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## Four LGBT FAQs in the Trumpocalypse



By Michele Karlsberg

Elizabeth Schwartz, the Miami family and estate attorney who helped win marriage equality in Florida, could not have had her book *Before I Do* published at a better time. Protecting our rights is more important than ever in the Trumpocalypse.

Below, Schwartz answers four questions concerning key LGBT issues.

### 1: Marriage Equality

Will my marriage be valid after January 20? Should my partner and I hurry to get married?

Legally married couples will continue to be married. If you are married legally anywhere, you are married here. If you are not married, you need not rush to get married. While in many ways, Inauguration Day will be the beginning of major difficulties for us all, it will not mean the end of the freedom to marry. If you do decide to get married, please be informed about the legal consequences of marriage. Familiarize yourself with the points my book raises, and look before you leap. Importantly, having in place a will and clear advance directives for your health care is important for everyone and continues to be important for LGBT people, even married couples.

### 2: Immigration

Can I get deported?

It takes a long time for a president to change the law and he can't do so unilaterally, so seeking asylum based on sexual orientation or gender identity, or getting a green card based on family status (such as marriage), cannot change any time soon. However, DACA is in jeopardy, so if there is a "Dreamer" amongst you, seek competent counsel. Also, do so if there is a complication like overstaying, a criminal history, or entry into the U.S. without inspection. See whether marriage would help adjust status so, if the threats of mass deportation repeatedly made by the president-elect during his campaign are carried out, you're protected. Know that having a pre-nuptial agreement does not compromise the integrity or legality of your marriage.

### 3: Transgender Issues

Is there a reason to rush and complete my name and gender marker changes?

A new president cannot impact the process of getting name and gender marker changes with court orders in state courts. While changes in driver's license and birth certificates are governed by state law, passports and social security cards are federal documents. If you were planning on making those changes now is a good time to do so in the event that current streamlined policies President Obama put in place are eliminated.

### 4: Parents

Can a new president impact my parental rights?

Adoption is governed by state law, not federal law. A new federal government won't then erase protections your family has in place. If you are parents, however, it is now more important than ever to obtain confirmatory adoptions, even if you are married. The right to marriage equality may be enshrined across the country, but how that marriage impacts parental rights is decidedly not universal. An adoption or parentage order that confirms your parental rights is strongly suggested, even if you are both already on the child's birth certificate. *Before I Do* has a substantial section on what parents should do to protect themselves and their children.

*Elizabeth Schwartz is an attorney, author of Before I Do: A Legal Guide to Marriage, Gay and Otherwise (The New Press, 2016), co-chair of the national board of SAGE and a member of NCLR's National Leadership Council and National Family Law Advisory Council.*

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