

Presidential memoranda vs. executive orders. What's the difference?

[Gregory Korte](#), USA TODAY Published 7:52 a.m. ET Jan. 24, 2017 | Updated 6:37 a.m. ET Jan. 25, 2017



President Trump has been taking action by issuing both executive orders and presidential memorandums. What's the difference? Matt Hoffman explains. Buzz60

WASHINGTON — President Trump signed [three high-level presidential directives](#) on Monday, but they weren't executive orders.

Instead, they were styled as presidential memoranda, an increasingly common but lesser known expression of presidential power that came to replace many executive orders under President Obama.

Presidential memoranda are "executive orders by another name, and yet unique," wrote presidential scholar Phillip Cooper on his book [By Order of the President: The Use and Abuse of Executive Direct Action](#).

Both forms of presidential action have the force of law on the executive branch, and sometimes they seem to be used interchangeably. Even presidents sometimes mix them up, referring to memoranda as executive orders, as [President Trump did Monday on Facebook](#).

"Something that's in a presidential memorandum in one administration might be captured in an executive order in another," Jim Hemphill of the Office of the Federal Register [told USA TODAY in 2014](#). "There's no guidance that says, 'Mr. President, here's what needs to be in an executive order.'"

So the differences can be subtle and subjective, but here are a few:

▶ **Numbering:** Executive orders are numbered. Trump's most recent order, titled, "Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal," is [Executive Order 13765](#). Presidential memoranda are not numbered, which makes them more difficult to count.

▶ **Prestige:** An order sounds more assertive than a memo, and the numbering system gives executive orders an aura of power.

▶ **Publication:** Executive orders are [required by law](#) to be published in the [Federal Register](#), which is sort of the executive counterpart to the Congressional Record. Presidential memoranda may be published or not, depending on the subject. But it's the publication of the memorandum that gives them "general applicability and legal effect."

▶ **Precedence:** Certain types of orders are given priority in publication in the Federal Register, and may take legal precedence. The hierarchy is: Proclamations, executive orders, presidential memoranda, presidential notices, and presidential determinations. Notices and determinations are usually required by Congress on specific issues.

▶ **Authority:** Under an [executive order signed by President John F. Kennedy](#), an executive order must cite the authority the president has to issue it. That could be the constitution, or a specific statute. Presidential memoranda have no such requirement.

▶ **Amendments:** An executive order can only be amended or rescinded by another executive order. A presidential memorandum can be changed with another memorandum.

▶ **Subjects:** Executive orders are often organizational, used to create new executive branch committees, processes or lines of responsibility. They can [impose economic sanctions](#) on other countries, [declare states of emergency](#), or give [federal workers a day off](#). Presidential memoranda are used to delegate tasks and reports assigned by Congress to the president, start a regulatory process, or direct a specific department or agency to do something.