

From: Najma Chavez
Sent: Fri, 11 Jun 2021 15:55:33 -0400
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (Protect Women's Sex Based Rights).

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To
Whom It May Concern,

I
write to you today as a leftist, a former Democrat and a concerned American citizen in regards to the protections for women and girls under Title IX regulations. President Biden's executive order on combating sexual orientation and gender identity discrimination, while necessary, fails to take into account the needs and rights of all Americans equally. Implementing current measures to combat 'gender identity discrimination' as planned will only serve to further undermine the protections put in place for women and girls. By allowing transgender identified male students in particular, to have unfettered access to locker rooms, bathrooms, showers, dorms and sporting leagues (among other things) that match their stated 'gender identity' rather than their biological sex, you inadvertently create less safe, less comfortable and inherently unfair situations for female students in a myriad of areas.

Bostock

v. Clayton County, the primary legal authority for the president's executive order relies explicitly on biological sex for its expansion of protection to LGBT persons. The Supreme Court was careful not to conflate sexual orientation or transgender status with sex, stating: "We agree that homosexuality and transgender status are distinct concepts from sex" (140 S.Ct. at 1746-47). According to *Bostock*, then, neither transgender status nor sexual orientation may operate as legal substitutes for the concept of sex as "biological distinctions between male and female" (140 S.Ct. at 1739).

This clearly demonstrates
how transgender identified people can be protected from discrimination without disturbing single sex classifications whose application and enforcement do

not

constitute discriminatory actions under existing law. It is not fair, nor right for women and girls to be denied protections for their sex that are necessary to their full participation in public life. It is undeniable that male bodied people have an [insurmountable](#) advantage over female bodied people in matters of athletics- and this [advantage](#) does not go away with hormone replacement therapy over any length of time. There is no good reason to deprive women and young girls especially of fair competition to appease the desires of a select group.

In the same vein,

the existence of female only bathrooms and locker rooms is imperative to ensure their dignity, privacy and safety.

Mixed sex facilities open women and girls up to a

[higher risk](#) of [assault and harrasment](#)

which would all together lead many female students to forgo using the bathroom, participating in gym and even going to school altogether. Their spaces should not be comprised for the sake of 'inclusion'- as allowing these spaces to be accessed on the basis of self-ID would end up excluding a large portion of female students who would no longer feel comfortable or safe in using their school's locker rooms, showers, dorms or bathrooms- effectively and cruelly limiting their educational gains.

Equitable

solutions are out there however. In the realm of sports, seeing as how 'male' competitions are already considered 'open' leagues by default, transgender identified male students should be required to participate with other members of their sex. For transgender identified female students, seperate leagues and opportunities can be created all together if need be, as they too cannot fairly compete against those whose bodies are advantaged by the permanent effects of male puberty. Once they begin to undergo testosterone therapy during transition, they can no longer compete against other female born students, putting them specifically in a difficult place that requires specific attention and equitable solutions.

In

regards to bathrooms, single occupancy alternatives to traditional gendered bathrooms can be additionally provided where need be to accommodate the minority of students uncomfortable using the facilities that match their biological sex. Existing bathrooms

designated as female should **not**

be used to achieve this goal, as women and girls often take longer in restrooms (menstrual care, anatomical reasons, etc) which would only lead to less space for them, placing yet another undue burden on their shoulders. Similarly, locker rooms, showers and dorm rooms should also remain separated on the basis of biological sex. Any student who feels discomfort in sharing these spaces with other members of their sex can be provided with additional, alternative, private accommodations in the form of private stalls, single dorm rooms or partitioned off areas.

I

can no longer fully support the Democratic party or the Biden administration in good conscience as long as this gross negligence for women and girls' hard earned rights continues. Myself, along with millions of other Americans urge you to take the necessary actions to protect women's spaces and sporting opportunities on the basis of sex. That is what Title IX was created for, and that's how it should continue to be enforced in the name of equality and fairness for all. Thank you.