The Phyllis Schlafly Report

Blocking Biden's Transgender Mandate on Schools

By John and Andy Schlafly

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In the last week, four different federal courts independently arrived at the same conclusion: Biden's policy to impose his transgender ideology on public schools is unlawful. Biden insists, beginning with the upcoming school year, that every public school in America open its girls' restrooms and locker rooms to boys who think they are girls.

More than half our country – 27 states – have sued to block this policy. Republican states seek to protect girls against this transgender invasion by biological boys, while Democrat politicians controlling the other 23 states promote the trans agenda.

California cities declare themselves to be sanctuaries for transgenders, and that state's legislature also recently voted to prohibit school district policies of informing parents when their own children try to switch genders. Misnamed the SAFETY Act, AB 1955 is so anti-parent that it would result in schools concealing children's gender confusion from their own parents.

In five blue states this spring, biological boys won state championships by competing in girls' sports. Biden wants to extend this liberal madness nationwide, by misinterpreting a 1972 law that was intended to protect girls against discrimination in schools: Title IX.

Title IX states, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." By redefining "sex" to include students' changing views of their own gender, Biden bans any limits by public and charter schools on transgenders.

On Monday, federal judge Danny C. Reeves in Kentucky held that Biden's new regulation is "arbitrary in the truest sense of the word," and he blocked it in that state plus Indiana, Ohio, Tennessee, Virginia, and West Virginia. Last Friday another federal judge, in Louisiana, blocked Biden's regulation from being enforced in Idaho, Louisiana, Mississippi, and Montana.

The election of Trump would shut down Biden's lawless push for the trans agenda in our public schools. Trump has campaigned on his commitment to protect girls' sports and locker rooms against boys who think or pretend they are girls.

In Boston, an all-Democrat panel of the First Circuit held on June 9 that 12-year-old Liam Morrison was properly prohibited by a public school from wearing a t-shirt that said, “There Are Only Two Genders.” He was further prevented from wearing that same t-shirt with the words “Only Two” covered by a piece of tape on which was written “CENSORED,” all of which the court held the school properly banned under its hate speech code.

But the Northeast and the West Coast do not have the final word on this issue. On June 11, a GOP-appointed federal judge in Fort Worth blocked Biden’s transgender school policy for all of Texas.

Judge Reed O’Connor held that the Biden Administration “lacks authority to redefine ‘sex’ in a way that conflicts with Title IX.”

A federal judge in Louisiana, Terry Doughty, held that Biden’s analysis wrongly focused on only the effect on transgender students, rather than girls who must then “use the bathroom, undress, and shower in the presence of persons who may identify as females but still have male biological parts.” Biden’s Department of Education “made no attempt to determine the effect on students having students who are biologically the opposite sex in their locker rooms and bathrooms.”

Judge Doughty further held that “the DOE declared in the Final Rule, with no explanation, that transgender students do not pose a safety risk for cisgender students.” The newly coined term for the vast majority of children, who are not transgendered, is to call them “cisgendered.”

More good news came last week from the U.S. Court of Appeals for the Sixth Circuit. Trump-appointed judges provided the 2-1 majority decision against Biden’s pro-transgender policy for schools, as embodied in Biden’s 2021 Title IX guidance.

This appellate decision protects 20 red states: Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, and West Virginia. Additional states, including Florida, Utah, and Wyoming, have filed lawsuits within their own jurisdictions.

Midwestern states, including Iowa and North Dakota, have sued in St. Louis within the conservative Eighth Circuit, and other lawsuits including Texas and Virginia mentioned above round out the total of 27. Prior rulings by the more liberal Fourth and Seventh Circuits held that

there is a transgender right of access to girls' restrooms under both Title IX and the Equal Protection Clause of the Constitution.

While some expect the U.S. Supreme Court to resolve the widening divide in our country on this issue, that Court remains unwilling to get involved. Instead, it will be the upcoming presidential election that determines whether gender-confused boys will invade schoolgirls' restrooms, locker rooms, and sports competitions.

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