

President Biden’s “Equity Action Plans” Reveal Radical, Divisive Agenda

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KEY TAKEAWAYS

President Biden’s new “Equity Action Plans” not only make federal bureaucracy more ineffective and wasteful, but they also violate federal civil rights laws.

These 25 plans push the false notion of “equity,” which, instead of providing equal treatment under the law, would treat people differently based on their race.

Congress can push back against this federal overreach by holding hearings, insisting on more oversight, and limiting funding for “equity” programs.

In April, the Biden Administration announced a series of wide-ranging “Equity Action Plans” across the federal bureaucracy, part of the unprecedented push for color-conscious policies that it has sought since President Joe Biden’s first day in office.¹

The plans—25 total²—violate federal civil rights laws. They also make the government generally much less efficient; award contracts to uncompetitive bidders, thereby wasting taxpayer money; impair national defense; and further hamper the drive for excellence—or even adequacy—in the nation’s schools.

The plans double down on “equity” measures that are at war with the nation’s very ideals and laws. The word “equity” itself has come to mean the opposite of the equal treatment the law calls for, and now

This paper, in its entirety, can be found at <http://report.heritage.org/bg3710>

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means measures that the government employs to treat people differently based not on need, but on race, membership in an ethnic category the government has created for them in the first place, or on a predetermined victimhood status.

Vice President Kamala Harris made the Administration's view on equity perfectly clear when she said as candidate: "There's a big difference between equality and equity... Equitable treatment means we all end up in the same place."³ But even this government-coerced reallocation scheme—what the Nobel Prize-winning economist Friedrich Hayek called a "deliberately chosen pattern of distribution," which he said would be "irreconcilable with freedom"—would fail to produce the promised equal outcomes. As an example of the fundamentally unfair and bizarre effects of these "equity" policies favoring particular groups, a federal agency would give priority to a wealthy Chilean-born neurologist or to a gay dentist over a poor, Italian American factory worker who has fewer resources.

The action plans are in fact so radical that they earned the enthusiastic endorsement of the central Black Lives Matter (BLM) organization, which was created by Marxists who openly proclaim that they want to "keep dismantling the organizing principle of this society."⁴ In its effusive endorsement of the plans, the Black Lives Matter Global Network Foundation (BLMGNF) also revealed that it had been working on the action plans with the Biden team since before President Biden's inauguration.

"Biden's action plan is a major win for the organizations like BLMGNF who have been working with the White House to help develop it since the end of 2020," said the organization the day after the plans were announced by the White House. "The solutions in the plan are the result of tireless advocacy and organizing from the grassroots level and beyond, and we are heartened to see the result of so many racial justice advocates' hard work be written into federal policy today."⁵

The Administration's entire equity effort is based on Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," which President Biden signed immediately after taking office.⁶

The racial nature of the Equity Action Plans is now disguised in bureaucratic language. Fearing that the courts will reject these programs as discriminatory and unconstitutional, or that making policy choices based on race, ethnicity, or membership in a pre-selected victim category will be unpopular with the public, the Administration has concealed the race-consciousness behind such euphemisms as "underserved," "marginalized," and "disadvantaged."

The Administration appears to have begun its efforts to conceal race-conscious policies in early 2022, after a year of blowbacks against its earlier racially explicit approach. *The New York Times* first reported on the change on February 15, 2022, when its reporter Lisa Friedman wrote that the Administration was using a new tactic in its environmental strategy: “Worried that using race to identify and help disadvantaged communities could trigger legal challenges that would stymie their efforts, administration officials said they were designing a system to help communities of color even without defining them as such.”⁷

According to Friedman, Brenda Mallory, chair of the White House Council of Environmental Quality, “believed the strategy would lead the government to the same places as a race-based approach: communities of color.”⁸

The Administration’s race-oriented approach becomes very clear when analyzing the 25 Equity Action Plans the Administration announced on April 14, 2022.

The U.S. Department of Agriculture (USDA), for instance, is setting out to “[i]ncrease fair and equitable opportunities for small disadvantaged businesses (SDBs)” — a synonym for non-white businesses. Even though the USDA admits that for the past decade an average of about 16 percent of its contracting dollars have gone to SDBs, it says that the “USDA can do even more.” To do that, the “USDA will assess and implement available tools to increase opportunities for small businesses and traditionally underserved entrepreneurs to compete for federal contracts. In particular, USDA will implement and roll out a Department-wide goal of 21.5 percent of contracts going to SDBs.”⁹

According to the Code of Federal Regulations, “[s]ocially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities.”¹⁰ There are additional qualifiers for small businesses to be deemed disadvantaged, including both a socially and economically disadvantaged status for a majority of the firm’s ownership.

The federal government similarly defines the term “underserved communities” as “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of ‘equity.’” The word “systematically” is a tip-off that white geographic communities, no matter how poor or disadvantaged, generally do not count as “underserved.”

The federal government definition of equity, moreover, also sheds light on the term “underserved,” which includes additional pre-selected identity groups:

The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.¹¹

The reasons why the Administration must engage in this type of subterfuge is, as Lisa Friedman stated in *The New York Times*, because the courts have struck down color-conscious policies as unconstitutional. The USDA itself was the scene of one of the Administration’s biggest defeats on this front, when a federal judge in Florida blocked the Administration from excluding white people from a loan-forgiveness program in June 2021.¹²

Following are just some of the many examples of the Biden Administration’s attempt to use the concept of “equity” as a back door for ideologically driven and discriminatory policies.

Racial Quotas Hiding in Plain Sight

The top focus of the Biden Administration’s Equity Action Plans is attempting to increase the amount of federal resources directed to “disadvantaged” and “underserved” groups, which, as has been shown, are primarily code words for non-white, with the new addition of sexual categories.¹³

Some of these plans are ostensibly aimed at reducing excessive levels of complexity or bureaucracy. Many of the equity plans, however, include goals that would lead to de facto racial (and sexual) quotas by prioritizing identity characteristics over merit.

Equity plans by the Departments of Agriculture,¹⁴ Defense,¹⁵ Education,¹⁶ Energy,¹⁷ Justice,¹⁸ Transportation,¹⁹ the Treasury,²⁰ and others call for steering contracts and other kinds of federal procurement toward the Administration’s favored identity groups. In the context of hundreds of billions of dollars in annual federal contracting and procurement activity, this contact-steering could damage or benefit countless businesses based

on the immutable characteristics of owners and employees, as well as on personal sexual identifications or orientations. An additional consequence could be that contracts are awarded to companies that are unqualified to perform the necessary work, resulting in substandard service delivery for the government—and taxpayers.

Similarly, equity plans by the Departments of Commerce,²¹ Defense,²² Education,²³ Energy,²⁴ and State,²⁵ and the National Science Foundation²⁶ seek group-based preferential treatment in grant and research programs and foreign aid.

The Department of Transportation plan uses the concept of “wealth creation” for infrastructure contractors from “disadvantaged” groups as a goal, ignoring the fact that federal spending involves taking financial resources from one group (taxpayers) and giving it to another (contractors), meaning that there is no inherent increase in total wealth.²⁷

Some plans include more explicitly race-oriented actions. The Department of Education’s equity plan would earmark resources for educational institutions that cater to racial minorities.²⁸ The Department of Labor envisions special measures that would steer members of the Administration’s favored groups into apprenticeships and federal employment.²⁹ With millions of civilians directly and indirectly employed by the federal government,³⁰ these job pipelines could easily become a new form of political patronage and corruption through a racial spoils system.

Funding and Empowering Left-Wing Activists

In addition to steering a variety of federal benefits and programs to favored identity groups, the Biden Administration’s equity plans also call for new spending and favoritism for diversity bureaucrats and left-wing activists.

The Department of Agriculture is planning to ramp up “diversity training,”³¹ which had been curtailed during the Trump Administration due to the infiltration of radical and divisive doctrines, such as critical race theory.³² Both the USDA and the Small Business Administration will add chief diversity officers along with accompanying staff,³³ instituting the type of identity-obsessed bureaucracy that has severely damaged academia.³⁴

The Environmental Protection Agency plans to use the rhetorical camouflage of “equity” to promote “community science,” which entails lowering and politicizing scientific standards for the sake of appeasing local activist groups.³⁵ This is yet another example of the federal government degrading core scientific concepts and rigor in pursuit of political goals.³⁶

Not content with only empowering racial activists at home, the Department of State's equity plan states up front that addressing systemic racism is a "core tenet of President Biden's foreign policy," and that the goals of Executive Order 13985 will be embedded in all of the department's work, including foreign assistance; foreign policy development and implementation; public diplomacy, consular services, and procurement; contracts; and grants.³⁷ Consistent with this goal, the State Department provides oversees U.S. missions with "messaging guidance, original video content, and official statements from State Department's leadership on the one-year commemoration of George Floyd's murder, the Tulsa Race Massacre, and Juneteenth," and intends to embed racial equity into its public diplomacy through "diverse" American and foreign participants in those programs to "amplify the impact and reach of diversity, equity, inclusion, and access principles, including racial equity."³⁸

The Department of Transportation's equity plan would micromanage regional infrastructure plans based on the "equity" concerns of internal diversity bureaucrats.³⁹ Further, the plan would expand opportunities for environmental activists to delay new infrastructure projects, even though environmental and other reviews already add years of delays and significant costs for the sake of negligible benefits.⁴⁰

Fishing for Racism

In addition to using identity-based favoritism across a broad range of federal activities, the Biden Administration's equity plans also call for a raft of federally funded research and analysis that would in turn be used to justify additional discriminatory or big-government interventions.

The gargantuan Department of Health and Human Services will implement "equity assessments" to determine whether its legions of employees and array of welfare programs are somehow implemented in an unjust manner.⁴¹ The Veterans Administration,⁴² the Social Security Administration,⁴³ and the National Science Foundation are planning similar assessments.⁴⁴

The Social Security Administration is a particularly fascinating example. Technically, the program is colorblind. Yet its design causes disproportionate harm to low-income and African American households due to differences in life expectancy and the way the program inhibits personal wealth creation.⁴⁵ The Biden agenda generally sees targeted increases in benefits as the way to address inequality.

In reality, this mindset only serves to further entrench dependence on government and hinders the development of intergenerational wealth

among the very families that the sprawling diversity initiative is supposed to assist. While reforms that re-orient programs like Social Security in the direction of personal ownership and autonomy are the best solution,⁴⁶ they are extremely unlikely to be recommended by diversity bureaucrats.

The federal hiring process is notoriously slow and bureaucratic, taking an average of 98 days. Navigating that process and potentially going without income for that long is hard for anyone, and especially for individuals with lower incomes and less education. Yet, rather than making the federal hiring process easier for everyone, the Office of Personnel Management's equity plan would take yet more time to analyze the federal hiring process for impacts that specifically harm the Administration's favored groups.⁴⁷

The Federal Emergency Management Agency's equity plan includes promoting changes to the National Flood Insurance Program.⁴⁸ This plan is badly flawed, using funds from taxpayers living in non-flood-prone areas to subsidize, and thus encourage people to live in, flood-prone areas.⁴⁹ The equity plan seeks to promote greater subsidies for selected groups (such as "communities of color") that participate in the flood insurance program, which would in turn encourage more development in these areas. In the context of the Administration's fixation on the effects of potential climate change, this would be counterproductive in addition to being wasteful and unfair.

Homeland Security: Ignoring Damage Caused by Border Crisis

The Department of Homeland Security was established in 2002 with a straightforward mission: to protect all Americans and safeguard the homeland.⁵⁰ The Biden Administration instead prefers to spend valuable time and resources to virtue-signal woke ideology and pretend that it is "advancing equity" and "addressing the threats that underserved communities face," as the Homeland Security equity plan states.⁵¹

The plan repeatedly cites and prioritizes white supremacy as the most persistent threat the nation faces, setting aside the very real attack underway at the Southern border from cartels and trafficking and smuggling operators, as well as terrorist threats.⁵²

The Homeland Security equity plan doubles down on previous claims from President Biden himself that white supremacy is the "most lethal" problem that America faces.⁵³ The Department of Homeland Security's "Homeland Threat Assessment" section on "Violent Extremism in the United States," which President Biden and other top Democrats continue

to cite as proof of white supremacy being the “most lethal” threat, was based on a small snapshot of attacks in 2018 and 2019.⁵⁴ While the nation witnessed the tragedy in Buffalo, New York, on May 14, 2022, when a white racist shot dead 10 Americans, most of whom were black,⁵⁵ there have been other recent attacks by non-white racists. A day after the Buffalo shooting, a Chinese American man with an animus against Taiwan went on a shooting spree at a church attended by Taiwanese Americans, killing one and wounding five.⁵⁶ Black racists have also committed recent atrocities, such as plowing a car into the Waukesha Christmas parade in December 2021,⁵⁷ and the April 2022 mass shooting in the New York subway.⁵⁸ As the Justice Department’s own statistics on hate crimes show, of 6,780 offenders in 2020, 55.1 percent were white, 21.2 percent were black, and the race of 15.7 percent is unknown. These numbers demonstrate the obvious—that racial hatred is not the exclusive dominion of one particular race or ethnicity.⁵⁹

While considering “equity” for minorities, it is important to remember that studies show that mass illegal immigration has a negative effect on income and work opportunities for black Americans.⁶⁰ With that in mind, taking resources away from the border and using them to “counter” white supremacy and address “barriers for transgender and nonbinary individuals” would not necessarily produce any benefits for American minorities.⁶¹

With border encounters at a 22-year high and an estimated more than 300,000 aliens evading the border patrol in the first half of this fiscal year, securing the border should be the Biden Administration’s number-one priority.⁶² However, with reckless disregard for its responsibility in this latest plan, the Biden Administration’s Department of Homeland Security continues to prioritize “equity” at the expense of safeguarding the country.

Department of Justice: Trading Impartiality for Discrimination

The Department of Justice’s mission and duty is to enforce federal law in a fair, impartial, and neutral manner without regard to people’s race, ethnicity, or gender; their socioeconomic status; or which “community” they grew up in or where they live now.

It has been a historically held principle in the U.S. to regard justice as blind. Yet the department’s Equity Action Plan⁶³ pushes it in the opposite direction of “fair and impartial,” which is the traditional, dictionary definition of “equity,” and toward what “equity” has come to mean in the hands of the Biden Administration.

The broad, vague terms used throughout the plan directing staff to take into account “equity considerations” in “historically underserved and marginalized communities” are simply code words to give department bureaucrats near-unlimited latitude in making decisions about prosecutions, punishment, and the federal grants and contracts the department awards.

While these “equity considerations” are troubling in any context, they are especially troubling in the criminal context. Someone’s race or ethnicity should not be considered—or even appear to be considered—when making charges or plea bargains. No person should be treated more leniently, or more harshly, because of these factors. Doing so undermines the rule of law and runs afoul of the Constitution.

The plan says that such “equity considerations” will also be a factor in the department’s financial assistance programs. Thus, rather than awarding grants on a neutral basis to those areas of the country that are most in need of financial assistance, the department will take legally prohibited factors into account, such as the race of the applicant. The department will, therefore, be violating the very civil rights laws it is obligated to enforce.

“Culturally specific service providers” will also be favored, once again allowing discrimination in federal grant decisions based on irrelevant (and undefined) “cultural” issues, rather than needs. Moreover, the plan says that the department will direct contracts to “historically underutilized business zones,” meaning that prosperous, successful businesses will receive contracts if they are located in what department bureaucrats consider to be a “historically underutilized” area—in preference over businesses located in other areas, even if they are not as prosperous and put in a lower bid—which is not only unfair and discriminatory, but a waste of taxpayer funds.

All of this is particularly ironic given that in the section labeled “Building on DOJ’s progress,” the department plan brags that it has been “ensuring non-discrimination in federal grants.”⁶⁴

The plan says that its focus on “marginalized and underserved communities” will “strengthen and increase public confidence and trust in the Department” and “promote greater understanding of the Department’s programs and services.” Of course, the exact opposite is true.

When the public learns that their race, ethnicity, and other such factors will influence whether they are criminally prosecuted, how much or how little punishment the department will seek, and whether they will receive department grants and contracts, it will *decrease* “confidence and trust” in the department, which is already at a low point, as demonstrated by a Gallup poll showing that 77 percent of Americans have only “some” or “very little”

confidence in the “criminal justice system” of which the Justice Department is an integral part.⁶⁵ The “understanding” that it will promote is that the Department of Justice discriminates in its enforcement of the law and cannot be trusted.

Actions for Congress

Congress has ceded increasing amounts of power and discretion to executive branch agencies over the past century. The Biden Administration is seeking to take advantage of expanded executive power through initiatives such as the equity plans. Such sweeping changes to federal activity ought to be the purview of legislation not executive diktat, and, in any event, should not include explicitly discriminatory programs. This trend does *not* mean that Congress is powerless to refute the Administration’s agenda, however. In order to stop the harmful effects of the Biden Administration’s identity-obsessed agenda, Congress should:

- **Add appropriation riders.** By adding provisions to fiscal year 2023 and subsequent appropriations legislation, Congress can use the power of the purse⁶⁶ to prevent the funding either of the entirety of Executive Order 13985 or of targeted items in agency plans.
- **Conduct oversight.** Congress should use hearings and subpoenas to gather information about how the Biden Administration developed the equity plans and to determine the ways in which the plans conflict with what ought to be an unbiased application of federal programs and statutes.
- **Hold hearings.** If Congress finds any evidence of material breaches of anti-discrimination statutes, Congress should highlight these abuses in hearings and support meritorious lawsuits brought by injured parties or state attorneys general. Congress should remedy any discriminatory violations of civil rights statutes by federal agencies through legislative prohibitions (in addition to appropriation riders that cut funding to those agencies).

Asserting legislative authority in this fashion would have a two-fold benefit: (1) It would prevent the identity-based agenda from further damaging America’s social fabric, and (2) it would make future Administrations more hesitant to invest resources in similarly grandiose schemes.

However, this legislative action would be a stopgap approach at best. The only long-term solution to dramatic executive overreach is for Congress to reduce the astronomical volume of resources and discretion provided to occupants of the Oval Office and federal agencies. This would strengthen the functioning of American democracy by taking back powers that the legislative branch has inappropriately delegated to unaccountable bureaucrats and by focusing the duties of the executive branch on administration and national defense rather than legislation by fiat.

Conclusion

Congress declared in the mid-20th century that color-conscious policies are anathema to the nation's ideals, and therefore made them illegal with the Civil Rights Act signed by President Johnson in 1964. The act finally put into operation the 14th Amendment's promise of "equal protection of the laws," which was adopted in 1868. The Biden Administration's Equity Action Plans trample on these ideals and laws, and Congress must stop them from being implemented.

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