



Biden, Transgenderism, Women's Sports and Moral Order

In the flurry of executive orders in his first week in office, President Joe Biden issued an order aimed at preventing discrimination on the basis of gender identity or sexual orientation. As a result of this order *the federal government now stands fully behind transgendered people competing in women's athletics* in federally funded high schools and colleges. In addition, Biden overturned President Trump's earlier order barring most transgendered people from serving in the military, an executive order upheld by the U.S. Supreme Court.

To top it off, on February 19 Biden urged Congress to swiftly pass the Equality Act (H.R. 5), a far-reaching bill that would enshrine the goals of Biden's executive order in civil rights statutes applicable to private entities and prohibit biological female-only public accommodations across the land. Religious institutions are not exempt.

Biden's "Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation" built upon the U.S. Supreme Court's decision in *Bostock v. Clayton County* (2020). This highly controversial decision held that *employment* discrimination on the basis of sexual orientation or gender identity is prohibited by Title VII of the federal Civil Rights Act of 1964. Biden's executive order took this decision a step further by directing federal agencies to extend Title VII's protection against discrimination (as interpreted by the Court) to (among other statutes) Title IX of the Education Amendments of 1972—the law that prohibits discrimination in federally funded schools and colleges—which the Court's opinion did not cover.

Biden's sweepingly worded order proclaimed:

Every person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love. Children should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports. Adults should be able to earn a living and pursue a vocation knowing that they will not be fired, demoted, or mistreated because of whom they go home to or because how they dress does not conform to sex-based stereotypes. . . . All persons should receive equal treatment under the law, no matter their gender identity or sexual orientation.

. . . Under *Bostock's* reasoning, laws that prohibit sex discrimination . . . prohibit discrimination on the basis of gender identity or sexual orientation, so long as the laws do not contain sufficient indications to the contrary.

The implication of the order is clear: If a transgender girl or woman (that is, a person born male who "transitioned" to female) demands the right to compete on a female sports team, the Biden administration will support his right to do so. This order will have ramifications in many aspects of American life, not only sports and bathrooms. Women in federally funded homeless shelters will be especially at risk.

The Politics of Transgender Ideology

The Biden order does not state an entirely new federal policy. In May 2016, the Obama administration sent shock waves through the U.S. educational system by issuing a "guidance letter" signed by the Departments of Education and Justice. This guidance, subsequently withdrawn by the Trump administration, declared that transgender students have the right to access bathrooms and locker rooms and participate on athletic teams that correspond with their gender identity. The letter further stated that schools could not require that transgender students have a medical diagnosis or undergo any medical treatment before they would be treated in a way that aligns with their gender identity. (See *Mindszenty Reports* dated May and June 2018 for a fuller discussion of the rise of transgender rights.)

In a sense, Biden's January executive order functions as a revival and broadening of the Obama policy, bolstered by an intervening Supreme Court decision in favor of gay and transgender rights.

As might be expected, the LGBT community and political progressives greeted Biden's executive order with wild enthusiasm, while conservatives reacted with dismay. Conservatives warned that the order sets back decades of advancement in women's athletics, and that having biological males compete with biological females is patently unfair. Ryan Fournier, founder of Students for Trump, called the

order “insane.” Abigail Shrier, a conservative author on transgender issues, echoed Fournier’s complaints when she tweeted, “On day 1, Biden unilaterally eviscerates women’s sports. Any educational institution that receives federal funding must admit biologically male athletes to women’s teams, women’s scholarships, etc. A new glass ceiling was just placed over girls.”¹

Progressives responded that conservatives were overreacting to Biden’s order. Despite the explicit reference to sports in Biden’s order, PolitiFact rated conservative warnings about sports as “false.” *USA Today*, in a “fact check,” asserted that the order was little more than an extension of *Bostock*, even though the latter decision involved only employment discrimination. *USA Today* contacted the White House to ask whether it is true that Biden’s executive order ties an educational institution’s federal funding to a mandate that biologically male athletes have access to women’s sport teams and scholarships. The White House’s answer was: No, the executive order means that transgender students should be able to learn without facing sex discrimination and, therefore, transgender women should compete on female teams.²

The White House’s denial of a policy to condition federal funding on allowing transgender “women” to compete in women’s sports was blatantly disingenuous. Federal pressure based on an implicit threat of loss of funding will surely follow, since federal funding is the legal basis for Biden’s executive order.

Athletic scholarships are also affected by Biden’s order. A logical consequence of the order is that a transgender woman (i.e., a biological male) having won a state championship competing against girls would have high priority for a female athletic college scholarship from a college receiving federal funds (which is almost all colleges). In the past, many of these female athletic scholarships went to minority women—African-American women, in particular, who will probably be the biggest losers under the Biden transgender policy.

The Horse is Out of the Barn

College athletics are already allowing transgender athletes to compete. In its oversight of 24 sports at more than 1,000 colleges and universities, the National Collegiate Athletic Association (NCAA) policy is that gender-confirming surgery or legal recognition of a player’s transitional sex is not required for transgender players to participate on a team. The NCAA rule states that a hormonal treatment for athletes should have ended at least one year before competition. The International Olympic Committee (IOC) rules for biological males participating in women’s events set specific levels of testosterone that must be maintained for at least 12 consecutive months.

Neither the NCAA nor the IOC rules prevent a male from bulking up on testosterone a year before identifying as female. The loose standards set by both the NCAA and the IOC ignore inherent biological advantages of the male body for sports, including testosterone levels, lung and heart capacity, overall musculature, bone size and density, increased joint stability, higher hemoglobin levels (allowing for oxygen carrying capacity), and different muscle types and ratios of fat to muscle.³

Women’s Sports Exist for A Reason

Biology is a fact of life, so to speak. A major study conducted in 2018 by Doriane Lambelet Coleman, a professor at Duke Law School, showed that *non-elite male athletes outperform elite female athletes at extraordinary ratios.* She found that the world’s best time in the women’s marathon is surpassed by hundreds of male runners. The same results were found in looking at women’s world records in every track event from 100 meters to 10,000 meters.

In 2017, for example, 744 male athletes including 36 high school boys ran faster than Florence Griffith Joyner’s seemingly unassailable 100-meter record of 10.49 seconds. Olympic, World and U.S. Champion Tori Bowie’s 100-meter lifetime best of 10.78 seconds was beaten 15,000 times by men and boys. A similarly lopsided comparison was found for Olympic, World and U.S. Champion Allyson Felix’s 400-meter lifetime best of 49.26 seconds: In 2017 alone, men and boys worldwide outperformed her more than 15,000 times. In the 800-meter event, 12,285 adult men outperformed the top female result. It was not just running events where thousands of male athletes outperformed the best women’s result. Similar results were found in the high jump, pole vault, long jump and triple jump.⁴

The male body in puberty begins producing testosterone in quantities that biologically female bodies never come close to producing. This continues into adulthood. The male range of testosterone at its lowest is three times higher than the female range at its highest. Biologically male athletes who have transitioned to female athletes have used testosterone-reducing drugs to meet competitive guidelines, but their testosterone levels often remain high enough to give them a competitive advantage.⁵

These regulatory problems in amateur sports are already being faced by parents, athletes, coaches and athletic directors across the country. In fact, the issue of transgender females in sports has been around since 1977, when Renee Richards, the former captain of the Yale men’s tennis team, had surgery to change to a female athlete. Originally, Richards was denied entry into the U.S. Open women’s tennis championship after having undergone sexual reassignment surgery in 1975. It took a ruling by the New York supreme

court for her to be able to compete in the championship. When Richards entered her first professional tournament, 23 players withdrew. A spokesman for the Women's Tennis Association complained, "It's damn unfair to a woman who has devoted her whole life to tennis to lose a spot in a draw to a man."⁶

Today 16 American states have "trans-friendly" policies allowing students to compete according to gender identification in current school records and daily life activities. In Connecticut, Terry Miller, a transgender athlete, won the New England girls' sprint titles in the 100-meter and 200-meter events in 2018. This double-gold victory was cheered in activist circles.

Activists argued that sports for transgender people could save lives. They pointed to a Centers for Disease Control study finding that over half of male transgender youth and 30 percent of female transgender youth had attempted suicide at least once. The assumption was that allowing competition in sports by transgender youth would give them a better sense of themselves and would be emotionally healthier.

Unfair Competition

On the other side, female athletes and their parents undoubtedly experience stress in the face of competition with biologically male transgender athletes. To Bianca Stanescu, the mother of a female track star in Connecticut, competing with biological male athletes seemed obviously unfair. Her daughter, Selina Soule, lost to two biologically male athletes for a place to compete in the 55-yard dash in the New England Regional Track Meet in 2019. Prior to finishing her senior year in high school, Selina had set five school records in track and field.

When Stanescu filed suit through the Alliance Defending Freedom challenging Connecticut's policy of allowing biological boys to compete in girls' sports, she and the other parents who had joined the suit found themselves harassed and vilified. Yet Stanescu remained firm in her convictions. She wrote in an op-ed in *USA Today*, "Whatever you believe about gender identity in general, the simple fact is that biology is what matters in athletics, not a person's identity. Gender identity can be changed. Sex is embedded in our DNA and cannot be changed." She concluded, "It is reflected in realities like lung capacity and bone density. Sex is not gender."⁷

Stanescu's legal complaint failed in the courts. Meanwhile, transgender athletes were posting victories across the board. New Zealand weightlifter Laurel Hubbard, a biological male, won two gold medals at the Pacific Games. In Australia, Hannah Mouncey, a biological male who formerly played on the male national team, dominates the

women's national handball team after declaring himself a female. Gabrielle Ludwig, a 6-foot-6-inch biological male, took a starting spot on the women's basketball team at Mission College in California. Transgender college senior CeCé Telfer became the NCAA Division II national champion in the 400-meter race. June Eastwood, another biologically male athlete, carried her University of Montana cross-country team to victory.⁸

In Connecticut, where Bianca Stanescu brought suit, the two born-male unmedicated athletes to whom her daughter lost took first and second place in a girls' state track event. In response to questioning about his physical advantage, Terry Miller, the winner, replied that the girls "should work harder."⁹ We should expect more such unfair victories by transgender athletes in women's sports.

Why did President Biden make transgender athletes one of his top priorities by signing his executive order, which is clearly bad for women's athletic opportunities? The answer is pressure from the LGBT activist community. How large is the transgender population in the United States? A major study published by the *American Journal of Public Health* in February 2017 found that this population was estimated at 0.3 to 0.6 percent.¹⁰ Estimates vary, but this population is surely very small. Biden's executive order was not aimed at winning the tiny "trans" vote for the Democratic Party. It was intended to promote the larger LGBT agenda.

Infiltrating Education

This agenda is inexorably finding its way into the educational curriculum in public schools. A focus on gender identity is found at all levels of K-12 education. Children are educated to question their gender identity. They learn that they can choose whatever gender they feel is right for them.

Conservative critics ask, "Where are the feminists who fought for women's equality and the right of women to compete in sports?" Actually, not all radical feminists are on board with trans activism at the expense of biological females.¹¹ Yet these feminist dissenters are few. This is especially evident in the gay/transgender activist push for gender identity topics in K-12 education. Controversies over extreme sex education programs pushing fluid gender identity have erupted in states including Washington, California, New Jersey and Virginia.¹²

Progressives (if they are to be called such) seek a moral order in which there are no universal truths, other than what progressives in power decide. Natural truths have no certainty in their eyes. Gender miseducation and Biden's executive order on gay and transgendered students represent more attempts to upset the nation's moral order.

Even mathematical truth has come under attack. A relevant digression from the transgender issue is to note that the Oregon Department of Education recently launched a teacher training program in “ethnomathematics.” Ethnomathematics argues that white supremacy manifests itself in the teaching of a right answer in mathematics. The toolkit for this program maintains that “The concept of mathematics being purely objective is unequivocally false, and teaching it is even much less so”[*sic*].

The toolkit warns, “Upholding the idea that there are always right and wrong answers perpetuates objectivity as well as fear of open conflict.” Instead of teaching “right” and “wrong” answers, the toolkit encourages teachers to “come up with at least two answers that might solve this problem.” Emphasizing “right” answers means perpetuating inequity for “Black, Latinx, and multilingual students.”¹³ According to the *Washington Free Beacon*, the Bill and Melinda Gates Foundation gave nearly \$140 million to some of the groups behind this insane Oregon program.

If there is no “truth” in math and there is no truth in biology, we have entered an Orwellian world in which truth is determined by those in power. George Orwell in his novel *1984* had Big Brother declaring that $2 + 2 = 5$. In such a world, universal concepts such as natural law, inalienable rights, private property and individual dignity have no certainty except to the extent vouchsafed by those in power. Such a world is bound to collapse. Resistance is imperative.

Most adults do not want men or boys in the same bathrooms or on the same sports teams as their daughters. Average suburban and working-class women and men—white, black, Hispanic—think it grossly unfair for biological males to compete with their daughters on the sports field.

Challenging leftists on transgender rights is about their moral values versus our moral values, but it is also about

fairness. It is about power and who decides truth. Transgender rights are one more manifestation of the left’s drive to overthrow common-sense arrangements through federal diktats. The potential for backlash against the diktats is considerable.

Some 13 state legislatures have begun considering laws to protect high school girls’ sports from transgender participation. Their legal path has been complicated by the Biden order, but they deserve support. The alternative is the ruination of girls’ sports.

- 1 McKenzie Sadeghi, “Fact Check: Posts Criticizing Biden Order on Gender Discrimination Lack Context,” *USA Today*, February 3, 2021.
- 2 Ibid.
- 3 <https://thefederalist.com/2019/12/04/male-transjacking-will-ultimately-end-womens-sports/>.
- 4 [https://www.nytimes.com/2018/04/30/sports/track-gender-rules.html?smid=tw-share; and https://law.duke.edu/sports/sex-sport/comparative-athletic-performance/](https://www.nytimes.com/2018/04/30/sports/track-gender-rules.html?smid=tw-share;and https://law.duke.edu/sports/sex-sport/comparative-athletic-performance/).
- 5 <https://www.sciencedaily.com/releases/2020/12/201207195133.htm>.
- 6 Stephen Lane, “This is What at Stake When We Talk about Transgender Athletes,” *Cognoscenti*, January 26, 2021. For insight into how transgenderism is being translated into counseling, see <https://www.theguardian.com/society/2019/jul/27/trans-lobby-pressure-pushing-young-people-to-transition>.
- 7 <https://www.usatoday.com/story/opinion/2020/06/19/transgender-athletes-robbing-girls-chance-win-sports-column/4856486002/>.
- 8 <https://www.wired.com/story/the-glorious-victories-of-trans-athletes-are-shaking-up-sports/>.
- 9 <https://thefederalist.com/2019/12/04/male-transjacking-will-ultimately-end-womens-sports/>.
- 10 <https://pubmed.ncbi.nlm.nih.gov/28075632/>.
- 11 <https://www.theguardian.com/society/2019/jul/27/trans-lobby-pressure-pushing-young-people-to-transition>.
- 12 See <https://www1.cbn.com/cbnnews/us/2020/february/parents-alarmed-at-washington-state-k-12-sex-ed-that-would-offer-varieties-of-sexual-stimulation>; <http://www.swweducation.org/?p=3210>; <https://www.dailysignal.com/2019/07/09/california-implements-extreme-new-sex-ed-curriculum/>; <https://instinctmagazine.com/nj-mayor-outraged-over-new-lgbt-school-curriculum/>; <https://www.nj.com/hudson/2020/02/jersey-city-muslim-and-coptic-christian-parents-angry-over-state-mandated-lgbt-curriculum.html>.
- 13 Sam Dorman, “Oregon Promotes Teacher Program that Seeks to Undo ‘Racism in Mathematics,’” *Fox News*, February 12, 2021.

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