

BIDEN, TRANS KIDS AND FOSTER PARENTS

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The Biden administration is seeking to limit the rights of foster parents who currently care for LGBT children. It also wants to limit the rights of all future foster parents, making sure they respect the wants and desires of adopted children who may elect to switch their sex.

The public has until November 27 to respond to the proposal by the Department of Health and Human Services (HHS). Information will be provided at the end of this article.

Before examining the proposal, we need to understand what is driving this issue. It's not hard to figure out.

No queer organization has been more prominent in affecting policy in this administration than the Human Rights Campaign (HRC).

Lavishly funded by the corporate world, it was ready to hit the ground running if Biden won the presidential election. On November 11, 2020, eight days after he won, it rolled out its 22-page "Blueprint for Positive Change." It detailed a list of policy recommendations for the administration to follow.

HRC officials have not been disappointed. On June 8, 2023, they issued a press release applauding the administration for its "continued support." They had previously decided, in 2019, that "Adoption is a Trans Issue."

The proposed policy, which appeared in the "Federal Register" on September 28, makes it clear that foster parents of trans children do not call the shots—the kids do. And by kids, we mean those who are fourteen years of age; in some cases, even

children under fourteen can overrule their foster parents.

For example, what if the child of foster parents decides she is unhappy being a girl and wants to identify as a boy (80 percent of the time it's the girl who wants to transition), and the parents object. According to this proposal, the foster parents are "expected to utilize the child's identified pronouns, chosen name, and allow the child to dress in an age-appropriate manner that the child believes reflects their self-identified gender identity and expression." In other words, the state is eclipsing the rights of parents.

What if the child of foster parents wants to finish the job, accessing "Clinically appropriate services" based on "accepted medical standards of care"? In other words, submitting to irreversible puberty blockers and chemical castration. Can the parents overrule their child? Not on your life.

Ordinarily, as even HHS admits, the age that most states say is the legal age of adulthood is eighteen. There are rare instances, such as consenting to certain medical treatments, where a child of sixteen is permitted to consent. But fourteen and below? This is novel, and precarious, territory.

Worse, the issue is not overruling one's parents in electing to take aspirin—we are talking about physically altering a young person for the rest of his or her life, changes that also have dramatic psychological effects.

When they talk about "Clinically appropriate services" based on "accepted medical standards of care," they are talking about "age appropriate services that support their [the child's] needs related to their sexual orientation and gender identity or expression." That obviously includes sex-reassignment surgery.

The term "age-appropriate" is used in this section of the proposal on p. 66760, but it is not specific. The first time this term is used is on p. 66757. It is never defined. But we

do know that fourteen-year-olds can override their parents counsel, and if there are some serious problems at home (e.g., the child was removed due to familial conflict), even those who are younger than fourteen can overrule their parents. This is unprecedented in Western law.

What if the foster parents of a young girl who identifies as a boy refuse to accommodate her? Can the government take the child away from them? You bet. It says that “LGBTQI+ children can be transferred from any entity that will not provide a safe and appropriate placement,” as described in the proposal. It defines as unsafe attempts by the parents to dissuade the child from transitioning.

What if the parents object to their child’s transitioning plans on religious grounds? Too bad. The proposal ostensibly recognizes the validity of the Religious Freedom Restoration Act (RFRA), which protects religious liberty, but nonetheless concludes that no religious exemption should be afforded if the burden on the religious rights of parents “is necessary to the advancement of a compelling government interest through the least restrictive means possible.” Thus does the proposal stand RFRA on its head—it’s the government that has to have a compelling interest to override religious liberty!

Of course, the proposal says that allowing sexually confused kids to transition to the opposite sex meets this test. In other words, it is not a “compelling government interest” to defend parental rights, and this extends even to parents who have sincerely held religious convictions. To be exact, this proposal undermines parental rights and eviscerates RFRA.

Tomorrow, I will take up the issue of allowing trans adults to adopt children. But in the meantime, please register your objections to this proposal by emailing your response to the address below.

CBComments@acf.hhs.gov *Be sure to put the Regulatory*

Information Number (RIN) in the subject line: RIN 0970-AD03.