and public organizations dependent on federal funds to capitulate to the demand of the second Trump administration that they must cease their support for people living on the gender identity spectrum.

To a certain extent, the social equity reform movement underestimated the importance of legal and constitutional protections for safeguarding the rights of members of historically marginalized groups. The 2024 presidential campaign and the second Trump administration provide evidence that bigoted propaganda campaigns, during an era of social, cultural, and political polarization, can shift enough voters to empower a president to use bureaucratic power to strip legal and constitutional protections from members of historically marginalized groups (Blessett and Meyer 2025). When this occurs, the federal judiciary becomes an important remedy of last resort for combating such hatred.

Unitary Executive Branch Theory, the Rule of Law, and the Fate of the Gender Identity Revolution

Rosenbloom (1981) detailed the judicialization of public administration as vital to protecting people from the widespread violations of civil liberties at the local, state, and federal levels. In 1990, Frederikson recognized the importance of the courts in protecting historically marginalized people from having their rights trampled. The courts became the "last resort for those claiming unequal treatment in either the protection of the law or the provision of service" (231). Guy and McCandless write that "[s]ocial equity concerns fall naturally within the purview of public administration, for government is the entity of last resort when the market and social dynamics create problems that do not resolve on their own" (2012, S12). This assertion assumes that the political leadership of government organizations embraces social equity as one of the foundations of public administration. This often has proven not to be the case. Rejecting efforts by President Trump to demonize DEI programs, Gooden argues, "[s]afeguarding democracy in the United States requires aggressive reinforcement of diversity, equity, and inclusion, which are neither Democratic nor Republican values. They are essential values of our democracy and are deeply embedded in core democratic principles" (2025, 253). Increasingly, support for DEI programs has been divided along ideological and partisan lines.

Leonard White argued in his 1926 "Introduction to the Study of Public Administration" that the discipline of public administration must focus on management rather than the foundation of law (White 1926/2012). The discipline of public administration fought hard to prevent the rule of law from becoming its foundation (Lynn, Jr. 2009). It also fought hard to keep itself out of social equity and justice battles. This meant that the discipline of public administration did not recognize social equity as one of its pillars. From the U.S. Supreme Court decision in *Plessy v. Ferguson* (1896) through *Brown v. Board of Education* (1954), public administrators in states that banned blacks and whites from attending the same public schools rigorously enforced state segregation laws. Beginning in the 1950s, the U.S. Supreme Court began to order local, state, and federal government agencies and officials to stop violating the fundamental constitutional rights of people living in the United States (Rosenbloom 1981). The judicialization of public administration and social equity reform transformed public administration (Frederickson 1990; Rosenbloom 1987).

From this perspective, the courts need to hold governments accountable for violations of civil liberties and human rights even if the electorate chose not to. History shows that the rule of law has been essential to the recognition of LGBTQ rights in the United States and around the world. The success of the movement to end discrimination based on sexual orientation nationwide depended upon the willingness of the U.S. Supreme Court to intervene. In the landmark case of *Obergefell v. Hodges* (2015), the U.S. Supreme Court held that the U.S. Constitution blocked states from prohibiting same-sex marriages. This decision emboldened the gender identity rights movement to lobby for the protection of people living on the gender identity spectrum at the local, state, and federal levels. This included urging federal agencies to recognize the transgender rights of their employees (Elias 2017) and lobbying states to protect people on the gender identity spectrum (Mezey 2020).

The gender identity rights movement underestimated the capacity of the same groups that bitterly opposed same sex marriage to mobilize against pro-

hibiting discrimination against individuals because of their gender identity (Kelly-Thompson and Amber Lusvardi 2025). To distinguish between sexual orientation and gender identity discrimination, the anti-transgender rights movement adopted the strategy of depicting transgender women as a physical threat to girls and women by allowing transgender women to use bathrooms reserved for women and girls. It also attacked public schools and private and public colleges for allowing transgender individuals, particularly transgender women, to participate in sports consistent with their gender identity. From this perspective, transgender women have an unfair competitive advantage. The strategy worked (Taylor, Flores, Haider-Markel, Lewis, and Miller 2024). After 2015, several politically conservative states enacted transgender bathroom bills applying to K–12 public schools and to all state government buildings (Mathy and Mirreghabie 2025). This intense opposition forced the transgender and gender identity rights movement to turn to the federal government to nationalize transgender rights. Elected in 2020, President Biden made the recognition of transgender rights a top priority. Because transgender rights legislation had no hope of getting through Congress, Biden made use of bureaucratic power to expand the rights of individuals living on the gender identity spectrum (Department of Education 2024). This included issuing new Title IX rules requiring K–12 public schools and private and public colleges receiving federal funds to protect transgender students and students living on the gender identity spectrum from discrimination (Department of Education 2024).

Since the late 1930s, presidential power has evolved to permit presidential administrations to wield bureaucratic power to implement public policy initiatives without congressional approval. Presidential administrations increased the use of executive orders and the Administrative Procedure Act (APA) informal rulemaking to reinterpret federal law (Rosenbloom 2019). The executive order became the most frequently used tool for expanding presidential power beyond the authority granted by laws passed by Congress (Rosenbloom 2019). In the early 1980s, increased polarization in Congress led the presidential administration to rely more on executive orders and informal rulemaking to implement programs and policies that Congress refused to enact (Rosenbloom 2019). The argument that a president has the authority to implement public policy initiatives without congressional approval became the cornerstone of unitary executive branch theory. Unitary executive branch theory "contends that the president has sole final authority over administration in the executive branch of the federal government" (Rosenbloom 2019, 7). Unitary executive branch theory permits a presidential administration to reject the public policy initiatives of a prior administration. This includes denying the existence of people living on the gender identity spectrum. Referring to the actions of the second Trump administration, Blessett and Meyer (2025) write "[t]his administration will bring about unfathomable trauma, harm, and violence to transgender and gender expansive people" (5). "In just a short time, those institutionalized wins have all been erased, leaving families and communities unraveling at the seams," continues (Blessett and Meyer 2025, 5). Much like an earlier generation of social equity activists (Frederickson 1990), defenders of the rights of people on the gender identity spectrum find themselves forced to seek help from the federal judiciary to protect their institutionalized gains.

Administrative Evil and the Declaration of War against Gender Ideology

In the 2024 presidential campaign, former President Donald Trump used false allegations against transgender women to create moral panic among potential voters (Pepin-Neff and Cohen 2021). Scholars define moral panic as society reacting "with exaggerated fear or anger to a group, behavior, or issue that's seen as a threat to moral values or social order" (Frothingham 2025, para 1). Moral panics often "lead to stigmatization, harsher laws, or restrictions on certain groups, reflecting deeper social tensions rather than real threats" (Frothingham 2025, para 1). Because social media magnifies misinformation and moral outrage, moral panics spread much more rapidly today than in the past (Frothingham 2025). The moral panic over transgender people spread with remarkable speed because of the false narrative of transgender women as sexual predators and allegations that large numbers of children underwent gender-affirming procedures or took drugs to help them live lives consistent with their gender identity. According to the narrative, men claimed transgender status to gain access to bathroom and locker facilities reserved for biological women and to obtain unfair advantage over biological girls and women in competitive athletic events. The fact

that the second Trump administration ordered federal agencies to spread falsehoods regarding the behavior of people living on the gender identity spectrum made it much more difficult for advocates of the rights of people living on the gender identity spectrum to counter such falsehoods.

On July 10, 2025, for instance, the Office of Personnel Management (OPM) released updated guidance on how federal agencies must implement Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government (Ezell 2025a). Executive Order 14168 declared that two sexes exist in the United States: male and female. It announced that "the full power of the United States government will be used to enforce this two-gender policy across the United States" (Executive Order 14168 2025, 8615). The guidance memo directed federal agencies to place on administrative leave all employees "whose department or position description involves inculcating or promoting gender ideology," (2) to cancel any training related to gender ideology, (3) to require all agency documents to refer to sex and not gender, and (4) to assure intimate spaces such as bathrooms and locker rooms limit access to biological men and women (Ezell 2025a, 2). The memorandum sent a clear message that the second Trump administration would use all powers at its disposal to maintain support from its base by demonizing people living on the gender identity spectrum from discrimination. A deeply divided country made this strategy much easier to pursue.

The second Trump administration adopted a two-prong strategy for spreading the moral panic over so-called gender ideology. Prohibiting federal agencies from recognizing the existence of people on the gender identity spectrum constituted the first part of the strategy to spread moral panic over transgender people (see Table 1). Threatening to cut off federal funds or cutting off federal funds to public and private organizations recognizing the existence of a gender identity spectrum constituted the second part of the Trump administration's moral panic strategy (see Table 2). In adopting its two-prong "gender ideology" strategy, the second Trump administration recognized it lacked the resources to bring legal action against all public and private organizations that refused to comply with its "gender ideology" directives. For the strategy to be successful, private and public organizations needed to voluntarily capitulate to its demands (U.S. Department of Education 2025). The political power structure in conservative states quickly embraced the war on gender ideology. Public and private institutions in so-called blue states found themselves forced to decide whether to capitulate to the Trump administration's demands or to fight. During 2025, the federal judiciary found itself forced to rule whether federal law or the Constitution placed limits on President Trump's war against gender ideology.

Internal Restraints on Gender Identity Recognition and Federal Agencies

In 2025, the second Trump administration implemented eight types of restrictions on federal agencies recognizing people on the gender identity spectrum. First, it required federal agencies to take down any public health information related to gender identity. Second, it prohibited federal agencies from officially releasing any information recognizing the scientific legitimacy of the gender identity spectrum. Third, it imposed a gender identity gag rule on executive branch federal employees, prohibiting them from using preferred pronouns while performing their official duties. Fourth, it required federal facilities to designate restrooms, locker rooms, and other gender-segregated spaces based solely on an individual's sex assigned at birth. Fifth, it imposed a ban on transgender individuals in the military. Sixth, it banned gender-affirming care in Veterans Hospitals. Seventh, it banned gender affirming care in federal prisons. Eight, it prohibited the Department of State from issuing passwords reflective of the gender identity of passport holders (Table 1).

In response to EO 14168, the United States Office of Personnel Management (OPM) ordered the removal of LGBTQ health information from federal government websites (Enzell 2025b). It argued that such information promoted gender ideology. From January to early February 2025, federal agencies removed "8,000 web pages across more than a dozen U.S. government websites (Singer 2025, para 1). The Centers for Disease Control (CDC) and the Federal Drug Administration (FDA), for instance, took down thousands of web pages (Singer 2025). Health professionals argued that the purge of CDC and FDA websites created a "dangerous barrier to timely, transparent health information, putting public safety at risk" because "[i]nfection preventionists and other healthcare professionals rely on

Table 1. Prohibition on the Recognition of Gender Identity Within the Federal Executive Branch

Type of Gender Ideology Restriction	Stated Regulatory Authority for Gender Ideology Restriction	Legal Challenge to Gender Ideology Restriction	Relevant Cases
Removal of Gender Identity Public Health Identity Information from federal government web pages,	EO 14168 First Amendment Government Speech Exception	Reasoned Decision-Making Requirement of the Administrative Procedure Act	*Drs. for Am. v. OPM* (2025a) Order directing gender-related health information restored to federal web pages
Prohibition on federal agencies publishing or distributing any material recognizing gender identity	EO 14168 First Amendment Government Speech Exception	None Protected by the Government Speech Doctrine	None
Gender Identity Gag Rule on Federal Employees	EO 14168 United States Office of Personnel Management: Update Guidance E0 14168	None (Government Speech Doctrine and Viewpoint Discrimination)	None
Gender Ideology Purification and the Federal Workplace	EO 14168 United States Office of Personnel Management: Update Guidance E0 14168	None	None
Gender Ideology Purification and the Federal Workplace	EO 14168 United States Office of Personnel Management: Update Guidance E0 14168	None	None
Military Transgender Ban	EO 14183	Equal Protection Clause Reasoned Decision-Making Requirement and the Administrative Procedure Act	*Shilling v. United States* (Injunction granted) *United States v. Shilling* (2025). Injunction stayed by U.S. Supreme Court. *Talbot v. United States* (2026) U.S. App. LEXIS 15605 (The D.C. Circuit allows a District Court Injunction against the removal of current transfer service members to be enforced.)
Ban on Gender Affirming Care in Veterans Hospitals	EO 14168 Committed to Agency Discretion (Administrative Procedure Act)	Reasoned Decision-Making Requirement and Administrative Procedure Act	Litigation pending
Ban on Gender Affirming Care in Federal Prison	EO 14168 Committed to Agency Discretion (Administrative Procedure Act)	Reasoned Decision-Making Requirement and Administrative Procedure Act	*Kingdom v. Trump* (2025). Injunction granted.
Ban on the Department of State Issuing Passwords Consistent with the Gender Identity of Passport Holder	Committed to Agency Discretion (Administrative Procedure Act)	Reasoned Decision-Making Requirement and Administrative Procedure Act	*Orr v. Trump* (2025). Injunction granted *Trump v. Orr* (2025) U.S. Supreme Court stays District Court injunction.

these alerts for timely updates during infectious disease outbreaks, allowing them to implement critical risk reduction strategies that protect our communities and loved ones" (Association for Professionals in Infection Control and Epidemiology 2025, para 2).

Doctors for America (DFA) sued the Trump administration to force it to restore the removed web pages. On February 11, 2025, a U.S. District Court judge ordered the Trump administration to restore the web pages while the court considered the legality of the decision to remove the sites**.** To justify the injunction, the federal judge found that denying doctors vital public health information might prevent doctors from providing individuals treatment, including treatment for "severe, life-threatening conditions" (*Drs for America v. OPM* 2025, 56). The Trump administration complied with the injunction. In an act of defiance, the U.S. Department of Health and Human Services (HHS) placed the following disclaimer on each web page.

> Per a court order, HHS is required to restore this website as of 11:59 PM ET, February 14, 2025. Any information on this page promoting gender ideology is extremely inaccurate and disconnected from the immutable biological reality that there are two sexes, male and female. The Trump Administration rejects gender ideology and condemns the harms it causes to children, by promoting their chemical and surgical mutilation and to women, by depriving them of their dignity, safety, well-being, and opportunities. This page does not reflect biological reality and therefore the Administration and this Department rejects it. (*Doctors for America v. OPM* 2025b, *14–15).

Early in July 2025, the U.S. District Judge presiding over the case ruled that OPM lacked the statutory authority to order the removal of web pages in federal agencies (*Doctors for America v. OPM* 2025b). The U.S. District Judge also held that the removal of the web pages violated the Administrative Procedure Act's reasoned decision-making requirement. In *Motor Vehicle Mfrs. Assn's v. State Farm Mutual Automobile Ins. Co*. (1983), the U.S. Supreme Court created the reasoned decision-making test for discretionary actions taken by federal agencies. The reasoned decision-making test prohibited federal agencies from making significant shifts in public policy without providing a rational reason for doing so (Oydanich 2021). Because the CDC and the FDA lacked a valid reason for taking down the web pages, it constituted arbitrary and capricious conduct under the Administrative Procedure Act (APA). (*Doctors for Am. v. OPM* 2025b). The decision, however, did not block the Trump administration from converting the executive branch into an anti-gender ideology propaganda machine. The government speech exception to the First Amendment prevented the U.S. District Court from ordering the Trump administration to remove the hateful disclaimer.

The Government Speech Doctrine and Gender Ideology Propaganda

During 2025, the second Trump administration relied heavily on the government speech doctrine to defend its distribution of false information about individuals living on the gender identity spectrum to create moral panic surrounding people living on the gender identity spectrum (Hudson, Jr. 2025). The government speech doctrine empowers governments to engage in unregulated viewpoint discrimination, which includes the demonization of transgender women (Sinha 2024). When broadly construed, the government speech doctrine means that private individuals, organizations, and groups may not demand that the government stop engaging in viewpoint discrimination or require the government to post information that contradicts the government's viewpoint on public policy issues and controversies. The government speech doctrine, for instance, does not require the Trump administration to publish research dispelling myths regarding people living on the gender identity spectrum and specifically transgender women (Locantore and Wasarhaley 2019).

Executive Order 14168 states, "[e]fforts to eradicate the biological reality of sex fundamentally attack women by depriving them of their dignity, safety, and well-being. The erasure of sex in language and policy has a corrosive impact not just on women but on the validity of the entire American system" (Executive Order 14168, 8615). It also states, "[a]cross the country, ideologues who deny the biological reality of sex have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers. This is wrong" (Executive Order 14168, 8615). The government speech doctrine

permits a presidential administration to make use of federal agencies to spread information unsupported by research.

Constitutional scholars criticize the U.S. Supreme Court for permitting presidential administrations to use government speech to protect from judicial scrutiny blatantly false information (Kang and Eiser 2022). From this perspective, allowing the misuse of bureaucratic power undermines the nation's democratic institutions and trust in the federal government (Kang and Eiser 2022). As serious, research finds that such attacks cause severe psychological damage to transgender women (Lenning, Brightman, and Buist 2021). Individuals and interest groups face extreme difficulty in countering the myth of gender ideology (Conyers 2025; Pepin-Neff and Cohen 2021). If the U.S. Supreme Court continues to construe the First Amendment government speech doctrine broadly, advocates for protecting the rights of individuals living on the gender identity spectrum face a monumental challenge of finding effective ways to counter the moral panic created by gender ideology propaganda spread by the second Trump administration.

The First Amendment and Gender Identity Gag Rules on Federal Employees

Establishing a gender identity gag rule on federal employees (Table 1) constitutes the third strategy used by the Trump administration to combat so-called gender identity ideology (Demirjian 2025. In *Pickering v. Board of Education* (1968), the U.S. Supreme Court held that all public employees had a First Amendment right to speak out on matters of public concern if their speech did not unduly impact governmental efficiency. In *Garcetti v. Ceballos* (2006), the U.S. Supreme Court limited freedom of speech protection granted to public employees by *Pickering* by holding that public employees do not have any First Amendment protection when they speak as government employees while performing their official duties. Relying upon the precedent created by *Garcetti*, the OPM prohibited all federal employees from using preferred gender pronouns in any official government communications. It also required executive branch employees to opt out of email systems that prompt users for their pronouns (Ezell, 2025b). Of note, the U.S. Supreme Court in *Bostock v. Clayton County* (2022) reinterpreted Title VII of the 1964 Civil Rights Act to prohibit workplace discrimination based on sexual orientation and gender identity. *Garcetti* permits the federal government to enforce such a ban because the use of preferred gender pronouns occurs during an executive branch employee's performance of official duties. The *Bostock* decision, however, prohibits federal agencies from taking adverse actions against federal employees because of their gay or transgender status. Also, one may argue that the *Garcetti* decision does not permit a federal agency to prohibit a federal employee from publicly disclosing their gender identity status in social media posts or as part of membership in private organizations because, in those situations they speak as private citizens and not federal employees.

The Gender Ideology Purification of the Federal Workplace

The fourth strategy prohibits any recognition of the gender identity spectrum in the federal executive branch. In July 2025, the OPM issued a sweeping memorandum to eliminate any recognition of the gender identity spectrum in the federal workplace (Ezell 2025b). First, it directed all federal agencies to end programs that promote gender ideology. Second, it ordered federal agencies to place on administrative leave all employees who had duties that required that they promote gender ideology. Third, the OPM ordered federal agencies to cancel any employee training related to gender ideology. Fourth, the OPM ordered federal agencies to cancel any employee resource groups related to gender ideology. Fifth, the memorandum ordered that all agency-identification documents must refer to sex and not gender. Sixth, the OPM directed federal agencies to ensure bathrooms, locker rooms, and lactation rooms "are designated by biological sex and not gender identity" (Ezell 2025b, 2). Taken in their entirety, these gender ideology workplace mandates have a disastrous impact on federal employees living on the gender identity spectrum. They force federal agencies to abandon the progress they have made in recognizing the rights of federal employees living on the gender identity spectrum. Federal agencies may no longer operate programs to help these individuals with issues of importance to employees living on the gender identity spectrum.

Of equal importance, the federal government workplace gender ideology purification program sends a clear message to state and local governments that the Trump administration would support state and local govern-

ment employers rolling back gender identity workplace protections. Twenty-two states and Washington, DC, have explicit gender identity-based protections in employment discrimination laws" (Klar 2025, para 6). Many states do not.

Removal of Transgender Individuals from the United States Armed Forces

During 2025, the removal of transgender people from the military constituted the fifth strategy confronting so-called gender ideology (Executive Order 14183 2025). In 2021, President Biden directed the Department of Defense to allow transgender people to serve openly in the military. The action overturned a policy of the first Trump administration that banned transgender individuals from serving in the military (Garamone 2021). This reversal of policy touched off a legal challenge on the grounds that the action violated the Equal Protection Clause of the Fourteenth Amendment and the reasoned decision-making requirement of the APA. In *Shilling v. United States of America* (2025), a U.S. District Court blocked the Department of Defense from discharging transgender members of the military. In doing so, a U.S. District Court found that the plaintiffs would most likely prevail because the Trump administration had not presented any objective reason for the policy change and that the action constituted unconstitutional gender discrimination under the Equal Protection Clause of the Constitution (*Shilling v. United States* 2025). The U.S. District Court found that under Equal Protection Clause jurisprudence, classifications based on gender receive heightened judicial scrutiny. The U.S. District Court rejected the Trump administration's argument that ordered the discharge of individuals with gender dysphoria, which made them unsuitable for military service. The Trump administration took this action even though research indicates that gender dysphoria does not constitute a mental disorder. Accordingly, the Department of Defense only needed a rational basis for excluding transgender people from the military. Even if it had applied the rational basis test, the U.S. District Court found that the Department of Defense had not provided any rational reason for its action in violation of the reasoned decision-making requirement of the APA. The Trump administration appealed the action of the U.S. District Court to the U.S. Supreme Court instead of appealing the action to a U.S. Court of Appeals. Making use of the so-called shadow docket, the U.S. Supreme Court stayed the injunction (*United States v. Shilling* 2025). The action permitted the U.S. Department of Defense to proceed with the discharge of transgender members of the military while the issues of whether the action violated the Equal Protection Clause of the Fourteenth Amendment and the APA's reasoned decision-making rule worked their way through federal courts. The action led to speculation that a majority of the U.S. Supreme Court justices would uphold the authority of President Trump to ban transgender people from serving in the military. In early June 2026, the U.S. Court of Appeals for the District Court removed a stay of an injunction issued by the D.C. U.S. District Court blocking the removal of current transfer members of the military. The decision by the U.S. Court of Appeals for the District of Columbia allows the U.S. District Court's injunction to go into effect while the D.C. Circuit Courts consider challenges to the constitutionality of the transgender ban.

Denial of Gender Affirming Care at Veterans Hospitals and Federal Prisons

The sixth and seventh strategies for denying the existence of individuals living on the gender identity spectrum saw the .S. Department of Veterans Affairs (VA) and the federal prison system deny gender affirming care to clients and inmates. A U.S. District Court judge blocked the federal prison system from denying gender-affirming care to inmates (*Kingdom v. Trump* 2025). On March 17, 2025, "VA Secretary Doug Collins rescinded the policy, adopted in 2018, permitting the Veterans Administration to provide hormone replacement therapy for transgender veterans" (Yale Law School 2025, para 1). In June 2025, a veteran filed "a lawsuit in the United States Court of Appeals for Veterans Claims, charges that a decision was made without any legal basis and represents a denial of the care promised to the petitioner" (Shane III 2025, para 1). During the Biden administration, the Department of Defense offered gender-affirming care to veterans. In 2024, the Department of Veterans Affairs assigned the plaintiff "a 100% disability rating for post-traumatic stress disorder" (Shane III, 2025, para 1). She "then shifted her health care from Tricare to VA with the promise that her hormone therapy would continue uninterrupted" (Shane III 2025, para 1). It will take some time for the

U.S. Court of Appeals for Veterans Claims to determine the authority of the U.S. Department of Defense to deny gender affirming care to veterans, particularly those veterans already receiving gender affirming care.

The eighth action taken by federal agencies against individuals living on the gender identity spectrum saw the U.S. Department of State refuse to allow applicants for a passport to declare or change their gender designation from M to F or F to M and to use X to identify themselves as non-binary (Harmon 2025). A U.S. District Court blocked the implementation of the rules because the U.S. Department of State had not engaged in reasonable decision-making when it made the passport gender identity rule change (*Orr v. Trump* 2025). Responding to a request by the Trump administration to allow the new policy to go into effect, the U.S. Supreme Court stayed the injunction to allow lower federal courts to decide the legality of the U.S. Department of State's action (*Trump v. Orr* 2025). Again, the U.S. Supreme Court made use of the so-called shadow docket to block the Trump administration from implementing an action against people living on the gender identity spectrum.

A review of legal challenges to action taken by the second Trump administration to purge gender ideology from the day-to-day operations of federal agencies provides a mixed picture. Through 2025, some issues remained unresolved. It remains clear, however, that the First Amendment government speech doctrine places few restrictions on the second Trump administration from using federal agencies to distribute profoundly false propaganda about individuals seeking to live authentic lives on the gender identity spectrum.

External Censorship and the Regulation of Gender Ideology

The Trump administration adopted three strategies to expand its so-called gender ideology ban outside the federal government (Table 2). First, a sweeping campaign began to cancel or ban federal grants related to gender identity. Second, it threatened to strip K–12 public schools and private and public universities of federal funds if they continued to recognize the rights of transgender students to use restrooms and locker rooms consistent with their gender identity and to participate in sports consistent with their gender identity. Second, and most extreme, 2025 saw the Trump administration argue it had the authority to strip K–12 public schools of federal funds if they continued to adhere to state-mandated curriculum that recognized the existence of a gender identity spectrum. No prior presidential administration has asserted authority to censor state-mandated curriculum approved by state legislatures. Third, the Trump administration maintained it had the authority to deny federal funds to any private or public provider of health services if they continued to provide gender affirming care to minors (Dawson and Hulver 2025). The Trump administration recognized these actions would trigger legal action to block their implementation. Through 2025, the Trump administration used the litigation to demonstrate to Trump loyalists its commitment to protecting them from the threat to their way of life created by gender ideology, even though no such threat existed.

Shortly after the issuance of Executive Order 14168, the National Institutes of Health (NIH) cancelled all grants related to gender identity within the LGBTQ community (Grant Tracker 2025). To justify the cancellation of the grants, the NIH pointed to the language of Executive Order 14168 that defined gender identity as pushing gender as internally inconsistent with biology. Gender identity ideologues did so by maintaining the impossibility for a person "to be born in the wrong sexed body" (Executive Order 14168 2025, 8616). Furthermore, Executive Order 14168 defined gender identity as "a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex" (Executive Order 14168 2025, 8616). The Trump administration took the position that no scientific evidence existed to support the existence of a gender identity spectrum. Because of this argument, the Trump administration maintained it had no choice but to deny funding to any research on gender identity or transgender issues. If it did so, it would be funding rogue scientific research that lacked scientific merit. On its face, this argument lacked any credibility.

Historically, the NIH has utilized independent panels to assess the merit of research proposals, including those aimed at funding research of importance to members of the LGBTQ community. Experts in their fields determined the scientific value of research proposed by a qualified research team (Allen 2025). This research approval protocol has become the gold standard for funding research worldwide. To justify the grant

Table 2. External Enforcement of Gender Ideology Restrictions

Type of Gender Ideology Restriction	Stated Regulatory Authority for Gender Ideology Restriction	Legal Challenge to Gender Ideology Restriction	Relevant Cases
Cancellation of Gender Identity-Related Grants	EO 14168 Article II of the Constitution	Reasoned Decision-Making Requirement of the Administrative Procedure Act	*Am. Pub. Health Ass'n v. Nat'l Insts. of Health* (2025a) *Am. Pub. Health Ass'n v. Nat'l Insts. of Health* (2025b) *National Institutes of Health v. Am Pub. Health Ass'n* (2025) U.S. Supreme Court stays injunction. *San Francisco A.I.D.S. Found. v. Trump* (2025).
Prohibition on educational institutions receiving federal funds to allow transgender students to make use of bathrooms and locker rooms consistent with their gender identity or participate in sports consistent with their gender identity.	EO 14168 Article II of the Constitution	Reasoned Decision-Making Requirements of the Administrative Procedure Act Lack of Authority to Reinterpret Title IX	*Fairfax County School Board v. Linda McMahon* (2025) (Lawsuit dismissed). *United States of America v. Maine Department of Education* (2025)
Prohibition on educational institutions receiving federal funds from mandating a curriculum that acknowledges the gender identity spectrum.	EO 14190 Government Speech Doctrine	Reasoned Decision-Making Requirement of the Administrative Procedure Act Lack of Authority to Reinterpret Title IX Tenth Amendment Limit on Federal Regulation of Essential State Functions	Ongoing litigation over the authority of the U.S. Department of Education bans state K–12 curricula from recognizing a gender identity spectrum.
Prohibition against recipients of federal funds providing gender affirming care for minors.	EO 14187 Power of the Purse	Reasoned Decision-Making Requirement of the Administrative Procedure Act	*PFLAG v. Trump* (2025a). Injunction granted. *PFLAG. v. Trump* (2025b). Injunction stayed. Ongoing litigation over CMS proposed rules banning gender affirming care for youth by hospitals funded by Medicare, CHIPs, and Medicaid.

cancellations, the NIH director found that any grant involving LGBTQ research lacked scientific merit. The NIH also argued that the APA's "committed to agency discretion" prohibited judicial review of the grant cancellations (Sheffner 2020, 1–2).

Shortly after the NIH canceled the grants, the American Public Health Association (APHA) filed a lawsuit challenging the lawfulness of the NIH director's action. In late June 2025, a U.S. District Court ruled that the NIH violated the reasoned decision-making requirements of the APA and thus constituted arbitrary and capricious conduct (*American Public Health Ass'n v. National Institutes of Health* 2025a). The NIH then appealed the decision to the United States Court of Ap-

peals for the First Circuit. In July 2025, the First Circuit upheld the U.S. District Court's decision ordering the NIH to restore the grants. In doing so, the First Circuit found that the plaintiffs in the case would prevail and that the NIH engaged in arbitrary and capricious conduct when it canceled the grants. "To recap, the district court concluded that the Department's decisions rested on circular reasoning, included no explanation for the about-face in agency-wide policy, and entirely ignored significant reliance interests," stressed the First Circuit (*American Public Health Ass'n v. National Institutes of Health* , 2025b, *28). The First Circuit pointed to the requirement that the APA required "that agency action be reasonable and reasonably explained" to avoid having the agency's action classified as arbitrary and capricious (*American Public Health Ass'n v. National Institutes of Health* 2025b, *28). In a controversial action, the U.S. Supreme Court, by a vote of 5 to 4, allowed the NIH to continue with its cancellation of alleged gender identity-related NIH grants (*National Institutes of Health v. Am. Pub. Health Ass'n*, 2025). The action forced the plaintiff to pursue their legal arguments in the U.S. District Court and the First Circuit if they still wanted to force the NIH to restore grant funding. In a vigorous dissent, Justice Jackson argued "[i]t would have been much simpler for the Court to just announce that, regardless of the plain text of the APA or what Congress intended to authorize, we no longer accept that the Government's grant-termination decisions are subject to arbitrary-and-capricious review or that vacatur of an arbitrary grant-termination decision is an available remedy. At least that would have been straightforward" (*National Institutes of Health v. Am. Pub. Health Ass'n* 2025, 2670).

On June 9, 2025, another U.S. District Court held that the Trump administration violated several constitutional and statutory provisions by canceling a grant to a non-profit organization serving the LGBTQ community, including transgender individuals (*San Francisco A.I.D.S. Foundation v. Trump* 2025, *46). In a detailed analysis of the constitutional issues raised by President Trump's gender ideology orders, the U.S. District Court found that the non-profit would prevail on the Fourteenth Amendment Equal Protection, Fifth Amendment procedural due process, and First Amendment freedom of speech grounds. The U.S. District Court found that the gender ideology Executive Order sought to disapprove of transgender people and declare their existence as "unmoored from biological facts" and "false" (*San Francisco A.I.D.S Foundation v. Trump* 2025, 1217). The U.S. District Court rejected the U.S. Government's argument that the federal government speech doctrine granted it the authority to cancel grants to organizations that took positions on public policy issues that differed from those of the president. The First Amendment did not permit the Trump administration to do so. "These three funding provisions reflect an effort to censor constitutionally protected speech and services promoting DEI and recognizing the existence of transgender individuals. These provisions seek to strip funding from programs that serve historically disenfranchised populations in direct contravention of several statutes under which Plaintiffs receive funding" (*San Francisco A.I.D.S. Foundation v. Trump* 2025, 1200).

Through 2025, it remains unclear whether the Trump administration will prevail in its broad interpretation of the government speech doctrine, which holds that it need not fund research that conflicts with its clearly stated policy of blocking funding for grants related to alleged gender ideology. The outcome of this litigation will help to define the extent to which the federal courts, including the U.S. Supreme Court, embrace the unitary executive branch theory.

Limit the Rights of Transgender Students and Title IX

Executive Order 14201, "Keeping Men Out of Women's Sports," constituted the second strategy to stop the recognition of gender identity by internal organizations that received federal educational funds (Table 2). Executive Order 14201 directed federal agencies to cut off federal funding to public elementary, secondary, and post-secondary institutions that allow transgender girls to participate in girls' teams (Executive Order 14201 2025). To implement this strategy, the year 2025 saw the U.S. Department of Justice (DOJ) and U.S. Department of Education (DOE) begin administrative investigations of public and private schools for allowing transgender students to make use of restrooms and locker rooms and permitting transgender women to participate in sports associated with biological girls and females. The threat of Title IX enforcement proved an effective tool in persuading public and private schools to comply with Executive Order 14201. In early July 2025, for example, the University of Pennsylvania

agreed with the DOE to no longer allow transgender women to participate on sports teams typically reserved for biological female students (Gorman 2025; United States Department of Education, Office of Civil Rights 2025). As part of the agreement, the University of Pennsylvania also issued a public apology for allowing transgender women to participate in sports previously reserved for biological women, even though the Title IX regulation issued by the Biden administration had not prohibited private and public colleges and universities receiving federal funds from doing so.

The policy fight over using Title IX to protect the rights of students living on the gender identity spectrum from discrimination began with the presidency of Joe Biden. In 2024, the Biden administration became the first presidential administration to require that schools permit "individuals to participate in classes and activities, use bathrooms and locker rooms, and dress and groom themselves consistent with their gender identity" (National Women's Law Center 2024a, 2025b, para 1). In addition to its 2024 Title IX regulations, the Biden administration promoted "Transgender Day of Visibility, an annual celebration of the resilience, achievements, and joy of transgender people in the United States and around the world" (The White House 2021, para 1). Upon taking office in January 2025, the second Trump administration repealed Biden's 2024 Title IX amendments.

In late August 2025, two northern Virginia counties refused to abide by the DOE's interpretation of Title IX, requiring all school systems to stop allowing transgender students to make use of restrooms and locker rooms consistent with their gender identity (Hennessy 2025). In a complaint challenging the action by the federal government, Fairfax County argued that the DOE violated the reasoned decision-making requirement of the APA by reinterpreting the meaning of Title IX to prohibit school districts from allowing transgender students to make use of restrooms and locker rooms consistent with their gender identity (*Fairfax County School Board v. Linda McMahon* 2025). Fairfax County also stressed that the U.S. Supreme Court had not given Congress or the DOE the power to enforce unconstitutional conditions on state and local governments as a condition of receiving federal funds (*Fairfax County School Board v. Linda McMahon* 2025). In early September, a U.S. District Court refused to issue an injunction preventing the DOE from cutting some federal funds to Fairfax County, ruling that Fairfax County must bring the lawsuit in the U.S. Court of Claims to recover federal funds that it alleged the DOE had wrongly cut off (Rogers 2025).

On April 11, 2025, the DOJ filed suit against the Maine Department of Education for refusing to comply with the Trump administration's ban on transgender women participating in high school women's sports teams (Rabinowitz 2025; *United States of America v. Maine Department of Education* 2025). The DOJ complaint alleged that because President Trump repealed President Biden's Title IX regulations, the State of Maine openly violated President Trump's 2020 Title IX regulations. "Maine's legal response argues that Trump's executive order banning transgender girls and women from competing in female sports cannot alter or interpret federal law and had no authority to define the term 'sex' as biological sex rather than gender identity" (Bishop 2025, para 1). Through the end of 2025, the U.S. District Court for the State of Maine had yet to rule on the authority of the Trump administration to ignore the Biden administration's 2024 Title IX rules and reinstate the 2020 Title IX rules of the first Trump administration.

Public School Curriculum Censorship, Title IV, and the Government Speech Doctrine

Executive Order 14190, "Ending Radical Indoctrination in K–12 Schooling," constituted the third and most extreme example of the use of unitary executive branch theory to stop K–12 public schools from engaging in so-called gender ideology indoctrination of students, even though specifically authorized by state law (Executive Order 14190 2025). The argument that a president has the authority to dictate the curriculum of K–12 public education runs counter to hundreds of years of American history. Throughout American history, states have exercised sole authority to establish curriculum for public school students (Gordon 2025). Executive Order 14190 directed the DOE to eliminate federal funding "for illegal and discriminatory treatment and indoctrination in K–12 schools, including based on gender ideology and discriminatory equity ideology" (Executive Order 14190 2025, 8854). The Executive Order provided no examples of what constituted gender ideology indoctrination. On June 20, 2025, the Trump administration gave the State of California "60 days to strip all references to gender identity from a federally funded sex education program or risk losing its funding" (Vaziri 2025, para 1).

Late in August 2025, the DOE "canceled funding for a California sexual health education program serving homeless, foster care and incarcerated youth" (Navarro 2025, para 1). In September 2025, 16 states filed a federal court lawsuit against the "U.S. Department of Health and Human Services for threatening to withhold sex education funding from programs that reference 'gender ideology'" (Rush 2025, para 1; Smith, 2025, para 1). The states alleged in their complaint that the conditions imposed by the U.S. Department of Education (DOE) "violate federal law, the separation of powers and Congress' spending power" (Rush 2025, para 1). If the DOE carries through with its threat against the 16 states, they could collectively lose some 34 million dollars (Rush 2025).

To understand how the second Trump administration came to believe it could use the threat of cutting off federal grants to force states to modify their K–12 curriculum, one must look back at the evolution of government speech doctrine. In *Rust v. Sullivan* (1991), the U.S. Supreme Court upheld the authority of President G. H. W. Bush to prohibit recipients of federal family planning grants from discussing abortion as a family planning option (Lemieux 2024). The U.S. Supreme Court reasoned that family planning options had the freedom not to take federal money if they did not want to comply with the abortion gag rule. Family planning medical personnel sued, arguing that the gag order violated their First Amendment right to freedom of speech. The U.S. Supreme Court disagreed, explaining that Title X funds could not be used for abortion counseling. If family planning grant recipients wanted to counsel clients about abortion they could forgo Title X funds. The federal government did not have to fund private organizations that took a different position on abortion than the federal government. The scope of a program did not constitute the suppression of a particular point of view" (Lemieux 2024, para 1). The U.S. Supreme Court has limited the scope of the government speech doctrine in subsequent cases.

In *Legal Servs Corp v. Velazquez* (2001), a federal law that prohibited lawyers employed by Legal Services Corp-funded legal services clinics from representing clients seeking to challenge welfare laws that limited their access to benefits was found unconstitutional. The U.S. Supreme Court held that the law constituted unconstitutional First Amendment viewpoint discrimination (Knowles 2025). In *United States Agency for International Development v. Alliance for Open Society* (2013), the U.S. Supreme Court struck down a provision of United States Leadership Against HIV/AIDs, Tuberculosis, and Malaria Act of 2003 that "prohibited the government from making funds available to grant recipients that do not have a policy of opposing prostitution" (Legislative Attorney 2013, 1). Congress could not force recipients of grants to officially support the position of the federal government as a condition of receiving federal funds.

Denial of Gender Affirming Care by Recipients of Federal Funds

Executive Order 14187 directed federal agencies to cut off all federal grants to medical institutions that perform any gender-affirming care and procedures to minors (Executive Order 14187 2025, 8771). Many hospitals across the country voluntarily stopped providing gender affirming care for fear that they might lose federal funding. In *PFLAG v. Trump* (2025), a U.S. District Court blocked the federal government from cutting off funds to a nonprofit that provided gender affirming care (*PFLAG v. Trump* 2025). The U.S. District Court held that Congress might have the authority to do so, but the president did not. The United States Court of Appeals for the Fourth Circuit stayed the injunction until the U.S. Supreme Court ruled on the constitutionality of a Tennessee law that prohibited gender affirming care for minors. In *United States v. Skrmetti* (2025), the U.S. Supreme Court upheld the constitutionality of the Tennessee statute because a ban on a medical procedure for one gender did not trigger heightened scrutiny. Therefore, the U.S. Supreme Court found that Tennessee had a rational basis to ban gender affirming care for minors because of its finding that such care could harm minors. On December 18, 2025, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule that "would prohibit most Medicare and Medicaid-enrolled hospitals from providing specified gender affirming medical care for youth" (Dawson and Hulver 2025, para 1). CMS also issued a second proposed rule to prohibit federal Medicaid or CHIP funds from covering this care for youth (Dawson and Hulver 2025). A few days after the announcement of the two proposed gender affirming care rules, a coalition of 19 states filed suit "to block the Trump administration's plan to strip federal funding from hospitals providing gender-related

care for minors, a policy that would effectively shut down any health care providers that failed to comply" (Dawson and Hulver 2025, para 1).

Conclusion

Hope does exist that the federal judiciary will rise to the challenge of confronting this bigotry. Social equity scholars have devoted little attention to legal and constitutional barriers to the abuse of executive power to strip individuals living on the gender identity spectrum of institutionalized gains. Writing for the majority in *Department of Homeland Security v. Regents of the University of California* 2020 Chief Justice Roberts stressed that "State Farm teaches that when an agency rescinds a prior policy, its reasoned analysis must consider the "alternative[s]" that are "within the ambit of the existing [policy]"(Department of Homeland Security v. Regents of the University of California 2020, 1913). The rule established by the *State Farm* decision provides the federal judiciary with the authority to block many of the attacks against people living on the gender identity spectrum by the second Trump administration (*Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co.* 1983). The outcome of several legal challenges to President Trump's gender ideology initiatives will also rest on judicial interpretation of the government speech doctrine (Gaffney 2024; Kang and Eisler 2022; Pierce, Jr. 2020; Wiseman and Wright 2022).

In 1990, Frederickson recognized the key role of the federal judiciary in advancing social equity in public administration. From the 1950s through the 1980s, the federal judiciary led the way in forcing governments to recognize the fundamental rights of members of historically marginalized groups. Beginning in the 1980s, cultural, social, and political polarization helped to give birth to unitary executive branch theory (Rosenbloom 2019). The need to maintain support from culturally conservative voters led the second Trump administration to declare war on gender ideology, even though no evidence existed to support the existence of so-called gender ideology. To maximize the impact of his gender ideology crusade, President Trump made use of his executive power to prohibit federal agencies from recognizing the existence of a gender identity spectrum. The use of moral panic in the United States for political gains has a long history (Yousef 2025). It has taken time for defenders of people living on the gender identity spectrum to mobilize to fight back.

Blessett and Meyer (2025) argue that "public administration does not just have to be on the sidelines; instead, it can lead resistance against the persecution of the transgender community" (6). They also argue that to accomplish this objective, "public administration must do what it has never done before, work against the impetus to prioritize objectivity, neutrality, and efficiency in order to advance goals like equity, ethics, empathy, and engagement" (7–8). It must not make use of sitting on the sidelines as a strategy of self-preservation. By speaking out, the social equity movement faces the likelihood of retaliation from the second Trump administration. Throughout American history, those who have spoken out for civil liberties and justice have paid a high price for leading the resistance to bigotry. Rosenbloom argues that the discipline of public administration must take responsibility for helping to give birth to unitary executive branch theory. People living on the gender identity spectrum have fallen victim to the collapse of the rule of law (Rosenbloom 2019, 1). During 2025, many public and private organizations remained silent regarding the gender ideology crusade of the second Trump administration to avoid becoming a target of President Trump's gender ideology purge. This must stop. Public equity scholars must take every opportunity to openly protest the use of the federal executive branch to spread hateful messages attacking those living on the gender identity spectrum. This may require that social equity scholars develop an understanding of the complex legal and constitutional doctrines the federal judiciary can use to defend the rule of law against destruction. Frederickson clearly advocated this course of action (1990). The social equity reform movement can recognize that judicial oversight of the use of unitary executive branch theory may be the most effective way to protect the gains individuals living on the gender identity spectrum have made over recent years. Large numbers of Americans live in states that have enacted state laws limiting discrimination against people based on their gender identity. The second Trump administration seeks to use bureaucratic power to limit the rights of people living on the gender identity spectrum in all states and not just states culturally and politically inclined to do so. The federal judiciary has the power to stop this unconstitutional use of federal power.

Decades ago, Frederickson stressed the key role federal courts played in advancing social equity in public

administration. Federal courts faced down intense opposition to social equity reforms. The article argues that it will take some time for the federal judiciary to decide whether to limit the scope of President Trump's gender ideology crusade and require the second Trump administration to comply with the rule of law. The discipline of public administration refused to make social equity and the rule of law its foundations, much as it did with economy, efficiency, and effectiveness. People living on the gender identity spectrum find themselves paying a heavy price for this failure (Blessett and Meyer 2025).

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