



PROPOSED ACTION
MEMORANDUM

Advancing Health Equity Under Section 1557

Department of Health and Human Services
December 2020

I. Summary

By extending federal civil rights protections to federally funded or federally administered health programs and activities, Section 1557 of the Affordable Care Act (ACA) provides a powerful tool to advance health equity and end discrimination against vulnerable populations. Section 1557 has expanded access to care and coverage for many. But uneven implementation and litigation has hindered its effectiveness.

This memorandum proposes that (i) the Department of Health and Human Services (HHS), in close coordination with the Department of Justice (DOJ), develop a multi-agency “common rule” to further implement Section 1557, and (ii) HHS revise its Section 1557 implementing rule. These changes should be adopted using notice-and-comment rulemaking. Rulemaking could help avoid adverse legal decisions in ongoing litigation over Section 1557. HHS should also leverage its ability to issue guidance, conduct investigations, and enforce Section 1557’s protections.

Because Section 1557 is a broad statute with far-reaching consequences, HHS’s implementing regulations are equally broad and touch on a range of topics. Given this scope, this memorandum does not identify the precise policy proposals that HHS or other agencies should adopt in promulgating a common rule or revising the current rule. But, in general, many changes are needed to reverse the current rule and build upon the protections included in the Obama-era rule.

II. Justification

Equal access to health insurance and health care is critical for historically marginalized and vulnerable populations, such as people of color, LGBTQ people, immigrants, people with limited English proficiency, and people with disabilities. These communities have long faced discrimination, bias, stigma, substandard care, and the denial of care at the hands of health insurers and health care providers. These barriers, in turn, contribute to alarming health disparities in areas such as maternal mortality, cardiovascular disease, HIV, substance use, mental health, and cancer screening.

Section 1557 has helped improve access to care and coverage for many individuals and communities. But discrimination remains deeply entrenched in our health care system, and additional efforts are needed to ensure that Section 1557 fulfills its goals of prohibiting discrimination, addressing health disparities, and advancing health equity. These needs are even more urgent in light of the pandemic.

III. Current State

Section 1557 is the ACA’s primary nondiscrimination provision and prohibits discrimination on the basis of race, color, national origin, sex, age, and disability by incorporating four long-standing federal civil rights statutes.¹ As a health care civil rights statute, Section 1557’s reach extends beyond the ACA’s other provisions to regulate private health insurers and expand state Medicaid programs.

¹ 42 U.S.C. § 18116 (incorporating Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973).

Section 1557 is one of the few provisions that went into effect on March 23, 2010, the day the ACA was signed into law. In advance of final implementing regulations, HHS issued a request for information,² released interpretive guidance,³ took enforcement action,⁴ and resolved complaints consistent with its interpretation of Section 1557.⁵ These actions culminated in final implementing regulations in May 2016 (2016 Rule).⁶

Shortly after the 2016 Rule was finalized, a group of plaintiffs led by the Franciscan Alliance and Republican attorneys general, led by Texas, challenged the 2016 Rule's interpretation of discrimination "on the basis of sex" (which HHS defined to include discrimination based on "gender identity" and "termination of pregnancy") and the failure to include a religious exemption modeled after Title IX's religious exemption. Judge Reed O'Connor of the Northern District of Texas issued a nationwide preliminary injunction to halt enforcement of those parts of the 2016 Rule, concluding that HHS's interpretation of "on the basis of sex" and its failure to include Title IX's religious exemption violated the Administrative Procedure Act (APA) and Religious Freedom Restoration Act (RFRA).⁷ Similar challenges were filed in North Dakota but stayed in light of the Texas ruling.⁸

Instead of appealing the decision, DOJ requested a stay and the rule was remanded to HHS. HHS reported to the court for more than one year that it was in the process of preparing a proposed rule. Given this delay, Judge O'Connor agreed to let the litigation resume, and DOJ joined the plaintiffs in arguing that the challenged parts of the 2016 Rule were unlawful. Judge O'Connor then vacated and remanded the 2016 Rule back to HHS for revision.⁹

Despite the plaintiffs' request, Judge O'Connor did not issue a permanent injunction against the challenged provisions, concluding that an injunction was not necessary in light of vacatur. The private plaintiffs appealed this decision to the Fifth Circuit Court of Appeals (Fifth Circuit) where the litigation is ongoing. In the meantime, the plaintiffs in the North Dakota challenges asked to resume litigation and requested permanent injunctive relief.¹⁰

HHS issued a revised rule on Section 1557 in June 2020 (2020 Rule).¹¹ This rule attempted to eliminate major components of the 2016 Rule and to rewrite the scope of Section 1557's protections. HHS received more than 198,000 comments on the proposed rule with many arguing that the rule is inconsistent with the ACA, will harm vulnerable populations, and will erode civil rights protections.¹² Even so, the 2020 Rule was virtually unchanged from the proposed rule and went into effect in August 2020.

To date, there have been at least five challenges to the 2020 Rule: two in New York, one in D.C., one in Massachusetts, and one in Washington State.¹³ Of these, two courts—one in New York and one in D.C.—issued nationwide preliminary injunctions against the LGBTQ-specific changes to the 2020 Rule.¹⁴

² 78 Fed. Reg. 46558-60 (Aug. 1, 2013).

³ E.g., HHS, Letter to Maya Rupert, OCR Transaction Number 12-000800 (Jul. 12, 2012), <https://perma.cc/RB8V-ACZU>.

⁴ E.g., Timothy Jost, Implementing Health Reform: Recent Reports Present Conflicting Pictures of ACA Implementation, Health Affairs Blog (Jul. 17, 2015), <https://www.healthaffairs.org/doi/10.1377/hblog20150717.049396/full/>.

⁵ E.g., Sharita Gruberg & Frank J. Bewkes, The ACA's LGBTQ Nondiscrimination Regulations Prove Crucial, Center for American Progress (Mar. 7, 2018), <https://www.americanprogress.org/issues/lgbtq-rights/reports/2018/03/07/447414/acas-lgbtq-nondiscrimination-regulations-prove-crucial/>.

⁶ 81 Fed. Reg. 31375-73 (May 18, 2016).

⁷ *Franciscan Alliance v. Burwell*, 227 F. Supp. 3d 660 (N.D. Tex. 2016).

⁸ See *North Dakota v. Azar*, No. 3:16-cv-00386 (D. N.D. 2016).

⁹ *Franciscan Alliance v. Azar*, 414 F. Supp. 3d 928, 946-47 (N.D. Tex. 2019). Citing the rule's severability clause, Judge O'Connor vacated only these parts of the rule; the rest of the Obama-era regulation remained in place.

¹⁰ E.g., *North Dakota*, No. 3:16-cv-00386, Document 103 (D. N.D., Nov. 23, 2020).

¹¹ 85 Fed. Reg. 37160-248 (Jun. 19, 2020).

¹² See, e.g., Katie Keith, HHS Strips Gender Identity, Sex Stereotyping, Language Access Protections from ACA Anti-Discrimination Rule, Health Affairs Blog (Jun. 13, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200613.671888/full/>.

¹³ See Katie Keith, Another Court Vacates LGBTQ-Specific Rollbacks From New 1557 Rule, Health Affairs Blog (Sep. 4, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200904.528322/full/>.

¹⁴ *Whitman-Walker Clinic v. HHS*, 2020 WL 5232076 (D.D.C. Sep. 2, 2020), *appeal docketed*, No. 20-5334 (D.C. Cir. docketed Nov. 9, 2020); *Walker v. Azar*, 2020 WL 4749859 (E.D.N.Y. Aug. 17, 2020), *appeal filed* (2d Cir. filed Nov. 10, 2020).

HHS's failure to consider or await the Supreme Court's decision in *Bostock v. Clayton County, Georgia*—issued mere days after the 2020 Rule was released and before publication in the *Federal Register*—was arbitrary and capricious under the APA. In the D.C. lawsuit, the district court found that the plaintiffs had standing to challenge some non-LGBTQ parts of the 2020 Rule—such as the elimination of tagline requirements—but that they were unlikely to succeed on the merits of those claims. HHS appealed the decisions to the Second Circuit Court of Appeals (Second Circuit) and the D.C. Circuit Court of Appeals (D.C. Circuit). A third court in Washington State held that the state attorney general did not have standing to sue and dismissed the challenge.¹⁵

Two lawsuits remain pending: one brought by a coalition of Democratic attorneys general led by New York, California, and Massachusetts; and another by LGBTQ advocates in Massachusetts.¹⁶ Briefing is ongoing in both cases, with a summary judgment ruling expected in the New York litigation soon.

IV. Proposed Action

HHS, in close coordination with DOJ, should develop a multi-agency “common rule” to implement Section 1557, and HHS should amend 45 C.F.R. Part 92 et seq. to revise its 2020 Rule. HHS should use notice-and-comment rulemaking with a sixty-day comment period. New rulemaking will be particularly important to addressing much of the ongoing litigation over the 2020 Rule.

As noted above, this memorandum does not identify the policy proposals that HHS should adopt in issuing a common rule and revising the 2020 Rule. But civil rights advocates, disability rights advocates, immigration rights advocates, and others will urge a new administration to take swift action. Key issues to address include: the scope of Section 1557¹⁷ and the need for comprehensive data collection;¹⁸ more robust protections regarding sex nondiscrimination,¹⁹ disability nondiscrimination,²⁰ race and ethnicity nondiscrimination;²¹ and enforcement of these protections.²²

HHS and DOJ Should Advance Government-Wide Implementation of Section 1557

One important way to advance health equity beyond the 2016 Rule—and underscore the administration's commitment to nondiscrimination—would be for HHS, in close coordination with DOJ and participating agencies, to develop a common rule to implement Section 1557. This common rule would build upon, not disturb, HHS's implementing regulations by explicitly extending the application of Section 1557 to health programs and activities that are administered by or receive federal funding from agencies *other than* HHS.

¹⁵ *Washington v. HHS*, 2020 WL 4788019 (W.D. Wash. Aug. 18, 2020).

¹⁶ See *New York v. HHS*, No. 1:20-cv-5583 (S.D.N.Y. 2020); *Boston Alliance of Gay, Lesbian, Bisexual and Transgender Youth v. HHS*, No. 1:20-cv-11297 (D. Mass. 2020).

¹⁷ Advocates will ask that Section 1557 apply to all recipients of federal funds (such as those with 15 or fewer employees) and all employees and subcontractors of covered entities.

¹⁸ Advocates will urge HHS to require covered entities to collect comprehensive demographic data in federally administered health programs and activities.

¹⁹ Advocates will push for a definition of “sex” that includes sexual orientation and gender identity as well as an updated discussion of transition-related care for transgender people.

²⁰ Advocates will push to ensure that disability nondiscrimination is addressed equally with other protected classes and to require the provision of accessible medical equipment for people with disabilities.

²¹ Advocates will urge HHS to require translation of vital documents, define “significant communication” for purposes of taglines, and mandate outreach and education to individuals with limited English proficiency beyond notices.

²² Advocates will urge HHS to clarify that Section 1557 provides a private right of action for disparate impact claims, revisit requirements regarding the exhaustion of administrative remedies, prohibit binding arbitration for complaints, and require annual reports on complaint data.

A common rule is appropriate, given the sweeping scope of Section 1557. The statute applies broadly to “any health program or activity, any part of which is receiving Federal financial assistance ... or under any program or activity that is administered by an Executive Agency or any entity established” under Title I of the ACA. This includes federally funded health programs or activities, whether those programs or activities are funded by HHS or not. Indeed, many agencies—such as the Office of Personnel Management and the Department of Veterans Affairs—fund or administer health programs and activities. Despite this clear statutory language, HHS declined to extend the scope of its implementing regulations to these agencies in the 2016 Rule,²³ and tried to restrict further the scope of Section 1557 in the 2020 Rule to only programs and activities administered or established under Title I of the ACA.²⁴

A common rule would (i) confirm, consistent with the text of the statute, that Section 1557 applies to health programs and activities funded or administered by non-HHS agencies, (ii) provide guidance to covered entities, and (iii) promote consistent enforcement of Section 1557. HHS previously encouraged “expeditious implementation of Section 1557 by other departments,” and the Office for Civil Rights sent a memorandum encouraging the coordination of enforcement responsibilities to all federal agencies in November 2015.²⁵ A common rule would build on these prior efforts, which have not gone far enough.

Ideally, the DOJ, in close coordination with HHS, would lead the multi-agency effort to develop a common rule. The DOJ has significant experience with this type of coordination, and has long been tasked with ensuring consistent and effective implementation of federal civil rights laws in programs and activities that receive federal financial assistance.²⁶ Among other activities, DOJ has spearheaded common or coordinating rules and guidance to enforce Title IX and Title VI, both of which are incorporated by Section 1557.²⁷

One question is whether DOJ could be the lead agency in issuing a common rule. Section 1557(c) delegates implementing authority to HHS, stating that the Secretary of HHS “may promulgate regulations to implement” Section 1557. This authority differs from other federal civil rights statutes, such as Title VI and Title IX²⁸ because Congress expressly delegated authority to HHS to implement Section 1557. This authority should not, however, be read to limit the scope of Section 1557 or the ability of other agencies, including DOJ, to adopt rules to implement the statute.

If DOJ cannot lead a common rule joined by other participating agencies, HHS should do so, but in close coordination with DOJ. There is precedent for doing so. HHS has, for instance, developed a common rule on standards for research involving human subjects.²⁹ The common rule adopts standard provisions while confirming that the head of each participating agency is responsible for determining whether a particular activity it conducts or supports is covered by the common rule. This common rule was codified in separate

²³ 81 Fed. Reg. at 31379 (“While the rule recognizes that Section 1557 itself applies to health programs and activities receiving Federal financial assistance from other Departments, we decline to extend the scope of the rule to health programs and activities receiving Federal financial assistance from other Departments.”).

²⁴ 85 Fed. Reg. at 37170-71 (limiting the 2020 Rule’s application in the context of HHS-administered programs or activities to only those administered under Title I of the ACA).

²⁵ 81 Fed. Reg. at 31379 (“We agree that expeditious implementation of Section 1557 by other Departments is desirable, and hope that the Department’s final rule will inform enforcement of Section 1557 by other Departments with respect to their federally assisted health programs and activities.”); *see also* HHS, Memo re: Enforcement Responsibilities Under Section 1557 of the Affordable Care Act (Nov. 5, 2015), https://www.hhs.gov/sites/default/files/2015_11_04_fed_civil_rights_section_1557_memo_508.pdf.

²⁶ *See, e.g.*, Exec. Order No. 12250 of November 2, 1980, 45 Fed. Reg. 72995-97 (Nov. 4, 1980); *see also* Exec. Order No. 13166 of August 11, 2000, 65 Fed. Reg. 50121-22 (Aug. 16, 2000); Exec. Order No. 13160 of June 23, 2000, 65 Fed. Reg. 39775-78 (Jun. 27, 2000).

²⁷ The DOJ coordinated a common rule to implement Title IX alongside 19 participating agencies, including the Departments of Commerce, State, Housing and Urban Development, Defense, and Veterans Affairs and the Federal Emergency Management Agency. 65 Fed. Reg. 52857-95 (Aug. 30, 2000). DOJ also developed regulations and guidelines to coordinate enforcement of Title VI and guidance on discrimination against persons with limited English proficiency. *See* 28 C.F.R. § 42.401 et seq.; 28 C.F.R. § 50.3.

²⁸ *See* 42 U.S.C. § 2000d-1; 20 U.S.C. § 1682. Title VI and Title IX direct each federal departments or agencies to issue rules, regulations, or orders to implement the statute but bar those rules from going into effect until approved by the President. The President delegated the authority to approve such rules under Title VI and Title IX to the Attorney General in Executive Order 12250.

²⁹ *See, e.g.*, 83 Fed. Reg. 28497-520 (Jun. 19, 2018); *see also* HHS, Federal Policy for the Protection of Human Subjects (“Common Rule”) (last reviewed Mar. 18, 2016), <https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html>.

regulations by fourteen other federal agencies, including the Departments of Commerce, Labor, Education, and Veterans Affairs. HHS could consider a similar framework for Section 1557.

Even if HHS is the lead agency, DOJ may be best positioned to coordinate the multi-agency effort needed to develop the common rule. In addition to its experience and expertise in coordinating enforcement of federal civil rights statutes across agencies, DOJ has more capacity than HHS to lead this effort and ensure that consistent regulations are adopted across federal agencies. Coordination by DOJ is important to help minimize burdens on regulated entities, ensure consistent training of civil rights staff, and promote uniform and consistent implementation of precedent such as *Bostock* across agencies.

The need for government-wide adoption of Section 1557 calls for a coordinated approach led by HHS and DOJ. Absent a robust common rule or multi-agency effort, HHS should expand the scope of its existing regulations to explicitly require compliance with Section 1557 by other agencies.

HHS Should Revise Its Implementing Regulations on Section 1557

Legal Authority. HHS has the clear legal authority to amend 45 C.F.R. Part 92 et seq. and revise the 2020 Rule. In addition to express implementing authority under Section 1557(c), HHS can (and has) relied on its “housekeeping” authority to prescribe regulations for its own governance, conduct, and performance.³⁰ This includes the application of Section 1557 to HHS-administered health programs and activities.³¹

A Revised Interpretation. Amending the Section 1557 implementing regulations would undoubtedly be permissible, and the rules have been interpreted by both the Obama and Trump administrations. Even prior to the 2016 Rule, the Obama administration issued guidance, took enforcement action, and provided training to covered entities, consistent with its interpretation of Section 1557.

HHS can change a prior interpretation so long as the interpretation is “rational, based on consideration of the relevant factors and within the scope of the authority delegated to the agency by the statute.”³² Policy changes are permissible and expected, and agencies can reconsider prior interpretations of statutory ambiguities to reflect new circumstances or a change in policy preferences.³³

In adopting a revised interpretation, HHS must explicitly acknowledge changes in position, offer a reasoned explanation that directly addresses why it is changing its interpretation, consider alternatives (including maintaining the current interpretation), and address the effect on any reliance interests that would be affected by reversing prior policy (identifying such interests and explaining how they’ve been taken into account, or why it isn’t appropriate to do so).³⁴ This must be done for each part of the 2020 Rule that HHS is revising. Though an agency need not provide a more detailed justification than what would suffice for a new policy, doing so is required if the “new policy rests upon factual findings that contradict those which underlay its prior policy” or the “prior policy has engendered serious reliance interests.”³⁵

³⁰ See 5 U.S.C. § 301.

³¹ See 85 Fed. Reg. at 37244 (citing 5 U.S.C. § 301); 81 Fed. Reg. at 31376 (citing 5 U.S.C. § 301).

³² *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (internal quotations and citations omitted). Agencies cannot, however, rely on factors that Congress did not intend for it to consider, fail to consider an important aspect of the problem, offer an explanation that runs counter to the evidence, or adopt a position that is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *Id.* at 43.

³³ *Id.*

³⁴ *Dep’t of Commerce v. New York*, 588 U.S. ___, 139 S.Ct. 2551, 2575-76 (2019); *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (1999) (*Fox*). The agency’s burden is not to convince a reviewing court that the new policy is better than the old policy, but that the new policy is permissible under the relevant statute, there are good reasons for it, and the agency believes it to be better. *Fox* at 515.

³⁵ *Fox* at 15. The Supreme Court emphasized the need to consider reliance interests in agency policy changes. *DHS v. Regents of the University of California*, 140 S. Ct. 1891, 1914-15 (2020) (concluding that the Department of Homeland Security was not permitted to rescind the DACA program without “assess[ing] whether there were reliance interests, determin[ing] whether they were significant, and weigh[ing] any such interests against competing policy concerns”); see also *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117 (2016).

Reliance Interests. Given the breadth of Section 1557 and its implementing rules, there is a wide range of reliance interests for HHS to consider. This includes the interests of covered entities (such as health care providers, insurers, and pharmacy benefit managers), patients, state health care programs (such as Medicaid and CHIP programs), the Exchanges, some employers, and religiously affiliated providers and employers. HHS must acknowledge any reliance interests that will be affected by its change in position, even though consideration of these interests should not change the policy.

In particular, HHS should acknowledge that (i) covered entities may still be coming into compliance with the 2020 Rule, and (ii) litigation over the 2016 and 2020 Rules has been ongoing and left uncertainty over the scope and application of the implementing regulations. HHS may also want to consider a temporary nonenforcement stance or phased-in approach for any policies that would immediately impact covered entities.

Implications of Franciscan Alliance. HHS is not barred from defining “on the basis of sex” to include transgender status or a medical history of abortion, even though this interpretation was vacated in *Franciscan Alliance*. Judge O’Connor’s decision did not bar HHS from promulgating regulations that are consistent with the correct interpretation of the law. Instead, his ruling vacated parts of the 2016 Rule without permanently enjoining HHS from enforcing protections based on gender identity or termination of pregnancy.

With respect to reinstating protections based on gender identity, HHS should make clear its view that Judge O’Connor’s decision in *Franciscan Alliance* does not survive *Bostock*, which confirms that “on the basis of sex” in federal nondiscrimination laws extends to sexual orientation and transgender status. As with any change, this definition must be fully justified, and HHS should look to its prior rulemaking record, *Bostock*, and recent caselaw under Title IX before defining “on the basis of sex” to include sexual orientation, gender identity, or transgender status. Franciscan Alliance and others could challenge a *new* rule, but that has no bearing on whether HHS can issue a revised interpretation.

Addressing Pending Litigation

New rulemaking by HHS is critical to helping avoid adverse decisions in ongoing litigation over Section 1557. In general, HHS should notify DOJ that it is changing its position on parts of the 2020 Rule and coordinate with DOJ to resolve pending litigation while the 2020 Rule is revised. DOJ should also consider taking a new position in the various lawsuits.

Litigation over the 2020 Rule. DOJ could drop the appeals before the Second Circuit and the D.C. Circuit, and inform the court that HHS will be revisiting the 2020 Rule in light of each of the district court’s decisions. These appeals were filed recently, and briefing will have just begun under the new administration. HHS and DOJ could then decide whether to allow the litigation to proceed slowly on the merits at the district court level, ask for an abeyance, or settle the litigation.

For district court litigation over the 2020 Rule, HHS should, at a minimum, *ask for an abeyance* (i.e., ask to put the litigation on hold) to delay the litigation while it proceeds with new rulemaking. Courts are not required to grant such a request, but abeyance can be an attractive option where an argument can be made to conserve judicial resources. In making this request, HHS could cite the nationwide preliminary injunctions entered against parts of the 2020 Rule, the need to reconsider the rule in light of *Bostock*, and several recent appellate decisions applying *Bostock* to confirm that Title IX’s protections extend to transgender students. Alternatively, HHS could eliminate the need for litigation by *entering into a settlement* with the plaintiffs that challenged the 2020 Rule. In the event of a settlement, the plaintiffs and government could file a joint motion to request a stay of the litigation.

The timing of a decision in the pending New York case is worth watching for these purposes. Briefing will be completed by Inauguration Day, with a decision expected to follow soon thereafter. This would be the first final decision on the merits in the lawsuits challenging the 2020 Rule. If that decision invalidates all or parts of the 2020 Rule, HHS would be on even stronger ground to ask for an abeyance to respond to various court decisions. HHS and DOJ could opt not to appeal that decision, although interested parties could ask to intervene, particularly if DOJ makes clear that it does not intend to appeal.

Litigation over the 2016 Rule. To address litigation pending before the Fifth Circuit and the district court in North Dakota, DOJ should ask for a stay pending new rulemaking. This request will likely be opposed by the plaintiffs. If the litigation proceeds, DOJ will need to consider its options but should consider defending the 2016 Rule, if appropriate.

Beyond litigation. Outside of court, HHS could take *informal agency action* by, say, issuing guidance regarding the status of the lawsuits and its enforcement stance. HHS could publicly acknowledge that two district court decisions have set aside its changes to the LGBTQ-specific provisions of the 2020 Rule and explain what this means for current federal nondiscrimination protections.³⁶ It could also publicly indicate that it is reconsidering its rules and interpretations in light of *Bostock*. In taking any of these actions, HHS should exercise caution, so this informal action does not inadvertently bolster the request for a permanent injunction by the plaintiffs in *Franciscan Alliance*.

