



July 27, 2022

Dr. Fe Moncloa,
4-H Youth Development Advisor, UCCE Santa Clara County
Chair, 4-H PLWG Access Equity and Belonging Committee

Dr. Nia Imani Fields
4-H Youth Development Specialist, University of Maryland
Chair, 4-H PLWG Access Equity and Belonging Committee

Sent via email

Dear Drs. Moncloa and Fields,

The Foundation Against Intolerance & Racism (FAIR) is a nonpartisan, nonprofit organization dedicated to advancing civil rights and liberties and promoting a common culture based on fairness, understanding, and humanity. We have over eighty chapters and tens of thousands of members nationwide and internationally. Our website, fairforall.org, can give you a fuller sense of our identity and activities.

We write in response to reports we have received from FAIR members who are 4-H parents and are concerned about 4-H's recent policy, "Practices for Inclusion of Individuals of All Genders and Sexual Orientations." That policy states, "[F]ailing to treat individuals in a way that is consistent with their gender identity, including using their expressed names and pronouns, may constitute harassment." If harassment is identified, the program must "engage in appropriate corrective action." Additionally, the policy states that "4-H will treat all participants according to their gender identity, even if a youth member's own guardian raises objections."

Requiring 4-H participants to use the preferred pronouns of others, under threat of "corrective action," violates their First Amendment rights. As a subsidiary of the United States Department of Agriculture, 4-H is bound by the First Amendment. That Amendment denies government actors the power to require individuals to adhere to or adopt any particular ideological beliefs. *See West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (public school students cannot be required to recite the Pledge of Allegiance); *Oliver v. Arnold*, 3 F.4th 152, 162 (5th Cir. 2021) (public school teachers may not give assignments for the purpose of compelling students to assert specific ideological beliefs). In the words of Justice Jackson:

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

Barnette, 319 U.S. at 642.

Requiring children to use the preferred pronouns of others is not comparable to asking them to state anodyne, non-ideological facts such as name and address. Rather, the use of preferred pronouns is premised on the ideological beliefs that pronouns refer to gender and not biological sex, that gender is independent of biological sex, and that gender (or sex) is a matter of personal choice rather than a biological condition. In this context, preferred pronoun usage assumes yet another ideological belief: that gender transition is appropriate for children. Many people reject some or all of those beliefs. While 4-H should encourage participants to treat each other respectfully, they may not require students to use particular pronouns and subject them to “corrective action” if they decline to do so.

Requiring the use of preferred pronouns would also violate students’ religious rights. Many world religions reject the claims that biological sex and gender differ and that individuals can choose or change their sex or gender. Compelling participants to affirm ideas contrary to their sincerely-held religious beliefs (such as by requiring them to use the preferred pronouns of others) violates their religious rights as guaranteed by the First Amendment. *See Hurley v. Irish-American Gay, Lesbian, & Bisexual Grp.*, 515 U.S. 557, 573 (1995); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977) (“A system which secures the right to proselytize religious, political, and ideological causes must also guarantee the concomitant right to decline to foster such concepts.”).

We have a further concern that, by disregarding parents’ wishes regarding their child’s gender, 4-H is infringing upon the Constitutional rights of those parents. Parents have a “fundamental right” under the Fourteenth Amendment to direct the upbringing, care, and control of their children. *See, e.g., Troxel v. Granville*, 530 U.S. 57, 65-66 (2000) (“the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court”); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972) (“This primary role of the parents in the upbringing of their children is now established beyond debate”). That right includes the ability to control their children’s major medical and personal decisions, because “most children, even in adolescence, simply are not able to make sound judgments concerning many decisions, including their need for medical care or treatment.” *Parham v. J.R.*, 442 U.S. 584, 603 (1979). The gender according to which an individual lives has a material impact on their life and health. Similarly, gender transition, even if social, has substantial (and often long-term) ramifications for youths’ mental and physical health. 4-H cannot disregard the wishes of parents on issues that so deeply affect the well-being and lives of their own children.

FAIR urges 4-H to reconsider its “Practices for Inclusion” policy, by clarifying that participants will be neither punished for declining to use the preferred pronouns of others, nor compelled to use them; and that parental wishes regarding their child’s gender will be taken into account and respected.

Drs. Moncloa and Fields

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We would like to give 4-H an opportunity to respond. Please let us know within the next five business days if you intend to do so.

Very truly yours,

A handwritten signature in black ink, appearing to read "LA O'Neill". The signature is fluid and cursive, with the first name "LA" and the last name "O'Neill" clearly distinguishable.

Leigh Ann O'Neill

Staff Attorney

Foundation Against Intolerance & Racism