

My name is Sara Gras and I am an associate professor at Seton Hall Law School. I'm excited to present Season 1 of Hearsay from the Sidelines, a collaboration between Culture in Sports and Seton Hall Law School's Gaming, Hospitality, Entertainment and Sports Law program. This podcast was conceived as an opportunity to explore the place where law, sports and culture intersect to inspire conversation with a broad audience that includes lawyers, legal scholars, students, athletes and coaches.

I am honored to host this inaugural season which will focus on the right of transgender and nonbinary children and adolescents to participate in sports. While this is definitely not my area of expertise, it's clear to me that something inconsistent and disturbing is transpiring around this civil rights issue. In the last 3 years, 22 states passed legislation effectively banning transgender youth participation in sports.¹ In contrast, only 9 states successfully enacted transgender bathroom bans in K-12 facilities.² How is it that 69% of respondents to a 2023 Gallup poll said transgender athletes should only be allowed to play on sports teams that match their gender at birth³ when polls showed 63% of Americans supported passage of the Equality Act which extended protections for transgender people in employment and housing?⁴ What I find most unsettling is that the individuals targeted and impacted by these bans are children. This debate about inclusion has an effect on them. It impacts the extent to which they feel included, welcome, and safe in their schools and communities. It also sends the message to other kids that people who don't conform to the gender binary can and should be excluded from public spaces. But athletics are part of our educational system because there is a general agreement that sports can play a role in forming well-rounded humans. Every child should have the opportunity to participate in sports as who they are. Forthcoming amendments to federal regulations are an important step, but to fully protect the rights of trans athletes more must be done.

I'm not, nor have I ever been, a competitive athlete. But even just playing recreational sports as an adult has had a huge impact on my self-esteem and mental health, and it seems so clear to me that participating in sports is about more than playing a game. I am also a mother of two and I find it unthinkable that trans kids are being denied the opportunities and privileges of childhood simply for being themselves.

In addition to my personal perspective, I am also approaching the content of this season as a legal scholar and offer the argument that laws, regulations, and rules for participation based on testosterone levels, status of gender-affirming treatment, and physiological differences between the sexes should not be a part of youth athletics. Over the course of several episodes, I will present primary and secondary source research, as well as interviews with interdisciplinary and legal scholars, community activists, and other experts, that examine where school-based sports originated, and the history of exclusion in youth sports. I will discuss the

¹ https://www.lgbtmap.org/equality-maps/youth/sports_participation_bans

² https://www.lgbtmap.org/equality-maps/nondiscrimination/bathroom_bans

³ <https://news.gallup.com/poll/507023/say-birth-gender-dictate-sports-participation.aspx>

⁴ <https://www.pbs.org/newshour/politics/new-poll-shows-americans-overwhelmingly-oppose-anti-transgender-laws>

existing laws and regulations that are supposed to ensure gender equity in athletics and look at recent state and federal legislation targeting trans athletes. I will also delve into the cultural evolution of youth sports and how that culture has been leveraged to advance an anti-trans political ideology.

I will not be interviewing scholars and activists on the other side of this debate, although I will acknowledge and reference their arguments where it is relevant. My intention is not to ignore the existence of a different point of view, but rather to focus my time on making the strongest case for my own. I have also made the conscious decision not to solicit trans athletes for interviews, although I would certainly welcome the input of any who are aware of this project and want to participate. There is already a core group of high-profile trans athletes like Lia Thomas, Schuyler Bailar, Chris Mosier, and Andraya Yearwood, who have already spoken about their personal experiences in sports with known and trusted journalists and many are also producing their own content speaking about this and other issues faced by the trans community. Many others have elected to keep their experiences private to protect themselves and avoid becoming targets for bias. It would be, I think, an unfair demand on a community already stretched so thin to ask them to repeat stories they've already shared for my benefit. I'll still make sure to include their stories, but in a way that also elevates the people and platforms where they presently exist.

I hope what I present this season will help listeners think critically about the purpose of athletics in primary education – both historically and currently – and interrogate the validity of using factors like fairness and safety to justify the exclusion of trans kids from sports. I look forward to sharing this with you and I hope you'll stay tuned for what's to come.

Hearsay from the Sidelines is a collaboration of Seton Hall Law School and Culture in Sports; All research and writing by Sara Gras; music by Superknova; produced by Sara Gras and Dr. Jeremy Piasecki, Executive Director of Culture in Sports. Links to all available academic and primary legal sources, media, music, transcription, and other materials mentioned in this episode are available on the Hearsay from the Sidelines show page, hearsayfromthesidelines.com. And if you like this show, check out cultureinsports.com where you'll find more articles, shows, webinars, summits, and courses for sports leaders of all levels.