



**The Washington Flyer**  
**February 19, 2021**

*“Fear of something is at the root of hate for others, and hate within will eventually destroy the hater.”*  
*George Washington Carver*

**Federal and State Legislation Introduced to Counter Transgender Executive Order**

Senator Mike Lee (UT) recently introduced the Protection of Women and Girls in Sports Act in an effort to ensure that female athletes continue to have a fair playing field in sports competitions. The bill prohibits transgender athletes, specifically biological males claiming to be females, from competing in sports competitions that do not align with their biological sex. The introduction of the legislation comes after President Biden signed an executive order instructing all federal agencies to determine how to implement [controversial transgender policies](#), and after Miguel Cardona, Secretary of Education nominee, [indicated his support](#) for transgender rights in athletics during his confirmation hearing in the Senate HELP Committee. Sen. Lee’s bill has a [broad coalition of support](#), ranging from conservative groups like Alliance Defending Freedom and Concerned Women of America, to the liberal feminist organization Women’s Liberation Front, which views the bill as an attack on the rights and equality opportunities for girls in sports. Upon [introduction of the legislation](#), Sen. Lee stated, “When transgender athletes compete against women, women’s sports are no longer women’s sports; they become unisex athletic events.” Sen. Marsha Blackburn (TN), one of thirteen cosponsors, offered her support for the bill, stating, “Female athletes deserve a fair chance at competition—this means fair victories and fair defeats. Allowing males to compete in women’s sports denies female student athletes a level playing field to compete and achieve.” A similar bill was introduced last December in the House of Representatives by former Democratic Congresswoman Tulsi Gabbard and Republican Representative Markwayne Mullin, showing bi-partisan support on the issue of protecting girls’ sports just two months ago.

[Twenty-three states](#) are also considering legislation which would ensure girls will not be disenfranchised or discriminated against in athletic competition. In four of these states, [North Dakota](#), [Mississippi](#), [Utah](#), and [Montana](#), the bills have passed one chamber and are being considered by the other. Last year, Idaho passed a law protecting the integrity of girls’ sports, but a federal judge blocked the law from being implemented, and an appeal has been made to the 9th Circuit Court of Appeals. Many states began their efforts to protect girls’ sports after a lawsuit was filed in [Connecticut](#) by three female track athletes who charged two transgender students—male students who identified as female—were allowed to compete in the female track competition and consequently won 15 state championship titles between 2017 and 2019. Under the Trump administration, the U.S. Department of Education’s Office of Civil Rights [sent a letter](#) to Connecticut Interscholastic Athletic Conference informing them that their policy which allowed transgender students to compete in girls’ athletic events violated Title IX, the 1972 law intended to protect females against sex discrimination in education. While the Trump administration worked to reverse the Obama-era efforts to redefine the word “sex” in Title IX to include gender identity, the Biden administration has given indication it will give [preference to transgender rights](#) rather than to protecting the opportunities and safety for girls.

## **Federal Judge Rules Restrictions on New York Churches Unconstitutional**

U.S. District Judge Kiyo A. Matsumoto has [issued a permanent injunction](#) against New York Governor Andrew Cuomo's restrictions on churches, thus ensuring the protection of religious liberty for New York's churches. The case was brought by the Roman Catholic Diocese of Brooklyn and Agudath Israel of America, contending that Governor Cuomo's coronavirus red and orange zones limiting capacity in synagogues to 10 and 25 people, respectively, violated the Free Exercise Clause. Even as Governor Cuomo severely limited the number of attendees in churches and synagogues, he placed no limitations on how many people could gather in many so-called essential and even non-essential businesses in red and orange zones. The Supreme Court issued a decision right before Thanksgiving against the governor's number cap and sent the case back to the district court for further testimony and consideration. However, since that time the governor has faced backlash for several of his coronavirus policies and has lost the support of several of his top health officials. The [injunction recognizes](#) that the governor failed to provide additional testimony regarding the necessity of the restrictions and that his counsel indicated the restrictions against churches will be removed by the end of February. This decision comes after the Supreme Court [ruled](#) against the restrictions placed on churches in California and marks another victory for religious liberty in the face of severe restrictions made by several state and local officials during the pandemic.

## **Biden Administration Institutes Office of Faith-Based and Neighborhood Initiatives**

President Biden has [announced](#) that he will "reestablish" the White House Office of Faith-Based and Neighborhood Partnerships, an office intended to build relationships and coordinate policy goals between the administration and outside religious organizations. The office was first created under President George W. Bush and has been brought back by subsequent presidents under slightly different names. Under President Trump, the White House Faith and Opportunity Initiative was managed in each department instead of centrally from the White House and focused on policies that protected the right to life and the religious liberty of all Americans. Under President Biden, the [office](#) will build "civil society partnerships" to "address the COVID-19 pandemic and boost economic recovery; combat systemic racism; increase opportunity and mobility for historically disadvantaged communities; and strengthen pluralism." Melissa Rogers, who served five years as the executive director of the office under President Obama, will lead the office under President Biden. She is currently a visiting professor at the Wake Forest University Divinity School and was previously a senior fellow at the left-leaning Brookings Institution and the former general counsel at the Baptist Joint Committee for Religious Liberty. Support for Rogers by [Interfaith Alliance](#) and [Americans United for the Separation of Church and State](#), among other organizations, indicates that President Biden's office will likely focus more on fortifying the separation of church and state rather than on protecting the free exercise of religion of faith-based organizations.

## **In Case You Missed It:**

[Weekly Market Update](#) provided by Jeff Beach of the [AACS Investment Team at Merrill Lynch](#)

[Practical Legal Help for Christian Schools: ADF Ministry Alliance](#)

[Lindsey Burke: Biden Backtracks on School Reopenings—Here's How Left, Unions Put Ideology Before Students](#)

[Arkansas Law Forces Government to Keep Churches Open in Emergencies, Including COVID-19](#)

[School Choice Provides Opportunity for All Kids to Have Better Life](#)