

# Objectives and Procedures

Local issues change and evolve throughout time. With this in mind, we decided to research areas of focus, rather than specific local issues. The stances provided below will serve as the foundation of our viewpoints of all local issues until further notice and formal replacement.

Given the task of identifying, researching, and providing guiding stances on all issues surrounding the trans community; the team originally decided to break up the research into these categories:

1. Government ID
2. Health Insurance coverage for gender affirming procedures.
3. Children's Rights:
  - Pronouns
  - School Bathrooms
  - Sports
  - Puberty Blockers

The process began on Tuesday, August 17th with a guest speaker from the libertarian community. This was where topics were finalized, and research began. The team was provided one calendar week [7 days] from this point to research these topics and come prepared to discuss and debate on Tuesday, August 24th. Stances [messaging] were finalized on this date. The final document was formalized on Wednesday, September 1st, although messaging was not changed since the August 24th meeting.

If requested, as a next step following the initial release of this document, the [REDACT] will have until DDMMM to research and provide fact-based, credible research. Such data will be presented and discussed on this date before a vote on the following proposals and any potential counter proposals.

The majority of research focused on Children's Rights and Government Identification. Health insurance did not wind up being a focus, although the group did agree that this should be a future area of research.

All research available upon request. However, select sources for each have been linked to this document.

## Government ID

**The [REDACT] firmly believes that the government has no right to know anyone's gender, regardless of if they are trans, cis, or anything else. However, some might find it beneficial to have their gender on their ID. If this is the case, then they should be given the option to do so as they please, without restriction.**

### Resources:

- LP Platform: “Sexual orientation, preference, gender, or gender identity should have no impact on the government’s treatment of individuals, Sexual orientation, preference, gender, or gender identity should have no impact on the government’s treatment of individuals”
  - <https://www.lp.org/platform/>
- In many states it is relatively easy to change identity markers, and many have gender neutral options and people with the same identity marker can look very different from each other
  - [https://transequality.org/sites/default/files/Drivers%20License%20Grades%20July%202021a\\_0.pdf](https://transequality.org/sites/default/files/Drivers%20License%20Grades%20July%202021a_0.pdf)
- Gender affirming IDs are linked to lower rates of suicidal ideation so it’s possible having gender markers that are easy to change could be better for trans people than removing the markers altogether
  - [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(20\)30032-3/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(20)30032-3/fulltext)
- In a strictly medical sense, the total number of people whose bodies differ from standard male or female = one in 100 births.
  - <https://isna.org/faq/frequency/>

# Children's Rights

## Social Transition Items

The [REDACT] recognizes the basic need for inclusion in essential services. Until the day in which private schools and school choice become commonplace and reasonably accessible to all; public schools will remain an essential service. The topic of inclusion has always been an evolving debate, but one which [REDACT] across the board agree should be equal for all. When taking a look, we recognized two facets to this topic:

1. Trans can refer to both biological sex, as well as gender. Discriminating on the basis of sex and gender are firmly against libertarian principle.
2. Do supporting the items in questions, (pronoun use, bathrooms, and sports), help bring safety and equality to the trans community, *without* impeding on the rights of others' health and safety?

What our research showed is that not only do inclusion in these areas increase the wellbeing of those in the trans community, and do not pose an increased risk to the remaining public.

**With an exception for sports, [REDACT] recognizes that [for now] public schools are an essential service, and with this, support the notion that students must be provided the decency to be referred to by their preferred pronouns. Additionally, public schools must allow students to choose the bathroom of their gender identity. It is not out of reason to *additionally* promote the implementation of single occupancy bathrooms for all students, regardless of identity.**

While [REDACT] believes these are necessary steps which should be taken by all towards a safer, more equal community; we are not yet in a position to formally apply such viewpoints on private schools. As part of a [REDACT] platform, we strongly discourage use of these [and all non-essential operations] which do not meet these basic human decencies.

## Resources

- About 26% of the teens reported that they were sexually assaulted in the past 12 months, with the highest rates among non-binary teens assigned female at birth and transgender boys. Their rate of assault is well above what previous studies have found for teens who are not sexual minorities — 15% for girls and 4% for boys. The sexual assault rates are even higher for sexual minorities whose schools impose bathroom or locker room restrictions at 36%.
  - <https://pediatrics.aappublications.org/content/143/6/e20182902>
- Trans people are not a risk to others when getting to choose their bathroom, (and risk on them becoming victim to attack and/or harassment possibly increases when such laws are enacted limiting their freedom).
  - <https://link.springer.com/article/10.1007/s13178-018-0335-z>
  - <https://clareflourish.wordpress.com/2020/07/22/gender-identity-nondiscrimination-laws-in-public-accommodations-hasenbush-flores-herman/>
- Use of chosen name use has been linked to reduced depression, suicidal ideation and suicidal behavior, and the more contexts in which the name is used, the better the outcomes
  - [https://www.jahonline.org/article/S1054-139X\(18\)30085-5/fulltext#intraref0010a](https://www.jahonline.org/article/S1054-139X(18)30085-5/fulltext#intraref0010a)

- Lack of acceptance and affirmation increases mental health risks. A 2020 survey found that 28 percent of transgender youth whose pronouns are not affirmed attempted suicide in the past year. That number decreased to 12 percent for those whose pronouns are affirmed by all or most people in their lives.
  - <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/03/18/497336/fact-sheet-importance-sports-participation-transgender-youth/>
- “Pronouns are important because they help us acknowledge and affirm someone’s identity. In fact, a study in the Journal of Adolescent Health found that using the chosen or preferred name and pronouns for transgender youth is linked to lower rates of depressive symptoms, suicidal ideation and suicidal behavior. Dr. Goepferd explains, “This one little action can really make a big difference.”
  - <https://www.childrensmn.org/2020/10/20/parents-know-pronouns/>

## Sports Inclusivity

While [REDACT] recognizes the significance of inclusion in the sports team of the preferred gender, we also recognize the risk of an inherent advantage transitioning students could have in the league. While this alone would not be cause of a differing opinion from other social transition items; the potential of loss of scholarship by competing athletes as a direct result of transitioning athletes could result in direct economic harm. There is still more research to be had on this scenario. **It is under this developing rationale, that [REDACT] differs in this aspect of social transition in that schools should be allowed to examine each athlete's eligibility on a case-by-case basis. In any scenario, the state shall not have the ability to pass statewide laws in this area.**

## Resources

- Insufficient evidence to show this has a negative impact on the mental health of cisgender/non-trans students, although it is worth noting that there could be data on cisgender/non-trans athletes who have lost scholarships in part due to losses to trans athletes.
  - <https://m.imdb.com/title/tt10011320/>
- Any policy proposed at the state level should be handled with a heavy dose of skepticism.
  - <https://thehill.com/changing-america/respect/equality/548534-floridas-new-ban-on-transgender-students-in-sports-would>
- In a paper that looked at untrained trans women, [the authors] found that "muscular advantage enjoyed by transgender women is only minimally reduced when testosterone is suppressed."
  - <https://pubmed.ncbi.nlm.nih.gov/33289906/>

## Puberty Blockers

Puberty Blockers have been shown to be safe, fully reversible, and an effective tool for youth to have in their arsenal when going through the process of self-discovery. Furthermore, the government should not have the authority to tell *anyone* that they cannot use a particular product. **The [REDACT] does not support statewide bans and/or restrictions on puberty blockers. This is a decision which is to be made between the individual, their legal guardian(s), and the individual's physician.**

## Resources

- *"GnRHa therapy effectively halts the production of gonadal sex steroids (testosterone and estrogen) by persistently activating and thereby desensitizing the gonadotropin-releasing hormone receptor, which in turn leads to suppression of luteinizing hormone and follicle-stimulating hormone release from the anterior pituitary gland. This process inhibits endogenous puberty for the duration of GnRHa use. Once further pubertal development is delayed, youth are able to explore gender identities without the pressure of dysphoria associated with gender-incongruent physical development.<sup>10</sup> GnRHa therapy is unique among gender-affirming medical interventions in that the resultant pubertal suppression is fully reversible, with the resumption of endogenous puberty after their discontinuation."*
  - <https://pediatrics.aappublications.org/content/145/2/e20191725>
- Risks:
  - "Research so far shows that the effects [on bone development and height] are minimal."
  - "If you have erectile tissue (penis) and think you might eventually want to have a vaginoplasty, talk with your primary care provider or endocrinologist for more information'...'If you start taking puberty blockers early in puberty you might not be able to have the vaginoplasty surgery that is most commonly used in Canada, later as an adult."
    - <http://www.phsa.ca/transcarebc/child-youth/affirmation-transition/medical-affirmation-transition/puberty-blockers-for-youth>
  - Potential Complications of Puberty blockers: Reduced Bone Density / increased bone mineral loss, Loss of Future Fertility.
    - <https://www.mayoclinic.org/diseases-conditions/gender-dysphoria/in-depth/pubertal-blockers/art-20459075>
- "6 to 23 percent of boys and 12 to 27 percent of girls treated in gender clinics showed persistence of their gender dysphoria into adulthood." However, such studies on desistance have methodical flaws and do not properly assess desistance/persistence of the transgender youth of today.
  - <https://pubmed.ncbi.nlm.nih.gov/25231780/>
  - <https://www.kqed.org/futureofyou/441784/the-controversial-research-on-desistance-in-transgender-youth>
  - <https://www.washingtonpost.com/dc-md-va/2021/04/22/transgender-child-sports-treatments/>
- "Treatment with pubertal suppression among those who wanted it was associated with lower odds of lifetime suicidal ideation when compared with those who wanted pubertal suppression but did not receive it. Suicidality is of particular concern for this population because the estimated lifetime prevalence of suicide attempts among transgender people is as high as 40%."
  - Turban JL, King D, Carswell JM, et al. Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation. *Pediatrics*. 2020;145(2):e20191725.  
Quoted in [https://www.aclu.org/sites/default/files/field\\_document/deanna\\_dec.pdf](https://www.aclu.org/sites/default/files/field_document/deanna_dec.pdf)

## Applied Locally (A Running List)

### 1. [LCPS POLICY 8040: Rights of Transgender and Gender-Expansive Students](#)

Until the day in which private schools and school choice become commonplace and accessible to all; public schools are still an essential service. With this in mind, the recent Loudoun County inclusion policy is both within reason and increases the likelihood of successful social transition and wellbeing of trans students, *without* diminishing the rights of all other students. **[REDACT] supports this policy as it is only applicable to their public school system. While this policy does defer non-intramural sports decisions to the Virginia High School League (VHSL), as opposed to allowing for these decisions to be made on a case-by-case basis at the school level; the [procedure set by VHSL](#) sets enough consideration to be acceptable enough for [REDACT] to still stand by the overall policy set by LCPS.**

# [REDACT] Policy Research: Trans Topics

## Children's Rights

- "They're not too young to know their gender:"<sup>1</sup>
- Study showing generally non-discernable improvements in mental health in transgender youth [Ages 3-12] who are supported vs cisgender youth.<sup>2</sup>
  - Possible comparison of well supported vs an older study of presumably not well supported showing better mental health in the supported group.<sup>2</sup>
- "6 to 23 percent of boys and 12 to 27 percent of girls treated in gender clinics showed persistence of their gender dysphoria into adulthood."<sup>8</sup>
  - Such studies on *desistance* have methodical flaws and do not properly assess desistance/persistence of the transgender youth of today.<sup>2</sup>

## Puberty Blockers

- Background<sup>6</sup>:
  - Gonadotropin-releasing hormone analogues (GnRHAs)
  - Not available in the USA until 1998.
    - *"GnRHa therapy effectively halts the production of gonadal sex steroids (testosterone and estrogen) by persistently activating and thereby desensitizing the gonadotropin-releasing hormone receptor, which in turn leads to suppression of luteinizing hormone and follicle-stimulating hormone release from the anterior pituitary gland. This process inhibits endogenous puberty for the duration of GnRHa use. Once further pubertal development is delayed, youth are able to explore gender identities without the pressure of dysphoria associated with gender-incongruent physical development.10 **GnRHa therapy** is unique among gender-affirming medical interventions in that the resultant pubertal suppression is fully reversible, with the resumption of endogenous puberty after their discontinuation."*
- Are they safe? Are we inadvertently harming children by allowing them to take them? Are we inadvertently harming them by *not*?
  - If you were assigned male at birth, puberty blockers will stop or limit:
    - growth of facial and body hair
    - deepening of the voice
    - broadening of the shoulders
    - growth of adam's apple
    - growth of gonads (testes) and erectile tissue (penis)
  - If you were assigned female at birth, puberty blockers will stop or limit:
    - breast tissue development
    - broadening of the hips
    - monthly bleeding
  - In both cases, puberty blockers will temporarily stop or limit:
    - growth in height



- development of sex drive
  - impulsive, rebellious, irritable or risk-taking behaviour
  - accumulation of calcium in the bones
  - fertility
    - **However**, it is believed that, once puberty blockers are discontinued by the person, these developments continued as per usual.
- Risks:
  - *"Research so far shows that the effects [on bone development and height] are minimal."*
  - *"If you have erectile tissue (penis) and think you might eventually want to have a vaginoplasty, talk with your primary care provider or endocrinologist for more information'...'If you start taking puberty blockers early in puberty you might not be able to have the vaginoplasty surgery that is most commonly used in Canada, later as an adult."*
  - **However**, there will not be true evidence of long-term negative effects on older-adults until such adults have aged enough for such data to become available.<sup>7</sup>
- Study: "Pubertal suppression for transgender adolescents who want this treatment is associated with favorable mental health outcomes."<sup>6</sup>
  - Study [of adults looking back and recording their mental health and other relevant historical pieces] shows inverse correlation between wanting and having access to puberty blockers vs suicidal ideation.

## Bathrooms

- Trans people are not a risk to others when getting to choose their bathroom, (and risk on them becoming victim to attack and/or harassment possibly increases when such laws are enacted limiting their freedom).<sup>3 4</sup>
- **Insufficient evidence to show this has a negative impact on the mental health of cisgender/non-trans students.**

## Sports

- Does having trans athletes in youth sports affect cisgendered athletes?
  - In states with inclusive policies, high school girls' participation in sports remained unchanged from 2011 to 2019. In states with exclusive policies, girls' participation has decreased.<sup>5</sup>
- **Insufficient evidence to show this has a negative impact on the mental health of cisgender/non-trans students, although it is worth noting that there could be data on cisgender/non-trans athletes who have lost scholarships in part due to losses to trans athletes.**<sup>14</sup>

## Pronouns

- Something as harmless as calling someone by their correct pronoun can help reduce instances of self-harm. *It does not hurt the person saying them\**, and can benefit the trans youth.

- Almost 44 percent of transgender youth—versus 16 percent of cisgender youth—reported considering suicide in the previous year [2019].<sup>5</sup>
- Lack of acceptance and affirmation increases mental health risks. A 2020 survey found that 28 percent of transgender youth whose pronouns are not affirmed attempted suicide in the past year. That number decreased to 12 percent for those whose pronouns are affirmed by all or most people in their lives.<sup>5</sup>
- **\*Insufficient evidence to show this has a negative impact on the mental health of cisgender/non-trans students.**

# Gender on Government ID

- As of July, 2020: *"Virginians are no longer confined to binary gender options when earning or renewing their Virginia driver's license. In addition to Male (M) and Female (F), driver's license applicants can now check Non-binary (X), according to the Virginia DMV."*<sup>13</sup>

## BUT

- Does the government need to know someone's gender?
- Is the government, (or anyone, outside of the individual themselves), even capable of determining someone else's gender? **(And, if they are not, then how/does this mindset apply to other gender-based access/equality matters)?**
  - Biological sex, (let alone gender), is not always binary. There are multiple medical conditions which defy binary biological sex, and might not be discovered by medical professionals until later in life.
  - Initially noticeable atypicalities in terms of genitalia that a specialist in sex differentiation is called in, the number comes out to about **1 in 1500 to 1 in 2000** births [1955-1998 study timeline].
  - When subtler forms of sex anatomy variations, some of which won't show up until later in life, are factored in, the numbers are much higher.
    - **Total number of people whose bodies differ from standard male or female = one in 100 births.**<sup>10</sup>

## Local Issues/General Info

- As of 2017, there are approximately 1.55 million transgender people in the United States [~0.7% of the US population].<sup>12</sup>
- **Loudoun County's new policy on transgender pronouns:**
  - *"Loudoun's Policy 8040 allows students to use their chosen name and gender pronouns that reflect their consistently asserted gender identity without any substantiating evidence, regardless of the name and gender recorded in the student's permanent educational record."*<sup>11</sup>
  - Libertarian consideration: Does school choice solve this issue?
    - \*Opinion: There is a difference between education curriculum and respecting the rights, health, safety, and dignity of the student. The former can be left to school choice. The latter, since inaction in respecting the rights of trans individuals can/will result in harm to the subjected; the resulting school choice would be a de facto form of demographic segregation, which has not been an acceptable form of practice since the Jim Crow era. Taking the option of school choice in this instance is a step too far.

# References

1. <https://www.insider.com/transgender-kids-develop-gender-identity-like-non-trans-kids-research-2019-11>
2. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4771131/>
3. <https://link.springer.com/article/10.1007/s13178-018-0335-z>
4. <https://clareflourish.wordpress.com/2020/07/22/gender-identity-nondiscrimination-laws-in-public-accommodations-hasenbush-flores-herman/>
5. <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/03/18/497336/fact-sheet-importance-sports-participation-transgender-youth/>
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7. <http://www.phsa.ca/transcarebc/child-youth/affirmation-transition/medical-affirmation-transition/puberty-blockers-for-youth>
8. <https://pubmed.ncbi.nlm.nih.gov/25231780/>
9. <https://www.kqed.org/futureofyou/441784/the-controversial-research-on-desistance-in-transgender-youth>
10. <https://isna.org/faq/frequency/>
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13. [https://www.chathamstartribune.com/news/article\\_064ae22a-bbd7-11ea-8d96-1741dd45af0a.html](https://www.chathamstartribune.com/news/article_064ae22a-bbd7-11ea-8d96-1741dd45af0a.html)
14. <https://m.imdb.com/title/tt10011320/>

## Puberty Blockers

### What are the risks?

- Contrary to claims that these are new or dangerous therapies that damage children, Dr. Deanna Adkins writes under oath that “puberty blockers began to be used in transgender patients in 2004, which is not considered recent in medicine. We also have over thirty years of data on the impact of puberty blockers on children who undergo precocious puberty that we can apply to the transgender population. There is no evidence of short or long-term negative effects on patients who receive puberty blockers from the more than thirty years of data that we have. And for transgender youth (as compared to those treated for precocious puberty), the treatment is used for a much shorter period of time, in order to pause puberty before either initiating puberty with cross-sex hormones or resuming endogenous puberty.”<sup>1</sup>
- “Pubertal development has a very wide variation among individuals. Puberty in individuals assigned male at birth typically begins anywhere from age nine to age fourteen, and sometimes does not complete until a person’s early twenties. For those individuals assigned female at birth, puberty typically ranges from age eight to age seventeen. Protocols used for transgender youth would tend to put them in the latter third of typical puberty but nothing outside of the typical range.”<sup>2</sup>
- “Critics of gender-affirming treatments often argue that children are too young to make these decisions and may regret them in adulthood. Skeptics will often cite statistics from [studies suggesting](#) that a majority of young transgender children will eventually grow out of their transgender identity later in life. But Turban and other experts have argued the methodology used in these studies is flawed because the researchers included a large cohort of children referred to transgender clinics, not children who actually met the criteria for gender dysphoria. He argued that many of these children were not transgender to begin with and may have simply been brought to the clinics by their parents because they were “tomboys” or gender-nonconforming children.”<sup>3</sup>
- “A [new study](#) by Turban and other researchers from the Fenway Institute and Harvard Medical School found that 13.1 percent of currently identified transgender people have “detransitioned” at some point in their lives but that 82.5 percent of those people attributed their decision to external factors such as pressure from family, school environments and vulnerability to violence.”<sup>4</sup>

### What are the benefits?

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<sup>1</sup> [https://www.aclu.org/sites/default/files/field\\_document/deanna\\_dec.pdf](https://www.aclu.org/sites/default/files/field_document/deanna_dec.pdf)

<sup>2</sup> [https://www.aclu.org/sites/default/files/field\\_document/deanna\\_dec.pdf](https://www.aclu.org/sites/default/files/field_document/deanna_dec.pdf)

<sup>3</sup> <https://www.washingtonpost.com/dc-md-va/2021/04/22/transgender-child-sports-treatments/>

<sup>4</sup> <https://www.washingtonpost.com/dc-md-va/2021/04/22/transgender-child-sports-treatments/>

- “Treatment with pubertal suppression among those who wanted it was associated with lower odds of lifetime suicidal ideation when compared with those who wanted pubertal suppression but did not receive it. Suicidality is of particular concern for this population because the estimated lifetime prevalence of suicide attempts among transgender people is as high as 40%.”<sup>5</sup>
- “Before medical treatment, clinic-referred adolescents showed more internalizing problems and reported increased self-harm/suicidality and poorer peer relations compared with their age-equivalent peers. Transgender adolescents receiving puberty suppression had fewer emotional and behavioral problems than the group that had just been referred to transgender care and had similar or fewer problems than their same-age cisgender peers on the Youth Self-Report domains.”<sup>6</sup>
- “Transgender adolescents show poorer psychological well-being before treatment but show similar or better psychological functioning compared with cisgender peers from the general population after the start of specialized transgender care involving puberty suppression.”<sup>7</sup>
- One study found evidence that a cohort that accessed gender affirming care sooner had better psychosocial outcomes, suggesting “possible benefits of accessing gender-affirming treatment earlier in life.”<sup>8</sup>

### **State Restrictions on Puberty Blockers and Other Gender-Affirming Care**

- In April, 2021, “Arkansas became the first state to ban physicians from giving hormones or puberty-delaying drugs to transgender people under age 18. Doctors who do so could be stripped of their licenses and sued. The law is called the Save Adolescents from Experimentation (SAFE) Act.”<sup>9</sup>

<sup>5</sup> Turban JL, King D, Carswell JM, et al. Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation. *Pediatrics*. 2020;145(2):e20191725.

Quoted in [https://www.aclu.org/sites/default/files/field\\_document/deanna\\_dec.pdf](https://www.aclu.org/sites/default/files/field_document/deanna_dec.pdf)

<sup>6</sup> van der Miesen AIR, Steensma TD, de Vries ALC, Bos H, Popma A. Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared With Cisgender General Population Peers. *J Adolesc Health*. 2020 Jun;66(6):699-704. doi: 10.1016/j.jadohealth.2019.12.018. Epub 2020 Apr 6. PMID: 32273193.

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<sup>7</sup> van der Miesen AIR, Steensma TD, de Vries ALC, Bos H, Popma A. Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared With Cisgender General Population Peers. *J Adolesc Health*. 2020 Jun;66(6):699-704. doi: 10.1016/j.jadohealth.2019.12.018. Epub 2020 Apr 6. PMID: 32273193.

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<sup>8</sup> Chen D, Abrams M, Clark L, Ehrensaft D, Tishelman AC, Chan YM, Garofalo R, Olson-Kennedy J, Rosenthal SM, Hidalgo MA. Psychosocial Characteristics of Transgender Youth Seeking Gender-Affirming Medical Treatment: Baseline Findings From the Trans Youth Care Study. *J Adolesc Health*. 2021 Jun;68(6):1104-1111. doi: 10.1016/j.jadohealth.2020.07.033. Epub 2020 Aug 21. PMID: 32839079; PMCID: PMC7897328.

<https://pubmed.ncbi.nlm.nih.gov/32839079/>

<sup>9</sup>

<https://www.scientificamerican.com/article/new-arkansas-law-and-similar-bills-endanger-transgender-youth-research-shows/>

- As of April, “Nineteen other states have introduced similar legislation, and some of the bills outline strict penalties. Under one that passed Alabama’s Senate in March, physicians who administer the treatments to minors will face up to 10 years in prison.”<sup>10</sup>
- A running list of such legislation can be found [here](#).<sup>11</sup>

### **Libertarian Principles**

- LP Platform: “We recognize the freedom of individuals to determine the level of health insurance they want (if any), the level of health care they want, the care providers they want, the medicines and treatments they will use, and all other aspects of their medical care, including end-of-life decisions.”<sup>12</sup>
- Tradeoffs associated with any medical procedures, but patients, doctors, and others with local knowledge are most likely to understand the relevant trade offs than policy makers making blanket rules
- Setting one size fits all rules means state will defer to monopoly experts to make policies for all children and families. By contrast, when children and parents can choose doctors, experts compete rather than rule. This reduces the risk of “expert failure.”<sup>13</sup>

### **Should we deschedule testosterone and other hormones?**

#### **What does the current scope of government intervention look like here?**

- “Testosterone is also a Schedule III controlled substance under the United States Federal Controlled Substance Act ("CSA"). The penalties for the first offense of illegal possession of a Schedule III controlled substance are a fine of "not less than \$1,000" and "up to 1 year" imprisonment.”<sup>14</sup>

#### **What are some consequences of this intervention?**

- “This means transgender men and transmasculine people who seek to lawfully and medically transition with prescriptions will need to interact with the medical provider industry, an industry which has routinely discriminated against transgender people through institutional policies and interpersonal interactions.”<sup>15</sup>

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<sup>10</sup>

<https://www.scientificamerican.com/article/new-arkansas-law-and-similar-bills-endanger-transgender-youth-research-shows/>

<sup>11</sup> <https://freedomforallamericans.org/legislative-tracker/medical-care-bans/>

<sup>12</sup> <https://www.lp.org/platform/>

<sup>13</sup> Koppl, Roger. 2018. *Expert Failure*. Cambridge University Press.

<sup>14</sup> <https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/e/1232/files/2016/12/TESTOSTERONE-AND-TRANSGENDER-MEN.pdf>

<sup>15</sup> <https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/e/1232/files/2016/12/TESTOSTERONE-AND-TRANSGENDER-MEN.pdf>



- Like all drug prohibition, the Schedule III status of testosterone creates a black market. It turns out that “there are transgender men who choose to self-medicate despite the Schedule III status of testosterone. In addition to the standard risks that come with taking testosterone, some additional risks of taking black market hormones include injecting tainted hormones, HIV and hepatitis transmission due to shared needles, and liver damage due to unregulated dosages of testosterone.”<sup>16</sup>
- The Schedule III status of testosterone also creates privacy risks for transgender men. As Sheila R. Qvistgaard explains, “the transmasculine community is also generally concerned about being included on lists or registries of those receiving controlled substances for personal safety reasons and the possibility of being outed to employers or family.”<sup>17</sup>

### Libertarian principles

- As explained in section 1.7 of the Libertarian Party platform, “Crime and Justice”: “we favor the repeal of all laws creating “crimes” without victims, such as gambling, the use of drugs for medicinal or recreational purposes, and consensual transactions involving sexual services.”<sup>18</sup>
- As explained in section 2.13 of the Libertarian Party platform, “Health care”: “We recognize the freedom of individuals to determine the level of health insurance they want (if any), the level of health care they want, the care providers they want, *the medicines and treatments they will use*, and all other aspects of their medical care, including end-of-life decisions.”<sup>19</sup> (emphasis added)

## Identity Documents

### Precedent/Examples of Removing Info

- The Dutch government will no longer include gender markers on national identification documents (IDs) in the next five years, a move that balances the potential harms – such as harassment, discrimination, and violence – that requiring people to declare gender on documents poses against whether there is any justification for publishing a person’s legal gender.<sup>20</sup>

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<sup>16</sup><https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/e/1232/files/2016/12/TESTOSTERONE-AND-TRANSGENDER-MEN.pdf>

<sup>17</sup><https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/e/1232/files/2016/12/TESTOSTERONE-AND-TRANSGENDER-MEN.pdf>

<sup>18</sup> <https://www.lp.org/platform/>

<sup>19</sup> <https://www.lp.org/platform/>

<sup>20</sup> <https://www.hrw.org/news/2020/07/08/netherlands-sees-no-role-gender-marker-id-documents#>

- In 2006, global experts drafted the Yogyakarta Principles, a codification of international human rights standards related to sexual orientation and gender identity. A decade later, they updated their call for barrier-free legal recognition of gender to recommend that states “end the registration of the sex and gender of the person in identity documents such as birth certificates, identification cards, passports, and driver licenses, and as part of their legal personality.”<sup>21</sup>
- There is precedent for removing information from IDs, as not relevant to the purpose of the document. Many countries have removed personal characteristics such as race, religion, or marital status. The primary purpose of an identity document is to ensure that the person presenting the ID is who they say they are. Race or gender markers do not create additional clarity.<sup>22</sup>

### **Libertarian Principles**

- LP Platform: “Libertarians advocate individual privacy and government transparency. We are committed to ending government’s practice of spying on everyone. We support the rights recognized by the Fourth Amendment to be secure in our persons, homes, property, and communications.”<sup>23</sup>
- LP Platform: “Sexual orientation, preference, gender, or gender identity should have no impact on the government’s treatment of individuals, Sexual orientation, preference, gender, or gender identity should have no impact on the government’s treatment of individuals”<sup>24</sup>
- Gives the government additional info about you they can use to mistreat you
- Makes trans people (especially those who haven’t transitioned) particularly vulnerable to police harassment and abuse

### **Isn’t it useful to have gender identity markers on documents?**

- In many states it is relatively easy to change identity markers, and many have gender neutral options<sup>25</sup> and people with the same identity marker can look very different from each other
- The information it really provides is (possibly) what someone’s genitals looked like at birth, or maybe what their genitals currently look like

### **Objections**

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<sup>21</sup> <https://www.hrw.org/news/2020/07/08/netherlands-sees-no-role-gender-marker-id-documents#>

<sup>22</sup> <https://www.hrw.org/news/2020/07/08/netherlands-sees-no-role-gender-marker-id-documents#> and <http://www.preventgenocide.org/prevent/removing-facilitating-factors/IDcards/>

<sup>23</sup> <https://www.lp.org/platform/>

<sup>24</sup> <https://www.lp.org/platform/>

<sup>25</sup> [https://transequality.org/sites/default/files/Drivers%20License%20Grades%20July%202021a\\_0.pdf](https://transequality.org/sites/default/files/Drivers%20License%20Grades%20July%202021a_0.pdf)

- Gender affirming IDs are linked to lower rates of suicidal ideation<sup>26</sup> so it's possible having gender markers that are easy to change could be better for trans people than removing the markers altogether
- Possible value for gender markers on IDs in increasing safety - For example, someone challenges a woman as being in the wrong bathroom, being able to show an ID with an "F" on it may make the aggressor back off

## Issues in Public Schools

### Bathrooms and locker rooms?

- Some argue that allowing trans people to use restrooms and locker rooms that match their gender will make cis women vulnerable to assault or other violations of privacy.
- But the evidence does not seem to support this. Consider a study from Massachusetts: "This study presents findings from matched pairs analyses of localities in Massachusetts with and without gender identity inclusive public accommodation nondiscrimination ordinances. Data come from public record requests of criminal incident reports related to assault, sex crimes, and voyeurism in public restrooms, locker rooms, and dressing rooms to measure safety and privacy violations in these spaces. This study finds that the passage of such laws is not related to the number or frequency of criminal incidents in these spaces. Additionally, the study finds that reports of privacy and safety violations in public restrooms, locker rooms, and changing rooms are exceedingly rare. *This study provides evidence that fears of increased safety and privacy violations as a result of nondiscrimination laws are not empirically grounded.*"<sup>27</sup> (emphasis added)
- While fears that inclusive policies undermine public safety are overblown, inclusive policies appear to have significant safety benefits for trans youth.
- "A survey (James et al., 2016) carried out with 28,000 transgender or diverse gender people, with 18 years old or more in the United States in 2015, showed the following situations experienced up to 1 year before the research: 48% *sometimes* avoided and 11% *always* avoided using the bathroom, totaling 59%; 32% limited their drinking habits to avoid using the bathroom; 24% had their presence in a particular bathroom questioned or challenged; 12% were verbally harassed, physically attacked, or sexually abused when accessing or using a bathroom; 9% had access to the bathroom effectively denied, with undocumented residents (23%), and interviewees working in the clandestine economy (20%) (such as sex work, drug sales, and other currently criminalized jobs) being twice more likely to be denied access to restrooms than the general sample; and 8% reported having a urinary tract infection, kidney infection or other kidney-related problem as a result of avoiding using the bathroom."<sup>28</sup>

<sup>26</sup> [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(20\)30032-3/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(20)30032-3/fulltext)

<sup>27</sup> <https://link.springer.com/article/10.1007/s13178-018-0335-z>

<sup>28</sup> <https://www.frontiersin.org/articles/10.3389/fsoc.2021.652777/full>

- “The 12-month prevalence of sexual assault was 26.5% among transgender boys, 27.0% among nonbinary youth assigned female at birth, 18.5% among transgender girls, and 17.6% among nonbinary youth assigned male at birth. *Youth whose restroom and locker room use was restricted were more likely to experience sexual assault compared with those without restrictions*, with risk ratios of 1.26 (95% confidence interval [CI]: 1.02–1.52) in transgender boys, 1.42 (95% CI: 1.10–1.78) in nonbinary youth assigned female at birth, and 2.49 (95% CI: 1.11–4.28) in transgender girls. Restrictions were not associated with sexual assault among nonbinary youth assigned male at birth.”<sup>29</sup> (emphasis added)
- About 26% of the teens reported that they were sexually assaulted in the past 12 months, with the highest rates among non-binary teens assigned female at birth and transgender boys. Their rate of assault is well above what previous studies have found for teens who are not sexual minorities — 15% for girls and 4% for boys.<sup>30</sup>
- The sexual assault rates are even higher for sexual minorities whose schools impose bathroom or locker room restrictions at 36%.<sup>31</sup>
- Solving the discomfort some feel - make sure there are some single-stall gender neutral bathrooms and locking changing rooms, so that kids who want to use them (whether because they’re trans or because the potential presence of trans kids makes them uncomfortable) can do so
- Restrictive policies can put trans students in impossible situations, such as the girl who was unable to go into either locker room during a lockdown drill in Virginia<sup>32</sup>

## Sports teams

- Participating in teams that match a student’s gender identity is one aspect of social transition, in which trans people live as the gender they identify with rather than the gender they were assigned at birth.
- Medical research finds significant benefits from social transition.
  - “Most studies have found that youth who do not conform to gender norms for their assigned sex have higher rates of depression and anxiety than their cisgender peers.<sup>1,2</sup> However, more recent research featuring smaller cohorts (ie, ranging from 31 to 73 participants) of socially transitioned transgender youth—youth who identify and live as a gender different from their sex assignment at birth—show normative or only slightly elevated rates of depression and anxiety.<sup>3-5</sup> We recruited a new, larger sample of socially transitioned transgender youth, their siblings, and age- and gender-matched control participants to test whether transgender youth

<sup>29</sup> <https://pediatrics.aappublications.org/content/143/6/e20182902>

<sup>30</sup> <https://pediatrics.aappublications.org/content/143/6/e20182902>

<sup>31</sup> <https://pediatrics.aappublications.org/content/143/6/e20182902>

<sup>32</sup> <https://www.newsweek.com/virginia-transgender-student-denied-entry-both-locker-rooms-during-safety-1156837>

experience significantly higher levels of anxiety and depression than their cisgender peers.”<sup>33</sup>

- “These findings are in striking contrast to previous work with gender-nonconforming children who had not socially transitioned, which found very high rates of depression and anxiety. These findings lessen concerns from previous work that parents of socially transitioned children could be systematically underreporting mental health problems.”<sup>34</sup>

### **How will these policies be enforced?**

- Florida’s “Fairness in Women’s Sports Act” empowers public schools to inspect children’s genitals.<sup>35</sup>
- This seems like a clear invasion of childrens’ privacy rights, and it also seems likely to cause trauma and child sexual abuse.

### **Names and pronouns used by teachers and staff**

- Referring to trans students by their preferred names and the pronouns that match their gender identity is another way of supporting social transition.
- Medical research finds significant benefits from social transition.
  - “Most studies have found that youth who do not conform to gender norms for their assigned sex have higher rates of depression and anxiety than their cisgender peers.<sup>1,2</sup> However, more recent research featuring smaller cohorts (ie, ranging from 31 to 73 participants) of socially transitioned transgender youth—youth who identify and live as a gender different from their sex assignment at birth—show normative or only slightly elevated rates of depression and anxiety.<sup>35</sup> We recruited a new, larger sample of socially transitioned transgender youth, their siblings, and age- and gender-matched control participants to test whether transgender youth experience significantly higher levels of anxiety and depression than their cisgender peers.”<sup>36</sup>
  - “These findings are in striking contrast to previous work with gender-nonconforming children who had not socially transitioned, which found very high rates of depression and anxiety. These findings lessen concerns from previous work that parents of socially transitioned children could be systematically underreporting mental health problems.”<sup>37</sup>

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<sup>33</sup> <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2778206>

<sup>34</sup> <https://pubmed.ncbi.nlm.nih.gov/28117057/>

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<https://thehill.com/changing-america/respect/equality/548534-floridas-new-ban-on-transgender-students-in-sports-would>

<sup>36</sup> <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2778206>

<sup>37</sup> <https://pubmed.ncbi.nlm.nih.gov/28117057/>

- If a student has socially transitioned, a teacher who calls them by an outdated name or pronoun may “out” them to their peers. This can make students more vulnerable to harassment and bullying.
- Use of chosen name use has been linked to reduced depression, suicidal ideation and suicidal behavior, and the more contexts in which the name is used, the better the outcomes<sup>38</sup>
  - Researchers interviewed transgender youths ages 15 to 21 and asked whether young people could use their chosen name at school, home, work and with friends. Compared with peers who could not use their chosen name in any context, young people who could use their name in all four areas experienced 71 percent fewer symptoms of severe depression, a 34 percent decrease in reported thoughts of suicide and a 65 percent decrease in suicidal attempts.<sup>39</sup>
- Personal narratives from trans people illustrate how hurtful deadnaming (calling a trans person by their old name) can be
  - “A lot of people don’t understand how important it is for a trans person to be addressed with their real name and the harm deadnaming can cause. I remember a few times when a substitute teacher would take attendance with a sheet that listed my deadname. It was just a shock to my system every time — you don’t know how to react in that moment, you just sit there in silence wondering what people will say and how they’ll look at you. It’s a horrible experience.”<sup>40</sup>
  - “When people use deadnames, it’s degradation of life and erases us,”<sup>41</sup>
  - As a transgender student, Arnieri says he had been corresponding with the University for months to ensure his preferred name was called at the ceremony. Despite legally changing his name in April, Arnieri says his deadname was announced.
 

My deadname rang in my ears,” Arnieri said. “My moment was ruined.”<sup>42</sup>
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### Protecting student privacy

- Outing students, whether to peers or parents, can expose them to backlash and harm.
- For example, some parents kick youth out of their homes for being trans.
- “Homelessness is also a critical issue for transgender people; one in five transgender individuals have experienced homelessness at some point in their lives. Family rejection and discrimination and violence have contributed to a large number of transgender and

<sup>38</sup> [https://www.jahonline.org/article/S1054-139X\(18\)30085-5/fulltext#intraref0010a](https://www.jahonline.org/article/S1054-139X(18)30085-5/fulltext#intraref0010a)

<sup>39</sup> <https://news.utexas.edu/2018/03/30/name-use-matters-for-transgender-youths-mental-health/>

<sup>40</sup> <https://www.hrc.org/news/telling-trans-stories-adam>

<sup>41</sup>

<https://www.azcentral.com/story/news/local/mesa/2017/02/08/deadnaming-awareness-growing-anniversary-fatal-mesa-police-shooting-kayden-clarke-transgender-lgbt/97406114/>

<sup>42</sup>

<https://illinoisnewsroom.org/transgender-students-protest-deadnaming-at-university-of-illinois-graduation/>

other LGBTQ-identified youth who are homeless in the United States – an estimated 20-40% of the more than 1.6 million homeless youth.”<sup>43</sup>

### **Libertarian principles**

- Inclusive policies in public schools support students’ self-determination and self-expression.
- As explained in section 1.4 of the Libertarian Party platform, “Sexual orientation, preference, gender, or gender identity should have no impact on the government’s treatment of individuals.”<sup>44</sup>
- Libertarians believe in individual responsibility, not collective punishment. Therefore, when dealing with people who are being inappropriate or harmful in bathrooms or locker rooms, we should do it on an individual basis, not by preemptively punishing or excluding a bunch of kids.
- Currently, the United States has a system of *compulsory education*. This means that students are forced to attend schools, and that they and their parents can be punished under truancy laws if they do not show up. Don’t force kids to go somewhere that will harm their mental and emotional health.

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<sup>43</sup> <https://transequality.org/issues/housing-homelessness>

<sup>44</sup> <https://www.lp.org/platform/>

Key questions in the debate:

**1. What does “Transgender” mean and are hormone therapy and surgeries a necessary part of the transgender identity? In other words, what are the criteria for labeling a person transgender?**

According to the Mayo Clinic, “Transgender is an umbrella term used to capture the spectrum of gender identity and gender-expression diversity. Gender identity is the internal sense of being male, female, neither or both. Gender expression — often an extension of gender identity — involves the expression of a person's gender identity through social roles, appearance and behaviors.

People who are transgender include:

- Those who have a gender identity that differs from the sex assigned to them at birth
- Those whose gender expression — the way gender is conveyed to others through clothing, communication, mannerisms and interests — and behavior don't follow stereotypical societal norms for the sex assigned to them at birth
- Those who identify and express their gender fluidly outside of the gender binary, which might or might not involve hormonal or surgical procedures.<sup>45</sup>

It is now no longer acceptable in the LGBTQ community to require a person to use hormones or surgery to change their physical appearance in order to be considered transgender. "For a lot of folks, surgery is not a part of their transition, because they have health problems that make it unfeasible or financial issues, or it's just not how they understand themselves to be," said Christopher Daley, director of the San Francisco-based Transgender Law Center, which focuses on California. "They don't need surgery to feel complete as a man or woman."<sup>46</sup>

So what must a person do to be considered a different gender than their birth sex in the eyes of the law? It differs according to location. For example, in the UK, Individuals 18 years or older must apply for a certificate under the 2004 Gender Recognition Act and are required to have lived for two years in their preferred gender and to have received a diagnosis of gender dysphoria from a doctor. Hormone therapy and surgery is not required.<sup>47</sup> This presents a bit of a paradox given that one of the requirements for a gender change on legal documents is to live within stereotypical images of a man or woman, which the LGBTQ community claims to reject as “social constructs” and contrary to “gender fluidity.”

**2. What is the difference between gender and sex?**

The argument recently was that gender is only a social construct, while sex is a biological reality. Now, activists and some medical professionals claim that gender identity is destiny, while biological sex is the social construct.

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<sup>45</sup> <https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/transgender-facts/art-20266812>

<sup>46</sup> <https://www.wired.com/2006/11/sex-change-no-surgery-required/>

<sup>47</sup> <https://www.bbc.com/news/uk-40709420>



According to Duke University Pediatric Endocrinologist, Dr. Deanna Atkins, “a person’s gender identity refers to a person’s inner sense of belonging to a particular gender, such as male or female,” while “the appropriate determinant of sex is gender identity.” Furthermore, according to Dr. Adkins, a gender identity is “fixed” and cannot be altered.<sup>48</sup> She goes to say that being born in the wrong body is “a normal developmental variation...and it is counter to medical science to use chromosomes, hormones, internal reproductive organs, external genitalia, or secondary sex characteristics to override gender identity for purposes of classifying someone as male or female.”

In other words, inner sense determines gender identity which determines sex, and this gender identity is fixed and immutable. Biology is not part of the equation.

Conversely, the traditional scientific view of “sex” is that “an organism’s sex—as male or female—is identified by its organization for sexually reproductive acts. Sex is divided into male or female which refers to the basic physical capacity for one of two functions in sexual reproduction. The conceptual distinction between male and female based on reproductive organization provides the only coherent way to classify the two sexes. Apart from that, all we have are stereotypes.”<sup>49</sup>

Modern science shows that our sexual organization begins with our DNA and development in the womb, and that sex differences manifest themselves in many bodily systems and organs, all the way down to the molecular level. In other words, our physical organization for one of two functions in reproduction shapes us organically, from the beginning of life, at every level of our being.”<sup>50</sup>

In sum, the two camps disagree on whether biology or innate feeling are the basis for sex and gender.

### 3. How do intersex abnormalities tie into the debate?

The existence of intersex conditions is often used to support the argument against “assigning” sex to babies at birth, or interpreting their sex based on physical appearance. Intersex people are individuals born with atypical sex characteristics such as abnormal chromosome patterns, gonads or genitals. Some intersex traits or “disorders of sex development (DSD)”<sup>51</sup> are apparent from birth while many go unnoticed through a person’s life.

According to experts, between 0.05% and 1.7% of the population is born with intersex traits.<sup>52</sup> *While it's possible to be both transgender and intersex, most transgender people aren't intersex, and most intersex people aren't transgender.*<sup>53</sup>

A 2012 clinical review paper found that between 8.5% and 20% of people with intersex variations experienced gender dysphoria.<sup>54</sup>

The most recent Gallup poll estimates that 0.6% of the US population identifies as trans.<sup>55</sup> While there is not a significant overlap in people with congenital intersex conditions and

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<sup>48</sup> <https://www.aclu.org/legal-document/expert-declaration-deanna-adkins-md>

<sup>49</sup> <https://www.thepublicdiscourse.com/2018/03/21151/>

<sup>50</sup> <https://www.thepublicdiscourse.com/2018/03/21151/>

<sup>51</sup> <https://www.apa.org/topics/lgbtq/intersex.pdf>

<sup>52</sup> <https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Intersex.pdf>

<sup>53</sup> <https://transequality.org/issues/resources/frequently-asked-questions-about-transgender-people>

<sup>54</sup> [https://en.wikipedia.org/wiki/Intersex\\_and\\_LGBT#Intersex\\_and\\_transgender](https://en.wikipedia.org/wiki/Intersex_and_LGBT#Intersex_and_transgender)

<sup>55</sup> <https://news.gallup.com/poll/329708/lgbt-identification-rises-latest-estimate.aspx>

<https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/>

transgenderism, nor is there a significant percentage of the population that identifies as both intersex and transgender, the existence of intersex conditions are used as a front argument in many debates to demonstrate that sex/gender cannot be known from birth, which justifies the use of the more politically correct term “sex assigned at birth” instead of “biological sex.”

**4. What are the differences between men and women?** Men typically have proportionately more muscle mass, more bone mass, and more lung and airway capacity than women,<sup>56</sup> which does not go away with hormone replacement therapy in transitioning adults. There are even “well-defined differences in brain structure that result from fetal exposure to gonadal steroid hormones. These morphological differences, in concert with the effects of sex steroid hormones on neuronal function, are proposed to support diverse nonreproductive differences between males and females such as differences in pain threshold and cognitive style and the greater glucocorticoid response to stressors exhibited by females compared with males.”<sup>57</sup>

This differences apply in the real world: Historically, the military has different gender standards for its physical fitness test to account for the above physiological differences.<sup>58</sup> However, the US Army recently introduced a new gender neutral combat fitness test that contains six events: a maximum deadlift, standing power throw, hand-lease push-ups, a sprint, drag and carry, leg tuck, and a two-mile run. In Spring 2021, Congress had to direct the Army to halt the test due to a failure rate of female soldiers of 65% to 10%.<sup>59</sup>

#### **5. Suicide and Transgenderism.**

According to the 2015 online US Transgender Survey, Transgender adults have a prevalence of past-year suicide ideation that is nearly twelve times higher, and a prevalence of past-year suicide attempts that is about eighteen times higher, than the U.S. general population. Causes can range from substance abuse, poor health, homelessness, disability, to being rejected by one’s family and community.<sup>60</sup> According to the same study, a supportive family and gender affirmation surgeries may reduce the risk of suicide by over 3%. “For instance, 5.1 percent of those who wanted surgical care and received it attempted suicide in the past year compared to 8.5 percent of those who wanted surgical care but did not receive it.”

Conversely, a 30 yearlong study from Sweden (Dheijne et al) documented that “10 to 15 years after surgical reassignment, the suicide rate of those who had undergone sex-reassignment surgery rose to twenty times that of comparable peers. The overall mortality for sex-reassigned persons was higher during follow-up (aHR 2.8; 95% CI 1.8–4.3) than for controls of the same birth sex, particularly death from suicide (aHR 19.1; 95% CI 5.8–62.9). Sex-reassigned persons also had an increased risk for suicide attempts (aHR 4.9; 95% CI 2.9–8.5) and psychiatric inpatient care (aHR 2.8; 95% CI 2.0–3.9). Comparisons with controls matched on reassigned sex yielded similar results. Female-to-males, but not male-to-females, had a higher risk for criminal convictions than their respective birth sex controls.”<sup>61</sup>

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<sup>56</sup> <https://journals.physiology.org/doi/full/10.1152/advan.00118.2006>

<sup>57</sup> <https://journals.physiology.org/doi/full/10.1152/advan.00118.2006>

<sup>58</sup> <https://www.navycs.com/navy-fitness-assessment.html>

<sup>59</sup> <https://www.thedefensepost.com/2021/03/16/us-reviews-combat-fitness-test/>

<sup>60</sup> <https://williamsinstitute.law.ucla.edu/publications/suicidality-transgender-adults/>

<sup>61</sup> <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885>

Dhejne et al., tracked all patients who had undergone reassignment surgery (mean age 35.1 years) over a 30 year interval and compared them to 6,480 matched controls. The study identified increased mortality and psychiatric hospitalization compared to the matched controls. The mortality was primarily due to completed suicides (19.1-fold greater than in control Swedes), but death due to neoplasm and cardiovascular disease was increased 2 to 2.5 times as well. We note, mortality from this patient population did not become apparent until after 10 years. The risk for psychiatric hospitalization was 2.8 times greater than in controls even after adjustment for prior psychiatric disease (18%). The risk for attempted suicide was greater in male-to-female patients regardless of the gender of the control.<sup>62</sup>

### **17. Do the benefits of sex reassignment surgery outweigh the costs?**

“In August 2016, the Centers for Medicare and Medicaid wrote: “[t]he four best designed and conducted studies that assessed quality of life before and after surgery using validated (albeit non-specific) psychometric studies did not demonstrate clinically significant changes or differences in psychometric test results after [gender reassignment surgery].”

“Guardian Weekend asked Birmingham University's Aggressive Research Intelligence Facility (Arif) to assess the findings of more than 100 follow-up studies of post-operative transsexuals. Arif, which conducts reviews of healthcare treatments for the NHS, concludes that none of the studies provides conclusive evidence that gender reassignment is beneficial for patients. *It found that most research was poorly designed, which skewed the results in favour of physically changing sex.* There was no evaluation of whether other treatments, such as long-term counselling, might help transsexuals, or whether their gender confusion might lessen over time. Arif says the findings of the few studies that have tracked significant numbers of patients over several years were flawed because the researchers lost track of at least half of the participants.”<sup>63</sup>

### **5. Censorship in the debate**

In September 2018, Brown university removed a published study from its site exploring the link between peer pressure and rapid onset gender dysphoria (gender dysphoria that starts during puberty).<sup>64</sup>

A Letter from 100 UK academics to the Guardian concerned about “the suppression of proper academic analysis and discussion of the social phenomenon of transgenderism, and its multiple causes and effects.” Members of the group had “experienced campus protests, calls for dismissal in the press, harassment, foiled plots to bring about dismissal, no-platforming, and attempts to censor academic research and publications.”<sup>65</sup>

Female athletes and their families that question the fairness of biological men participating in female sports are slammed as transphobic, heckled and berated in public and online.<sup>66</sup>

JK Rowling was “cancelled” for a tweet defending the existence of women as a biological reality.<sup>67</sup>

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<sup>62</sup><https://www.cms.gov/medicare-coverage-database/details/nca-decision-memo.aspx?NCAId=282&bc=ACAAAAA QAAA&>

<sup>63</sup> <https://www.theguardian.com/society/2004/jul/31/health.socialcare>

<sup>64</sup><https://www.nbcnews.com/feature/nbc-out/brown-university-criticized-over-removal-transgender-study-n90674 1>

<sup>65</sup><https://www.theguardian.com/society/2018/oct/16/academics-are-being-harassed-over-their-research-into-transgender-issues>

<sup>66</sup><https://www.usatoday.com/story/opinion/2020/06/19/transgender-athletes-robbing-girls-chance-win-sports-column/4856486002/>

<sup>67</sup><https://www.bbc.com/news/uk-53002557>



**Government ID:** Biological Sex is on most government IDs. It can be argued from a libertarian perspective that government IDs should have limited use and limited information attached to them. With that, regardless of views on transgenderism, sex should be optional on any ID.

**Health Insurance Coverage (Adults):** According to the Centers for Medicare and Medicaid services, transgender treatments are not generally covered because their “review of the clinical evidence for gender reassignment surgery was inconclusive for the Medicare population at large. The low number of clinical studies specifically about Medicare beneficiaries’ health outcomes for gender reassignment surgery and small sample sizes inhibited our ability to create clinical appropriateness criteria for cohorts of Medicare beneficiaries.”<sup>68</sup>

*Overall, the quality and strength of evidence were low due to mostly observational study designs with no comparison groups, subjective endpoints, potential confounding (a situation where the association between the intervention and outcome is influenced by another factor such as a co-intervention), small sample sizes, lack of validated assessment tools, and considerable lost to follow-up.* The impact of a specific therapeutic intervention can be difficult to determine when there are multiple serial treatments such as psychotherapy, hormone treatment and surgery. To reduce confounding, outcome assessment just prior to and after surgery such as in a longitudinal study would be helpful. The objective endpoints included psychiatric treatment, attempted suicide, requests for surgical reversal, morbidity (direct and indirect adverse events), and mortality. CMS agrees with the utility of these objective endpoints. Quality of life, while important, is more difficult to measure objectively.

Of the 33 studies reviewed, published results were conflicting – some were positive; others were negative. *Collectively, the evidence is inconclusive for the Medicare population.* The majority of studies were non-longitudinal, exploratory type studies (i.e., in a preliminary state of investigation or hypothesis generating), or did not include concurrent controls or testing prior to and after surgery. Several reported positive results but the potential issues noted above reduced strength and confidence. After careful assessment, we identified six studies that could provide useful information. *Of these, the four best designed and conducted studies that assessed quality of life before and after surgery using validated (albeit non-specific) psychometric studies did not demonstrate clinically significant changes or differences in psychometric test results after GRS.* (Heylens et al., 2014; Ruppini, Pfafflin, 2015; Smith et al., 2005; Udeze et al., 2008) (Appendix C Panel A and Appendix G.)<sup>69</sup>

### **Pronouns:**

It is quickly becoming customary for students and employees to be asked to announce their pronouns, or for strangers to ask each other for their pronouns in certain settings.

Arguments For: “Pronouns are important because they help us acknowledge and affirm someone’s identity. In fact, a study in the Journal of Adolescent Health found that using the chosen or preferred name and pronouns for transgender youth is linked to lower rates of depressive symptoms, suicidal ideation and suicidal behavior. Dr. Goepferd explains, “This one little action can really make a big difference.”<sup>70</sup>

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<sup>68</sup><https://www.cms.gov/medicare-coverage-database/details/nca-proposed-decision-memo.aspx?NCAId=282>

<sup>69</sup><https://www.cms.gov/medicare-coverage-database/details/nca-decision-memo.aspx?NCAId=282&bc=ACAAAAAAQAAA&>

<sup>70</sup><https://www.childrensmn.org/2020/10/20/parents-know-pronouns/>

Arguments Against: “The result of this practice is that students whose gender presentation may not match their gender identity are forced to lie or to out themselves in a new and possibly unsafe environment, while those who are unsure of their gender identity are made to feel uncomfortable and forced to choose a pronoun.”<sup>71</sup> Another article states, “*Refusing to respond to a pronoun request in such settings can be interpreted as insensitivity to the concerns of transgender people or lack of concern for inclusion and diversity.* It potentially opens one to accusations of intolerance, discrimination, or even transphobia. Similar vulnerability accompanies even questioning the purpose or appropriateness of such a request.”<sup>72</sup>

### **School Bathrooms/Locker Rooms/Spas:**

Bathrooms: An alternative option is the use of “European” style bathrooms where stalls are floor to ceiling gender neutral for more privacy and sinks are in a separate space for hand Washing. This would require a budget for new construction/renovation in a school and other public spaces, which could be controversial. It should be up to a private business as to whether they want to have gender neutral spaces or separated by biological sex characteristics.

### **Sports:**

The issue of transgender participation in sports disproportionately affects women’s sports. Men typically have proportionately more muscle mass, more bone mass, and more lung and airway capacity than women, which does not go away with hormone replacement therapy in transitioning adults. No fitness regimen, no amount of practice, and no reallocation of financial resources could allow the best female athletes at any level to compete against the best male athletes at that same level.<sup>73</sup> For example, the 1997 world record bench press for females was 163 and for males was 255 according to a Princeton Study on powerlifting. This is accounted for by large differences in total body strength, shoulder size, hip size, body fat percentage, and even differences in the amount of “slow twitch fibers” of the muscles which affects force.<sup>74</sup> While the gap is smaller between elite females and non-elite males, it is still insurmountable. “Just in the single year 2017, Olympic, World, and U.S. Champion Tori Bowie’s 100 meters lifetime best of 10.78 was beaten 15,000 times by men and boys. The same is true of Olympic, World and U.S. Champion Allyson Felix’s 400 meters lifetime best of 49.26. Just in the single year 2017, men and boys around the world outperformed her more than 15,000 times.”<sup>75</sup>

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<sup>71</sup><https://www.insidehighered.com/views/2018/09/19/why-asking-students-their-preferred-pronoun-not-good-idea-opinion>

<sup>72</sup> <https://emjmurphee.medium.com/no-you-cannot-have-my-gender-pronouns-5b2f6b7e418a>

<sup>73</sup><https://theconversation.com/striking-a-balance-between-fairness-in-competition-and-the-rights-of-transgender-athletes-159685>

<sup>74</sup> <https://scholar.princeton.edu/sites/default/files/brzycki/files/mb-2002-01.pdf>

<sup>75</sup> <https://web.law.duke.edu/sites/default/files/centers/sportslaw/comparingathleticperformances.pdf>

TABLE 1 – World’s Best Woman v. Under 18 Boys			
Event	Best Women’s Result	Best Boys’ Result	# of Boys Outperforming
100 Meters	10.71	10.15	124 <sup>+</sup>
200 Meters	21.77	20.51	182
400 Meters	49.46	45.38	285
800 Meters	1:55.16*	1:46.3	201+
1500 Meters	3:56.14	3:37.43	101+
3000 Meters	8:23.14	7:38.90	30
5000 Meters	14:18.37	12:55.58	15
High Jump	2.06 meters	2.25 meters	28
Pole Vault	4.91 meters	5.31 meters	10
Long Jump	7.13 meters	7.88 meters	74
Triple Jump	14.96 meters	17.30 meters	47

Those arguing in favor of allowing transgender players to participate in women’s sports argue that a year or two of hormones will negate any differences. However, hormone therapy does not erase the secondary sex characteristics (higher bone density, different body frame, etc) that biological men have as advantages over women in sports. In a paper that looked at untrained trans women, [the authors] found that "muscular advantage enjoyed by transgender women is only minimally reduced when testosterone is suppressed."<sup>76</sup> Even though Laurel Hubbard met the criteria for having been on estrogen for over 2 years in order to be on the NZ women’s power lifting team for the Olympics, she was the oldest “female” power lifter at the Olympics by almost 20 years, with her teammates ranging from 23 to 27 . The fact that she didn’t win a medal doesn’t negate the fact that a biological woman lost her spot on the team in favor of a 43 year old individual that had enjoyed the benefits of male puberty.

### **Puberty Blockers:**

Puberty blockers were designed to treat precocious puberty in girls and have not been approved by the FDA for use in treating gender dysphoria. They are administered off label by an endocrinologist and require informed consent and a demonstrated pattern of gender dysphoria.

After a period of adjusting to pubertal blockers, adolescents might work with their care team to add cross-hormone treatment. This is done to develop masculine or feminine secondary sex characteristics, helping the mind and body look and act like the gender with which the child identifies. Keep in mind that some of these changes aren't reversible or will require surgery to reverse the effects.<sup>77</sup>

The use of puberty-blocking drugs to treat children with gender dysphoria is entirely experimental, as there are no long-term studies on the consequences of interfering with biological development.

<sup>76</sup> <https://pubmed.ncbi.nlm.nih.gov/33289906/>

<sup>77</sup> <https://www.mayoclinic.org/diseases-conditions/gender-dysphoria/in-depth/pubertal-blockers/art-20459075>

Potential Complications of Puberty blockers: Reduced Bone Density / increased bone mineral loss, Loss of Future Fertility.<sup>78</sup> Doctors do not yet know how the drugs could affect brain development.

One of the principal drugs used as a puberty blocker is called “Lupron,” which has been reported to cause significant loss in bone mineral density.<sup>79</sup>

Potential Complications of Hormone Replacement Therapy: deep vein thrombosis, incontinence, breast cancer, type 2 diabetes, infertility, cardiovascular disease, stroke, and more.<sup>80</sup>

The influx of hormones and bodily changes that occur in puberty may be the very things that help an adolescent come to identify with his or her biological sex. Puberty blockers interfere with this process.

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<sup>78</sup> <https://www.mayoclinic.org/diseases-conditions/gender-dysphoria/in-depth/pubertal-blockers/art-20459075>

<sup>79</sup> [https://www.accessdata.fda.gov/drugsatfda\\_docs/label/2012/020011s040lbl.pdf](https://www.accessdata.fda.gov/drugsatfda_docs/label/2012/020011s040lbl.pdf)

<sup>80</sup> <https://www.mayoclinic.org/tests-procedures/masculinizing-hormone-therapy/about/pac-20385099>