

ANALYSIS: Did Obama finally thread the needle on gay rights and religious freedom?

by [David Gibson](#)

July 21, 2014

c. 2014 Religion News Service

(RNS) One of the toughest political calculations in Washington is balancing competing claims of gay rights with the traditional prerogatives of religious freedom. After a number of setbacks on that front, President Obama may have finally found a small patch of middle ground with today's move to bar federal contractors from discriminating on the basis of sexual orientation.

Obama's executive order shields gay, lesbian, bisexual, and transgender employees from discrimination by companies that do work for the federal government by adding sexual orientation and gender identity to long-standing protections from bias based on "race, color, religion, sex, or national origin."

Yet the action also leaves in place a 2002 order signed by President George W. Bush that gives religious groups with federal contracts some leeway by allowing them to use religious beliefs as a criterion in making hiring and firing decisions; as a candidate in 2008 Obama pledged to overturn that exemption.

At the same time, Obama did not expand the exemption to explicitly allow religious groups that receive federal funds to use sexual orientation as grounds for hiring and firing, as some demanded.

The result was a split-the-baby solution that largely pleased Obama's gay rights supporters while mollifying some religious critics and leaving enough ambiguity to blunt the opposition of more hard-line foes.

"If President Obama were an Olympic diver, he would have just scored very high for his flawless performance of a double flip," wrote *National Catholic Reporter* columnist Michael Sean Winters.

It's still unclear whether this compromise will help the White House avoid another costly controversy over religious freedom just weeks after the Supreme Court ruled against the administration's contraception mandate in the Hobby Lobby case.

But initial reactions to Monday's executive order indicated the issue may not necessarily become another flashpoint in the culture wars.

For example, Michael Wear, a former White House official who served as a liaison to the evangelical community, said he was "encouraged" that the president's action both advanced LGBT rights and respected "the religious identity of organizations serving our nation in partnership with the federal government."

Earlier this month, Wear helped organize a letter signed by a range of religious leaders that urged Obama to expand the religious exemption when he issued his executive order. Although Obama rejected that option, Wear said the outcome "was precisely the hope and request of our letter to the president."

That view was echoed by another signatory, Stephen Schneck, head of the Institute for Policy Research & Catholic Studies at Catholic University of America, who said the White House "has left open a path that religious groups can work with."

A separate letter from more than 100 liberal religious leaders, sent to Obama a week later, had taken a different tack by urging the president not to expand the religious exemption to allow discrimination against LGBT workers by faith groups who take federal dollars.

Those signers were generally pleased with Monday's decision, though many were dismayed that Obama left the Bush-era exemption intact.

"No forms of discrimination should be supported with the taxpayer dime, period," said the Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State.

Some of Obama's conservative foes were either noticeably silent or their criticisms were somewhat hedged. That's because Obama maintained the Bush-era exemption, and because "we don't know the full implications of this executive order," as Russell Moore, the public policy point man for the Southern Baptist Convention, said in a statement.

Moore and others were certainly not thrilled with Obama's move—"I am disappointed that this administration persistently violates the freedom of conscience for religious organizations," he said—but there was a sense that Obama had found a workable compromise, at least on this particular issue.

Don't expect the relative quiet to presage a wider truce, however.

A bill to bar bias against LGBT employees in nearly all workplaces, known as the Employment Non-Discrimination Act has passed the Senate but is stalled in the House with little prospect of success.

Some gay rights supporters have withdrawn their support for the bill because they say its religious exemption is too broad, while gay rights opponents argue that the protections for LGBT workers aren't needed and could still infringe on religious freedom.

As Lanae Erickson Hatalsky, director of social policy for the center-left think tank Third Way, told *The Atlantic*: "The religious exemption debate has now been polarized to the point where people are saying, 'All or nothing.'"