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## **Supreme Court Rules that Title VII Protections Extend to LGBTQ Workers**

Cases have grappled with the scope of Title VII of the Civil Rights Act of 1964. Since its passage, many administrative agency and litigation cases have tackled the question of whether Title VII applies to workers who are lesbian, gay, bisexual, transgender, or queer (LGBTQ). On June 15, 2020, the *U.S. Supreme Court*, in a 6-3 opinion, ruled that the prohibition against discrimination on the basis of sex includes discrimination on the basis of gender identity and sexual orientation.

The landmark ruling confirms that individuals may bring suit against an employer if an employer fires or otherwise discriminates against them because of their sexual orientation or gender identity. If the employment decision about the worker was based, in part, on sexual orientation or gender identity, that in itself is enough legal justification for the employee to file a claim.

Justice Neil Gorsuch, writing for the court, stated that from the time of Title VII's adoption, "a straightforward rule emerges: An employer violates Title VII when it intentionally fires an individual employee based in part on sex." Applying this rule, the Court stated "it is impossible to discriminate

against a person for being homosexual or transgender without discriminating against that individual based on sex.”

## **Effects of the Supreme Court Ruling for Employers**

The effects of this ruling for employers will be most impactful in states that do not have statutes protecting LGBTQ workers. The ***Williams Institute of the UCLA School of Law*** estimates that nearly half of the 8.1 million LGBTQ workers in America currently reside in states that lack such protections. New Jersey has some of the strongest anti-discrimination laws in the country. The New Jersey Law Against Discrimination (NJLAD) already protects workers who are transgender or who do not appear traditionally feminine or masculine. Pennsylvania’s laws are not as broadly written, but the state Human Relations Commission issued guidance years ago that aligns with, but pre-dates today’s Supreme Court ruling. The ruling by the Supreme Court will likely be somewhat more significant on employers in the Keystone state, but the ultimate message to employers is that discrimination on the basis of sex, sexual orientation, or gender identity are prohibited.

## **Impact on Religious Institutions**

The court declined to address what impact the ruling would have on religious institutions. The Court did state that the ruling of the Court was not directed at religious institutions since the question was not raised. Additionally, the Court acknowledged the existence of the Religious Freedom Restoration Act and its prohibition on the federal government from burdening a person’s free exercise of religion unless there exists a compelling governmental interest. The Court stated that “because the RFRA operates as a kind of super statute, displacing the normal operation of other federal laws, it might supersede Title VII’s command in appropriate cases.” Courts in the past have upheld the decisions of religious institutions to follow the dictates of their beliefs when making employment decisions, even if the decision would otherwise be considered discriminatory on the basis of sex. The Court’s decision, however, does not make a ruling on that issue.



If you are an employer or religious institution with concerns about the latest Supreme Court decision regarding Title VII of the Civil Rights Act of 1964, contact the ***legal team*** at ***MacMain, Connell & Leinhauser***. We have experience guiding employers in all aspects of employment law, including discrimination and harassment. For an initial consultation, call us at ***484-318-7106*** or fill out our ***online***