

Dinah Yukich, Testimony in opposition to Maryland General Assembly Bill SB0381

Dear Maryland General Assembly committee members and members of the public, I am mother to two young girls in Howard County—they are both late elementary students. They are avidly active in sports as well as academics—gymnastics, fencing, skiing, and indoor climbing to name a few. To the degree that it matters, they are both cis-gendered. My oldest is a 5th grader, and the reason I am not here to testify in person is because I am at a parent-teacher conference today. Having involved and supportive parents and family is a blessing and a privilege—one that is not always available. For those of you who are or have been involved parents, the medieval conception of the pelican, portrayed as feeding her children with her own life-blood, may resonate with you. It does for me. My role as a parent requires sacrifice and care, giving, late nights, early mornings, and skipping career opportunities. One thing that it does not require is control—rather it requires accepting the loss of control. Your children are not your children, they are the sons and daughters of Life’s longing for itself. You can give them your love but not your thoughts, for they have their own thoughts.¹

In preparing this testimony I thought it was important to talk with my children about how they felt about trans-girls on their sports teams. Youth sports are played by the youth, not by adults who support them. They are a justified use of tax revenue according to the National Federation of State High School Associations (NFHS) because school activities, including sports, are “where young people learn life-long lessons that complement the academic lessons taught in the classroom.” Sports promote “team-work, fair play, and hard work” and “enhancing students school engagement and sense of belonging.”² Engagement and belonging come from being listened to—our children have thoughts of their own.

Nina, my oldest, told me that trans-girls need to be allowed to participate in girls’ sports because sports are about making friends and building community. To not allow them access to girls’ sports denies them access to an important community of girls. She is not concerned about potential physical differences, because sports are not just for winning, they are about being able to be your best self. This attitude echoes the position held by Girls Scouts: “if the child is recognized by the family and school/community as a girl and lives culturally as a girl, then Girl Scouts is an organization that can serve her in a setting that is both emotionally and physically safe.”³ We live in a world that can and does address safety and privacy separately from eligibility to participate. Sports require safety equipment and evaluate safety/risk of injury—requirements vary across age groups, weight groups, and sport specific risk among other things; privacy is something everyone benefits from.

Supporters of this discriminatory ban attempt to have things both ways — they ask for protection from discrimination by discriminating against another disadvantaged group. Specifically, they leverage the exception under Title IX that allows for the existence of single sex

¹ From Kahlili Gibran, “On Children” in *The Prophet* (Knopf, 1923)

² From: National Federation of State High School Associations, *The Case for High School Activities*, <https://www.nfhs.org/articles/the-case-for-high-school-activities/> retrieved: 2/6/2024

³ Girl Scouts, *Social Issues FAQ*, <https://www.girlscouts.org/en/footer/faq/social-issues-faq.html> retrieved: 2/6/2024

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sports programs in conjunction with classifying transwomen as men by appealing to a definition of sex as chromosomally fixed at birth (despite research and facts showing sex is not so easily defined)⁴ as grounds to exclude trans-girls and women from those single sex teams. Yet they take this clearly discriminatory action without examining the fundamental principle of Title IX of providing equal opportunity in sports. A “simple” remedy of allow mixed gender teams or gender diverse teams is an insufficient remedy because it singles out and places transgender students into situations where there are few to no established programs and insufficient gender diverse students competing in this capacity. In my daughter’s words: this ban would deny gender diverse students the community and friends: the reason why we support school sports.

Moreover, it is a vacuous argument that allowing participation of trans-girls and women in the higher levels of school-based sports would disadvantage those women who later pursue sports at elite levels such as through the Olympic sports programs or professional sports. The International Olympic Committee position on transgender athlete participation in sports as published in the “IOC Framework on Fairness, Inclusion, and Non-Discrimination on the Basis of Gender Identity and Sex Variations”⁵ lists as its 5th principle that there should be no presumption of advantage due to “their sex variations, physical appearance and/or transgender status.” In essence this leaves the participation of trans-women in elite levels of competition up to the governing body of individual sports, each of which have developed their own guidance.⁶ This ban would disrupt the community and friends my daughter wishes to see.

I would like to close with a short personal story acknowledging the importance of Title IX and Title VII of the Civil Rights Act as incredibly important tools to fight discrimination and the stark discrimination transgender people have faced. I was a student athlete in high school—I was captain of my high school fencing club which I helped to revive from dormancy. When I entered college at the Johns Hopkins University, in the fall of 2000, I attempted to join the men’s fencing team—at the time I was considered male. At the team sign up and information session, two students stayed after to talk with coach Richard Oles, widely regarded as a fantastic coach. The other student, an Orthodox Jew, talked to Mr. Oles before me—his concern was that even though he would not be on the Varsity squad immediately as a new fencer, as an Orthodox Jew he would be unable to help set up for meets when they overlapped with shabbat services, he would be willing to ‘bend’ the rules a bit, but needed at least some

⁴ See for example, C. Ainsworth, *Sex redefined*, Nature. 2015 Feb 19; 518(7539):288-19, summarized in popular press publications (Scientific American, *Sex Redefined: The Idea of 2 Sexes is Overly Simplistic*, <https://www.scientificamerican.com/article/sex-redefined-the-idea-of-2-sexes-is-overly-simplistic1/> retrieved 2/6/2024) also Oberlin, D. J., *Sex differences and athletic performance. Where do trans individuals fit into sports and athletics based on current research?*, Frontiers in Sports and Active Living, 27 October 2023. Retrieved from: <https://www.frontiersin.org/article/10.3389/fspor.2023.1224476/full> on 2/6/2024

⁵ International Olympic Committee, *IOC Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations*, <https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf> retrieved on 2/6/2024

⁶ See summary list at Transathlete: <https://www.transathlete.com/international-federations> retrieved on 2/6/2024

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religious accommodation. He was told that he was either in or out, and if he was in, he needed to commit to all requirements for the JV squad—including setup on Saturdays.

My question was even easier. I had long hair—my sole concession to stereotypical femininity. No fencing rule at the time at National, International, or Collegiate levels required short hair, simply that hair be managed to not interfere with the target area. However, Mr. Oles forbade long hair on the team. Due to my extensive experience as a fencer, he offered a “compromise,” I would be allowed one week to cut my hair because he did not accept girly men on his team.

Both of these incidents are illustrative of prohibited discriminatory practices. I did not file a complaint and I’m very certain that the other student did not either. Neither of us felt safe to do so. That same year, notably while Dr. Paul McHugh, the well-known academic who testified in committee supporting HB 047 was still head Psychiatrist at Johns Hopkins Hospital, I would take Abnormal Psychology, a fantastic course taught by Dr. Noonberg, and study the DSM-IV diagnostic criteria for what was then termed Gender Identity Disorder along with other diagnoses and features such as “transvestic fetishism” and “autogynephilia.”⁷ As I went through the coursework, literature, and research, Dr. McHugh’s name and association with the University came up again and again, such as his 1995 article in *Nature Medicine*⁸ 1(2):110-4, titled “Witches, multiple personalities, and other psychiatric artifacts.” In the title and content of his article he pathologizes and dehumanizes transgender individuals, going so far as to equate the complicated gatekeeping of gender affirming surgery to a take-away sentence: “...psychiatrists do not understand what is the problem here but hope surgery may do the poor wretch some good.” As a young, closeted, transwoman, reading words like these and others from the academic community I was studying to join were harmful and discriminatory. To hear him and others attempt to claim that discrimination against transwomen in sports will do no harm furthers the same ignorance and harm caused by the dehumanizing and pathologizing of the complexity of human sexuality and gender.

It is this world of discrimination and pain that we need to work to eliminate. I would see Maryland support our students—all of them—to live their best selves. Where we lift all disadvantaged groups and strive for a more perfect union. This means listening to the voices of our children. This means not dehumanizing or othering people we don’t understand.

With this, I strongly encourage an unfavorable report on the pending bill, and to those who titled the bill the “Fairness in Girls’ Sports Act,” I will say simply, you keep using that word, I do not think it means what you think it means.⁹

Sincerely, Dinah Yukich (Legal name: Rudy Yukich, She/Her)

⁷ See Nuttbrock, Larry, et al. “A Further Assessment of Blanchard’s Typology of Homosexual Versus Non-Homosexual or Autogynephilic Gender Dysphoria” *Arch Sex Behav*. 2011 Apr: 40(2): 247-257 available from PubMed Central: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2894986/> retrieved on 2/6/2024

⁸ McHugh, Paul R., “Witches, multiple personalities, and other psychiatric artifacts” *Nature Medicine* 1, 110-114 (1995) available at: <https://www.nature.com/articles/nm0295-110> retrieved on 2/6/2024

⁹ Reiner, R. (1987). *The Princess Bride*. Twentieth Century Fox, 1987.