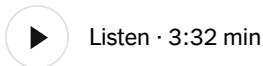


Employment Commission Says Agencies Can Restrict Bathroom Use by Sex

The ruling extends the Equal Employment Opportunity Commission's intervention on President Trump's gender and race priorities.



By **Rebecca Davis O'Brien**

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The Equal Employment Opportunity Commission said federal agencies can bar employees from using the bathroom that fits their gender identity, a decision with potentially far-reaching consequences for transgender rights in the workplace.

The decision released late Thursday shows the extent to which the commission, which enforces federal civil rights laws against employment discrimination, has been recast under Republican leadership and its chair, Andrea Lucas, as an extension of President Trump's executive authority and an enforcer of his agenda.

The decision opens with a line from Mr. Trump's executive order setting two immutable genders as U.S. policy. Federal law "permits a federal agency employer to maintain single-sex bathrooms and similar intimate spaces," the 2-to-1 majority wrote. "And it permits a federal agency employer to exclude employees, including trans-identifying employees, from opposite-sex facilities."

The commission's sole Democratic member, Kalpana Kotagal, issued a pointed dissent, describing the decision as rushed and legally suspect.

“The decision rests on the false premise that transgender workers are not worthy of the agency’s protection from discrimination and harassment and that protecting them threatens the rights of other workers,” Ms. Kotagal wrote. “Worse, it suggests that transgender people do not exist. That belief is contradicted by science and is not grounded in the law.”

The decision arose from a complaint made by an Army civilian IT specialist at Fort Riley, in Kansas, who had used male-designated bathrooms and locker rooms but in 2025 asked to use female bathrooms and locker rooms in keeping with her gender identity. Management rejected the request, citing the president’s executive order, and the complainant appealed.

While the E.E.O.C.’s primary role is to enforce federal civil rights laws in the private-sector workplace, it has some authority over complaints and appeals concerning the federal government.

Still, Thursday’s decision was ambitious. Neither Title VII nor the Supreme Court has defined “sex,” and the E.E.O.C. does not have authority to interpret the law. The majority of commissioners said it was doing so in this case “only because circumstances dictate we must.”

“There is an active controversy before us, and we cannot simply press the pause button to await authoritative guidance from the courts,” the decision read. “The appeal must be decided, one way or the other.”

Ms. Kotagal wrote, in her dissent, that the Supreme Court had “recognized the principles that underlie support for protections for transgender workers for decades.”

The decision also refers to the complainant as a male, saying: “A man who identifies as a ‘transwoman’ is still a man; a woman who identifies as a ‘transman’ is still a woman. Both may be excluded from opposite-sex bathrooms as such.”

Representative Mark Takano, Democrat of California and chair of the Congressional Equality Caucus, condemned the decision as a “slap in the face to every American who has faced discrimination because of their gender identity.”

He added: “Authorizing vigilante bathroom police doesn’t just endanger transgender people — it puts every girl and woman at risk, especially those who don’t fit Republican extremists’ idea of what women ‘should’ look like or act.”

Rebecca Davis O’Brien covers labor and the work force for The Times.

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