

DESPITE LANDMARK SUPREME COURT RULING IN *BOSTOCK*, MUNICIPALITIES MUST CONTINUE TO ADVANCE EXPLICITLY LGBTQ-INCLUSIVE NON-DISCRIMINATION LAWS AND POLICIES

In June of this year, the Supreme Court of the United States issued a landmark ruling in *Bostock v. Clayton County, Georgia* confirming that sexual orientation and gender identity discrimination are prohibited under the sex-based employment protections of Title VII of the Civil Rights Act of 1964. This represents a major step forward for LGBTQ equality and has implications that ought to reach federal civil rights laws forbidding discrimination in all federal laws prohibiting sex discrimination, including education, health care, and housing. Despite this significant progress on the federal level, it is imperative that local governments continue enacting comprehensive non-discrimination protections that are expressly inclusive of both sexual orientation and gender identity.

Implementation of *Bostock* Beyond Employment

Opponents of LGBTQ equality have already begun executing legal strategies to attempt to stymie the full and proper implementation of *Bostock* beyond the federal employment context. Current federal civil rights laws contain sex-based protections in numerous areas, including education, housing, health care, credit, and jury service. Pursuant to the reasoning of

Bostock, LGBTQ people ought to be protected under these federal laws as well. However, due to the resistance of anti-equality officials and organizations, the full implementation of *Bostock* will likely require protracted litigation that could take years. While advocates continue the fight for *Bostock* to be correctly applied throughout all relevant federal civil rights law,

local governments have the ability to immediately protect residents from discrimination in many areas beyond employment. Localities should exercise the fullest extent of their legal authority to clearly and holistically protect the LGBTQ community without delay.

Limitations of Existing Federal Non-Discrimination Law

Importantly, *Bostock* only impacts areas of federal law where sex discrimination is already explicitly prohibited. Existing federal statutes do not outlaw discrimination on the basis of sex in public spaces and services as well as

all federally-funded programs. While advocates across the country continue to push for the passage of the federal Equality Act, which would remedy these deficiencies and fully codify *Bostock*, municipalities can and should extend

vital protections to LGBTQ people including in public accommodations, municipal services, and taxpayer-funded programs.

Local Non-Discrimination Laws Are Always Beneficial

Even when LGBTQ-inclusive protections exist at higher levels of government, local laws can provide many additional, invaluable benefits. This is why states and localities across the nation have enacted laws codifying and expanding protections that exist on the federal and state levels, respectively, for decades.

SCOPE

Even if federal and state protections already exist, local non-discrimination laws and policies can provide more expansive protections for workers, visitors, and residents. For example, federal employment non-discrimination law only covers employers that employ fifteen or more people. This excludes many workers of smaller employers all across the country.

ENFORCEMENT

Municipalities can and should create better, more accessible enforcement options for those who have been discriminated against. For instance, localities can create human rights commissions with the authority to enforce non-discrimination protections. These bodies provide additional avenues of redress that can resolve disputes more quickly and with significantly less expense than the judicial system. Moreover, local human rights commissions provide remedies for those who have been harmed by discriminatory practices but lack the resources to hire an attorney.

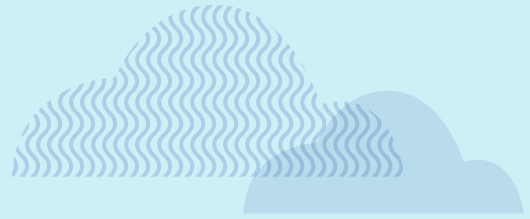
EDUCATION AND AWARENESS

The legislative process and implementation of local non-discrimination laws create significant opportunities for preventive anti-discrimination education and awareness. Additionally, local human rights commissions created by non-discrimination ordinances play an important role in regularly educating communities on the harms of prejudice and discrimination and the importance of diversity, equity, and inclusion.

ECONOMIC STRENGTH

As noted throughout this report, the enactment of strong, comprehensive, and fully-inclusive local non-discrimination laws is one of the strongest statements of a community's values. People in search of new places to live, visitors in search of leisure getaways, and businesses looking to begin or expand operations take heed. Localities that care enough to localize inclusive protections position themselves to attract new residents, visitors, and businesses who value diversity, equity, and inclusion.





Conclusion

Although *Bostock* represents a watershed victory in the fight for LGBTQ-inclusive non-discrimination protections, it does not signal the end of the struggle for full, comprehensive legal equality. The decision itself directly applies to federal sex non-discrimination protections in employment and does not automatically apply to sex non-discrimination protections under state and local law. While the only

correct implementation of *Bostock* requires immediate application to all other federal sex non-discrimination protections, anti-equality opponents are doing everything they can to prevent this from happening. Even when fully implemented, *Bostock* only applies to areas of existing federal law that expressly cover sex non-discrimination, which excludes important areas of life like access to public accommodations. Local officials are uniquely positioned

to engage the relatively quick-moving gears of municipal government to fill many of these gaps and offer LGBTQ people immediate comprehensive protections. Moreover, localizing protections that exist on higher levels of government provide opportunities for broader protections, more efficient and accessible enforcement mechanisms, preventative community education, and continued economic growth.



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