

Removal of Mentions of the Term "Gender" from HHS's Office for Civil Rights "Discrimination on the Basis of Sex" Webpage

Website Monitoring Mini-report

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The purpose of "mini-reports" is to inform journalists, experts, and the public about a reported or developing news story. A "mini-report" is a condensed version of one of the Web Integrity Project's [website monitoring reports](#), created on a rapid timeline to explain a narrowly scoped alteration, and is not a comprehensive analysis of a website.

Summary of findings and context: In the beginning of 2018, HHS's Office for Civil Rights' (OCR) "Discrimination on the Basis of Sex" page (Webpage 1) was altered to remove 10 mentions of the term "gender." These changes preceded [reporting](#) by *The New York Times* from October 21, revealing that HHS has internally circulated a memo that aims to legally redefine sex as an immutable trait determined by one's genitalia at birth, which would impact how OCR oversees Title IX's prohibition on sex discrimination in educational programs receiving federal financial assistance. WIP has previously detailed changes in language pertaining to sex discrimination on OCR's webpages about Section 1557 of the Affordable Care Act, which are documented in our [website monitoring report](#) and contextualized further in our [blog post](#).

Webpage 1:

Page title: Discrimination on the Basis of Sex

Page status: Altered (*this occurred between **February 26, 2018, 4:21 PM ET** and **March 5, 2018, 12:28 PM ET** according to WIP's website monitoring software. The Internet Archive's Wayback Machine versions of the page, which correspond to a wider time window due to sporadic captures of snapshots, are provided below*)

- Before: [September 16, 2017](#)
- After: [May 23, 2018](#)

URL: <https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html>

Description of change:

1. The phrase "discrimination on the basis of ... sex (**gender**)" has been altered to "discrimination on the basis of ... sex" in all 10 instances where it appeared on the page. These instances were found in the sections: "Education and Health Training Programs," "Specific Programs," and "Block Grants."
 - a. Parentheticals containing the term "gender" have been removed from the page. "(Gender)" no longer follows the term "sex" in mentions of "discrimination on the basis of ... sex."
 - b. The same alteration was made on the "Civil Rights for Individuals and Advocates" page to the text in a box with the "Sex" header, which links to this page (see versions before the change from [January 23, 2018](#) and after the change from [April 24, 2018](#)).
2. Currently, the page uses the term "gender" once in the following text: "On December 31, 2016, the U.S. District Court for the Northern District of Texas issued an opinion in

Franciscan Alliance, Inc. et al v. Burwell, enjoining the Section 1557 regulation’s prohibitions against discrimination on the basis of gender identity and termination of pregnancy on a nationwide basis.”

- a. The [Section 1557 regulation](#) states that HHS can prohibit forms of sex discrimination, including discrimination based on an individual’s sex, pregnancy, gender identity, and sex stereotyping.
- b. The text above describes an [injunction](#) that prohibits HHS from enforcing protections against discrimination on the basis of gender identity and termination of pregnancy.

Screenshot: A side-by-side comparison of a portion of the [September 16, 2017](#) and [May 23, 2018](#) versions of the page, as captured by the Internet Archive’s Wayback Machine. Red highlights indicate removed content.

Before	After

Note: Other pages on the OCR website, including the [“Disability Laws, Regulations, and Guidance” page](#) and the [“Laws and Regulations Enforced by OCR” page](#), have not been altered at the time of this report’s writing to remove similar instances of the “discrimination on the basis of ... sex (gender)” phrase.