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## Fact Sheet: Executive Orders

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The president can unilaterally make law through an Executive Order. That is, the president need not obtain congressional approval to issue an Executive Order, although Executive Orders have legal weight as laws duly enacted by Congress. The Executive Order authority is derived from the President's [constitutional position as Chief Executive](#). An Executive Order has the force of law, although it may be overturned by Congress or successfully challenged in court. Other executive actions also have the force of law, including Executive Memoranda, Directives, or Proclamations. Executive Orders are the most formal type of executive action: they must be numbered, they are published in the Federal Register, they must provide the authority under which the president is acting, and they therefore take legal precedence over other executive actions. For more information on the impact of President Trump's recent Executive Order on the ACA, see NHeLP's fact sheet on the ACA Executive Order Authority.

An Executive Order can:

- Overturn or supersede any previous Executive Order;
- Structure executive offices or agencies;
- Convey the President's policy position on an issue area where Congress has not acted;
- Take or refrain from a particular action within the scope of the President's authority;
- Provide federal agencies or officials with guidance as to scope and timing of an action, within the scope of their authority; and
- Give federal officials direction as to when and how the law should be enforced.

An Executive Order cannot:

- Violate constitutional rights;
- Reverse a law duly enacted by Congress;
- Undo regulations that have been promulgated according to the Administrative Procedures Act;
- Withdraw guidance put out by a federal agency or official;
- Exceed the authority of the Executive Branch delegated to it by Congress, or ultimately, the Constitution; or
- Be incompatible with federal statute or the Constitution.