

Episode 8:

Val Moyer: There's sort of a missed opportunity to think critically about when and where we need gendered categories in sports, especially youth sports, I think. And that could be a great question, like more of an open-ended question about, you know, do we need, what about co-ed youth sports? What about different models of play and competition that encourage the kinds of things we want to encourage, like teamwork, communication, confidence, mental health, all those great things, and downplay the scores and the star player and things like that.

Sara Gras: I'm Sara Gras and this is Season 1 of Hearsay from the Sidelines, a show about the place where law, sports and culture intersect brought to you by Culture in Sports and Seton Hall Law School's Gaming, Hospitality, Entertainment and Sports Law program. This is Episode 8: The End of the Beginning.

Every story has a beginning, a middle, and an end. And I've reached the end of the story I set out to tell. I introduced you, the listener, to the controversy surrounding trans youth participation in school sports. I presented the current legislative and regulatory landscape and the stark reality trans kids who want to play sports are facing in almost half the country. I took you back to the not-so-distant past when women and girls were considered too fragile for many aspects of public life, including athletic competition, and sports were segregated along with housing, schools, hospitals, and buses. I also gave you a glimpse at the science, or lack thereof, underlying concerns about unfair competition and sex assigned at birth. I explored how, despite improving athletic opportunities for women and girls, Title IX recently emerged as a legal weapon against the inclusion of trans women and girls, wielded both by those reluctant to cede any of the hard-won progress of women in sport and those who want to eradicate trans people from public spaces. And woven throughout all this were questions about how the hypercompetitive culture surrounding youth sports contributes to the anxiety about who is allowed to compete and against whom. I hope that, through discussions of data and scholarship, I have explained and supported my 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 determine eligibility for youth athletic teams. There is no evidence to support the concern that the inclusion of trans kids in interscholastic competition will meaningfully impact the ability of cis kids to safely and fairly compete on single gender teams. Much of what is cited as the basis for this concern is cherry-picked

sex difference science or media-driven attention on the performance of a few uniquely gifted athletes who happen to be trans.

As Kurt Weaver described it at the beginning of the season, laws and policies targeting trans youth in athletics are solutions without a problem. But the exclusion of trans youth from a significant and meaningful part of the educational experience IS a problem. So where are we with solutions? Well, when it comes to the courts, nothing is certain. While supporters of the sports bans are likely hopeful a split will emerge between the Circuits with the *Hecox* case in the 9th Circuit, which blocked Idaho's sports ban, and the *B.P.J.* case challenging West Virginia's law, which has been argued but awaits a ruling from the 4th Circuit.¹ There is also a split on the different, but certainly related issue of transgender students and school bathroom policies that, as of now, the Supreme Court has sidestepped.² It will be hard for the high court to avoid the issue indefinitely, but I assume part of the delay is anticipation of the proposed amendments to the Title IX regulations which, if you recall, were supposed to be published in October of 2023.³ It's mid-January 2024 and those proposed amendments have not yet materialized. And while I will admit I have been critical of the ambiguity in the Notice of Proposed Rulemaking, at least the language proposed would invalidate the blanket state law bans, like Missouri's, that are preventing trans kids all over those states from participating in school athletics this year, the consequences of which cannot be overstated.

When I interviewed Shira Berkowitz, Senior Director of Public Policy and Advocacy at PROMO, over the summer, the Missouri law had not yet gone into effect, but advocates were already feeling its impending impact.

Shira Berkowitz: Because this legislation hasn't gone into effect yet, but it will before the beginning of the school year, I know we've seen families leaving the state, looking elsewhere if their kids are currently participating in school-based athletics. And I think the real people that this hurts the most are non-binary or gender fluid individuals who aren't quite sure how they're going to be perceived continuing to play on their school team. Like caveat, especially also transgender youth who are transgender boys or girls, but everyone that falls in that in between doesn't really have a place even if they were choosing a space in that binary before. Now they're even more ostracized, even feeling that they could try out

¹ *B.P.J. v. West Virginia State Board of Education*, No. 23-1078 (4th Cir. 2023); case updates and information available at: <https://www.aclu.org/cases/bpj-v-west-virginia-state-board-education>.

² John Kruzel, *U.S. Supreme Court Sidesteps Fight Over Transgender Student Bathroom Access*, REUTERS (Jan. 16, 2024), <https://www.reuters.com/legal/us-supreme-court-snubs-fight-over-transgender-student-bathroom-access-2024-01-16/> (last visited Jan. 18, 2024).

³ *A Timing Update on Title IX Rulemaking*, U.S. DEPARTMENT OF EDUCATION (May 26, 2023), <https://blog.ed.gov/2023/05/a-timing-update-on-title-ix-rulemaking/>

for a team or could play with their peers. And then like our youngest, like elementary school kids play coed all the time or play intermural teams where gender doesn't even make a difference. But this is already sending the message to children very, very early on that they, they don't have a place and they're not seen.

I think that the impact will also put a real division in the transgender community that's always been there. Whether or not somebody is stealth in their identity or passes, quote unquote, as a boy or a girl will give them a safety net or some permissiveness to continue playing under the secret that don't ask, don't tell secret of like, well, if nobody knows, you're fine, but everybody else outside of that is not. And that's a really slippery slope argument community of who has access to health care and who doesn't. And then, like, ultimately, this just, like, puts a huge stain on our state. Like, we're talking about college athletics, and our largest school's team is in the SEC. And so whether they have transgender athletes on their team or not, this is going to say you can't be a part of any of our teams. Whether we knew you're there or not.

And we can't play against a school who allows transgender athletes to play on their team. So it's going to economically really impact not only like who goes to play or watch sports, but who wants to apply to play sports at a college in a state like Missouri that is not inclusive. So I think the future impacts are going to be incredibly detrimental for our entire state, short-sighted effects are detrimental to who feels they can still stay as a family and grow up in our state.

Sara Gras: So, yes, the amended rule we've seen at this point is imperfect, but at least it could help slow some of the damage being done in states where bans have already gone into effect. But then what? Given how heated the discourse about this issue has been, it would be naïve to think that simply amending a regulation would put an end to the debate. I asked all my guests about their thoughts on the proposed rule – the extent to which it would positively impact access to athletics for trans kids, and what the next steps should be. Professor Kim Yuracko was the first person I interviewed in this project, and her perspective on this was initially a little hard for me to understand.

Kim Yuracko: Yeah, so I guess at the outset, again, I came to this topic from the intellectual interest and curiosity because it really built on a lot of the other projects that I'd worked on before. I was surprised by how incredibly heated this conversation is and how antagonistic the positions have been. So I think we would all be really well served if we could sort of bring this, the heat down on this conversation a bit, because it's a really hard question. I mean, just intellectually, it's a really hard question. And, um, and I think there's been a lot of, um, just sort of rhetoric and name calling and, and that is not enough sort of real engaged conversation. So, um, so that would be sort of the first thing I, I actually think

the Biden administration, the proposed regs are a good first start. I think they're a good first step to kind of help that what I hope will be a really kind of fruitful, engaged discussion. I thought they were, you know, not perhaps sort of the perfect end point, but a really sort of thoughtful first point. It was clear to me in reading them that they had listened to, you know, different sides and had kind of were really kind of taking different positions into account.

So I would say what I hope going forward is kind of a lowering of heat and animosity, a kind of a more engaged discussion between people of different viewpoints. And then the other thing that I think is really important and is now happening on this issue, I mean, this may sound a little strange, but to disentangle sports from all of the other contexts in which transgender rights are at issue. I think this context is complicated enough, and when it gets bundled with trans rights generally, it raises the temperature and just sort of expands the complexity, and it doesn't actually, I think, help us think through what we should do in this context.

And so another thing I was trying to very deliberately do with my work here was say, I'm focusing on sports because how we think about non-discrimination against transgender individuals in this context probably should be different from how we think about it in the context of prisons or how we think about it in the context of bathrooms and locker rooms. And each one is complex enough, but for each one, I think we should think about what's at stake, why we care about what's at stake, and then sort of how we think, think what's at stake, the benefits, the goods, how they should be allocated. So I think we're moving in all three of those directions, sort of bringing down the heat, kind of intellectual engagement and sort of focusing on sports in particular and kind of disentangling it from these other contexts which need their own, I think, really focused and directed attention.

Sara Gras: I'll be honest, my reaction to what Kim said was internal disagreement. Of course, to me, this IS a civil rights issue, one of access, inclusion, and discrimination. But as I did more interviews and more research, I started to better understand why it is necessary to address inclusion in sports separately from other trans rights in order to achieve the optimal outcome. And ultimately, I have come to see there was really no other way for the Department of Education to amend the Title IX regulations other than how they proposed.

Athletics ARE a different and unique context. That's not to say there cannot be discrimination in sports – but there is, inherent in athletic competition, a need for classification and separation in some fashion for the enjoyment and benefit of everyone involved. While divisions do not need to be based solely on sex assigned at birth, it is legitimate to explore what combination of criteria are useful and appropriate. And it's clear

that we really don't have enough data on trans athletes, let alone trans kids, to flawlessly craft inclusive participation rules broadly across all levels and types of interscholastic athletic competition. Mistakes will be made and modifications will be needed. And while I do not presume to speak for all trans athletes, based on what I've learned from interviews, trans athletes also want to engage in competition that is fair and balanced. But more importantly, they really just want to be athletes AND be their most authentic selves.

Figuring out how to make policies that allow for both will be a much longer, more involved process than total exclusion or inclusion. But as Kim points out in her scholarship, reducing the debate to the harms suffered on either side won't take us where we want to be – which is a place where everyone has the opportunity to play.

Professor Erin Buzuvis had a more positive outlook on the rulemaking than I initially did. Still, she noted in our conversation that a lack of clarity in participation rules will likely create obstacles:

Erin Buzuvis: Yeah, I mean, I agree with that wholeheartedly that the one of the most compelling reasons for inclusive policies that don't mess around with potentially challengeable exceptions is that if you really want people to participate, and when we're talking about scholastic sports, that should be the goal to maximize participation, that anything that could deter someone, either because they think they're going to get challenged if they show up, even if they think compliant with the law or with the policy, but that somebody's going to make us think about it, or there's some gray area and they're not sure. Anything that could deter participation. There are so many choices that kids can make for how to spend their time, some more healthy than others, right? And that if you're putting up barriers to participation or perceived barriers, that those kinds of policies will have a chilling effect on participation, even above and beyond whoever is actually literally excluded by that policy. So that is absolutely a downside to the approach that's being taken here.

I can say what that means for us as advocates is to try to, I mean, it's why I write in the space. I try to use the resources and the position that I have as an act of allyship so that the burden isn't on the most some of the most vulnerable people in our population, trans kids, to have to advocate for themselves so whether it's within academia or within you know advocacy organizations nonprofits - it's something we can all be mindful of when we're deciding where to donate our money as well as our time. Those kinds of, that kind of organizing that, that advocacy groups can do to put together potentially a group of aggrieved complainants or potentially plaintiffs, if this plays out in litigation, makes the burden easier to bear, right? If you're part of a class, if you're part of a group or to advocate on behalf of somebody. If you're challenging within the Title IX context, you don't need to

have standing. Anyone can challenge. So you could be a bystander with skin in the game and seek to engage the enforcement authority of the Department of Education. And so there are opportunities for others to support and to take on some of that burden. And I think that the point that you raise is just, you know, I can't deny it, but I can use it to try to raise awareness about that and our collective responsibility to stand up and engage in this area.

Sara Gras: Changing the regulations is progress and we can certainly view it as a start in the right direction. If it happens. I say “if” because we are now less than a year away from an election, an election where a lot is at stake. I don’t think it’s absurd to think the Department of Ed may be holding off on releasing revisions that WILL be politicized in the months leading up to it. And if the executive branch undergoes a regime change in January of 2025, they may never be amended, at least not in the manner proposed.

If you doubt this, you may want to check out Project 2025, a coalition of dozens of conservative organizations, organized by The Heritage Foundation, who have come together to prepare for a republican victory in the 2024 presidential election. Their objective is to “rescue the country from the grip of the radical Left” through a sophisticated and detailed strategy that includes a comprehensive policy agenda, solicitation of submissions from citizens interested in professional opportunities in a republican administration, training for prospective political appointees, and a 180-day playbook to guide the new president’s first months in office.⁴ The policy agenda, which is available as a softcover book or as a PDF, devotes a chapter to each of the Executive Departments, including the Department of Education.⁵ It begins with the declaration that, “Federal education policy should be limited and, ultimately, the federal Department of Education should be eliminated.”⁶ Things don’t get better from here. There is an entire section devoted to Title IX, specifically advising the next administration reverse or work with Congress to prevent the implementation of any Title IX amendments made by the Biden administration and “abandon this change redefining “sex” to mean “sexual orientation and gender identity” in Title IX immediately across all departments.”⁷

This doesn’t mean that the regulations as they are written couldn’t still be interpreted by courts as prohibiting bans on trans athlete participation, or that a future Supreme Court may not step in to resolve the existing Circuit split on whether policies prohibiting bathroom access consistent with gender identity violates the Equal Protection Clause of

⁴ *About Project 2025*, <https://www.project2025.org/about/about-project-2025/> (last visited Jan. 19, 2024).

⁵ *Policy Agenda*, <https://www.project2025.org/policy/> (last visited Jan. 19, 2024).

⁶ Lindsey M. Burke, *Department of Education*, MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE, 319 (2023).

⁷ *Id.* at 332-34.

the 14th Amendment. But it seems prudent to start thinking about what other options are out there. I asked Professor Dara Purvis whether other legal avenues exist for trans kids who want the opportunity to play sports in school, along the lines of the First Amendment argument she suggests to assert the right of trans students to express their gender identity through their clothing choices in school.⁸

Dara Purvis: I do think that there could be a First Amendment speech argument in the context of sports. There is a pretty obvious expressive element to labeling yourself by gender. If I sign up for a girl's sports team, I am expressing that my gender identity is a girl. And if my school or a sports association or a state law tells me I can only sign up for a boy's team, that could be understood as compelled speech. The school, the law, whatever policy is forcing me to express my gender identity as a boy. Now, obviously this is expressive conduct. So it's not as isolated as some of the other compelled speech cases. The example of compelled speech that is probably the best known is a person in New Hampshire who said, it is against my religion to make me use a license plate that has the New Hampshire motto, live free or die on top. So the person who was challenging this said, I'll use the license plates. I'm not refusing to register my car. I just wanna cover up those words that are against my religious beliefs. In the context of sports, there is an expressive message of playing for a girls for boys team.

But there isn't really a way to say, well, I'll play on the team you want, I just don't want to express this message. So courts haven't really grappled yet with questions of what happens when on the one hand, you have a student who wants to express their gender. And on the other hand, you have a school or legislature or department of education saying, here are policy reasons we think that you shouldn't get to express that. In other contexts, courts, including the Supreme Court, have been very deferential to First Amendment claims. Just in this last term, the court said that the First Amendment rights of a website designer effectively outweighed a statewide non-discrimination law that requiring a website designer to make wedding announcements, wedding websites for same-sex couples would violate that designer's First Amendment rights. But I think it's pretty clear that the current Supreme Court is not equally sympathetic to different kinds of expression. So I don't think that case represents a victory for free speech rights across the board.

I don't know that I have very high hopes that courts would assess those claims in consistent ways, but absolutely there is an expressive dimension to this. So this isn't just Title IX. Title IX is a really important statutory resource and attempted guarantee of equal treatment in school, but I think this also implicates a lot of other rights. I think it implicates

⁸ Dara E. Purvis, *Transgender Students and the First Amendment* (Forthcoming), 104 B.U. L. REV. (2024), available at SSRN: <https://ssrn.com/abstract=4365220>.

expression rights. I think it implicates liberty rights. I think it implicates equality rights. So there are a lot of different avenues and it's just a question of what that looks like given current courts and given the willingness and the burden that this places on children to challenge these policies.

Sara Gras: Athlete Ally researcher and writer, Val Moyer, and I talked at length about what will still be missing, even if the regulations are finalized, including an aspect of this issue that courts, agencies, and legislators haven't really interrogated - which is the way we think about sports as a gendered space and how we create inclusive opportunities in sports beyond the gender binary.

Val Moyer: I am glad about having any kind of large, powerful pushback on blanket bans on trans athletes. I think that's a really important stance to take. And to kind of get this topic out of state legislatures. Like, I really do feel like this needs to be, and I might backtrack on saying this, you know, in future years, but like it's a community and school topic, I think, but should not be used for political gain, really. And that the kind of rhetoric that we're hearing around it has done such harm really broadly. So I'm glad to see that stance taken.

Um, at the same time, what we've seen, it reminds me a little bit of what the international Olympic committee did, where they said, you know, we are not making the policy, it needs to go on a sport by sport basis. So since then we've seen, um, each sport governing body trying to make their own rules and what we've seen is that happens really fast often and feels reactive and is done with a not very much transparency at all about who's in the room making those policy decisions. And so I really, I do worry that this is kind of laying the groundwork for those kinds of really non-transparent, non-democratic policy decisions being made instead of actually consulting with trans athletes and parents of trans kids and, you know, the people that are going to be impacted by these kinds of policies. So I do worry about that. And I also think that the more cloudiness that's allowed in this space leaves trans athletes kind of in like a bureaucratic limbo of like, OK, well, what do I do? How do I navigate this space? Because the answers are not clear, and they're kind of bouncing back and forth between the state or this, you know, inner scholastic governing body, you know, there's a lot of policy decision makers at play here and it can, I think, really leave trans kids out of sports, like, in the meantime while they're waiting for answers on how to do it according to the rules. Yeah, so it feels exhausting a little bit. But I...

I also think just in general, there's sort of a missed opportunity to think critically about when and where we need gendered categories in sports, especially youth sports, I think. And that could be a great question, like more of an open-ended question about, you know, do we need, what about co-ed youth sports? What about different models of play and competition that encourage the kinds of things we want to encourage, like teamwork,

communication, confidence, mental health, all those great things, and downplay the scores and the star player and things like that. And so it's tricky also because I do think non-coed girls sports at times is built to combat the sexism of coaches who might play young boys might get more playing time on co-ed teams because of that ingrained sexism. But I think that that's been its own little problem rather than making a whole model to try to combat that. So I do think we need to really think about what is the purpose of gender categories, when, where, and when can we push against them and kind of play with them, especially for non-binary kids, of which there's like a growing population of youth who identify as non-binary, and just the structure of sports itself as in binary gender categories can feel exclusive to them. So yeah, I'm up for much more... co-ed is not always the right term, but much more play with gender and sports categories, particularly at the youth level. I think there needs to be room for that.

Sara Gras: Professor Maayan Sudai had a similar take on creating more diverse options for athletic competition:

Maayan Sudai: What I am seeing happening in the future, I know you didn't ask me, but that's what I'm kind of contemplating upon, is that I see more and more mixed sports, competitions and groups which are usually voluntarily occurring. And I think it would be gradual, but as more and more people would participate in these mixed sex sport spaces, we would learn a lot from that experience.

And I hope that it would bring to more integration not just between like trans and cis, but also between males and females. And while I do know and recognize the value of, you know, marginal collective communities, spaces for sports, you know, to do their own. So it is important for women and for girls and for trans to have their own like spaces to do sport within their own group. It's also important and maybe worth encouraging the creation of more mixed spaces for sports, you know, for just doing sports and competing in sports, and this is where I hope it would go.

Sara Gras: How might the world shift for the better if we de-emphasized the importance of biological sex when our kids were small? Stopped using it as a proxy for strength, beauty, intellect, or emotionality? What if “being a boy” and “being a girl” didn’t carry with it so many expectations about how one must appear and behave? Perhaps it is time for schools, where the gender binary has traditionally been communicated and reinforced, to stop implementing and enforcing policies that require children to conform to social norms that have no relevance to education. This is certainly the harder path – because a few people, most likely parents and certainly not young children, may object to appearance and behavior they consider aberrant. But as Professor Purvis emphasizes in a 2017 piece on transgender children and teaching acceptance, yielding to such pressure or

anticipation of objections grants a “heckler's veto,”⁹ a term borrowed from the opinion in *Fricke v. Lynch*.¹⁰ Providing children with safe spaces, like athletics, where they can express their gender identity and explore living as their true selves not only benefits those who do not conform to gender norms, but is likely to improve acceptance of gender nonconformity, and even impact how the next generation understands sex and gender.

Dara Purvis: So I'm interested in gender stereotypes in a lot of different contexts, especially where I see the law reinforcing and contributing to those stereotypes. So I like thinking about how do we learn about what male and female or man and woman as categories are? What do we do consciously or unconsciously to teach children there are two genders? Here's how you start dividing people into boxes. And I will say, I started doing this research before I was a parent. Now I'm the mom of three kids. And it has been brought home to me in very personal ways about how we start gendering children so early. I remember going for an ultrasound late in my pregnancy with my first child who was assigned female at birth. The ultrasound tech was having a hard time getting one of the measurements that she wanted. And she said, oh, she's just not giving it up. Well, that'll be good when she's older, right? And I was lying there thinking, are we really sexualizing a 37 week old fetus? But we were, that's how early it starts, even before birth.

So if you think about younger children playing sports, these are typically not extremely competitive sports. So with some really rare exceptions, this sports participation, this is not already putting kids on a path to college scholarships or pro careers. So these are kids playing sports for a lot of the reasons behind why Title IX was passed and why Title IX has been applied in the context of athletics. They're playing sports for community. They're learning about teamwork. They're learning how to win and lose gracefully. They're learning how to move their bodies in ways that feel good. None of these things turn on the sex that they were assigned at birth. And if we're talking again about eight-year-olds, about young kids, we're not really worried about kids getting hurt. Again, outside of some really extreme exceptions, they're all pretty close to the same size as anyone who has watched a child soccer scrum. My four-year-old went to soccer yesterday. I am not super worried about her getting hurt. No one is going after the ball that aggressively. So what does it do to start saying quite early in elementary school, oh, we have to divide you into these gendered categories? What does it do? What does it convey to children to say it's important that we have these two boxes and we put you in those boxes according to the sex that you were

⁹ Dara E. Purvis, *Transgender Children, Teaching Early Acceptance, and the Heckler's Veto*, 72 *STUD. L. POL. SOC'Y* 219 (2017).

¹⁰ *Fricke v. Lynch*, 491 F. Supp. 381 (D.R.I. 1980).

assigned at birth? It tells kids that this is important. As you learn to interact in the world, this is one of the first things that you need to know about someone.

So my point is just the flip side of that. What if we didn't do that? What if we didn't categorize children as rigidly bisects and we let them all play together or we just split them up by ability or by size or by random assignments into teams? I think that would send a different message that sure, there are differences in our sexes and genders. But those differences aren't relevant most of the time. This is just something about the variety and diversity of the people that you interact with. And you can have teamwork and learn to have fun and learn to cooperate with all of these kids. And sex and gender are not the first thing that you need to know. And you need to, we're going to start teaching you to associate with people that you see as the same sex and gender as yourself.

Sara Gras: But with the trans community, and specifically trans kids, the focus of so much negative attention and concerted efforts to deprive them of basic rights and opportunities, what can we do now to combat this assault on their humanity? I posed this question to Kurt Weaver, who, as Executive Director of an advocacy organization, had a lot of thoughts to share:

Kurt Weaver: If I can take two, my first one would be, we are not taking a page out of the rights playbook right now, which is what they have done an amazing job of doing over the last 20 years is integrating themselves into every school board, every administration of a local youth soccer program or youth gymnastics program. And they've taken the local approach to national issues. And it's why you're seeing some crazy things happening, like book banning and otherwise and saying, how? Well, when you populate an entire school board of this kind of person, you can push things through. I think we are not taking that page. We need more of us who believe in what we believe to be coaches, referees, administrators, get involved in sport and in life, frankly, to then make sure that we are advocating for the youth, the policies, the procedures, and the sport and the world we wanna see. So I think that's one side of this where I'd say, we've gotta do a better job of what is sometimes the harder, the harder yards. I don't wanna go to a school board meeting every week and fight the battle of budget and everything else just to make sure books don't get banned. Well, the other side's willing to do it. So if we do not do this, we are going to be consistently left behind in these conversations. So that's one part of it. So go volunteer at your local youth sport organization and make a change internally. Be the voice that is advocating for them even if you're the only one. So I think that is wildly important where that has to happen.

Then I think overall, it's gotta be, listen, we've gotta start to educate real information. We've gotta be honest. We don't have the data that says really anyone should or should not

participate in many cases. We don't have that information yet. Let's be honest about that and say, we're gonna err on the side of inclusion, but as data comes in, we're gonna look at some information and we're gonna make some decisions. And we want a place for everyone to participate in sport. I can't tell you what that place would be every time. And so I think we have to be more pragmatic about understanding that maybe the data's not there on either side of the of the conversation. So let's fall on the side of inclusion and let's get going here.

And then let's keep having the conversation. So I think that's, that's for me, probably two of the things I ask in, you know, I beg of my friends even in my friend group is like, start, start coaching a youth team. I know you played that sport growing up. I know you're great. I know what you believe in. Please go out and coach because if not, there's someone else sitting in that chair who's potentially not going to make it a welcoming space for someone. And I think that to me is the heartbreak. Like the first two weeks of that first sport a kid gets involved in is gonna say whether they're in sport for the rest of their life or not. And it's gotta be a positive experience. They gotta be welcome. They gotta be loved where they are. And I think that's where we have to take our first steps and it's our long-term fix for sure.

Sara Gras: This is the perfect way to end a conversation that I hope will be the start of many more. I recognize that I have barely scratched the surface of so many aspects of this subject, but there are many other incredible people writing and speaking on this topic – I'm fortunate to have had the opportunity to share some of them here. I am so grateful and indebted to the roster of researchers, scholars, educators, and advocates who took the time to speak with me and allowed me to share their words to create this show. I hope you support and share their work.

If you've made it this far with me, I urge you to keep going – check out and support the work of the Women's Sports Foundation, an organization whose work helps advance opportunities for all women and girls in sports – cis and trans. Explore stories from and about trans people - listen to the special season of NPR's podcast, *Embedded*, called *All the Only Ones* which provides a glimpse into the history of trans youth in America, starting at the turn of the 20th century, over the course of three episodes,¹¹ and subscribe to Schuyler Bailar's podcast, *Dear Schuyler*,¹² where he explores culturally relevant listener-sourced questions with diverse guests. And go out into your community - share what you know, dispel the myths – and do whatever you can to help build a world where trans and

¹¹ *NPR's Embedded: All the Only Ones*, NPR, <https://www.npr.org/series/1212940848/nprs-embedded-all-the-only-ones> (last visited Jan. 18, 2024).

¹² *Dear Schuyler*, DIVERSION MEDIA, <https://diversionaudio.com/podcasts/dear-schuyler/> (last visited Jan. 18, 2024).

non-binary kids can live, not just without fear, but surrounded by the support and love and acceptance that all children deserve, on and off the field.

We're already hard at work on the next season of Hearsay from the Sidelines and hope to have new episodes for you later in 2024.

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.