WORKSHOP

2014 SPORTS LAW YEAR-IN-REVIEW

PRESENTER: LEE E. GREEN, J.D. PROFESSOR – BAKER U. [KANSAS]

National Interscholastic Athletic Administrators Association
Crotty v. Buncombe County Bd of Ed
July 2014 – Settlement – North Carolina

Terms Of The Settlement:
$1M settlement of wrongful death suit; football player struck and run over by ATV driven by fellow student after football camp workout session.

Standard Of Practice:
Duty of general supervision and duty to provide a safe athletics environment.
Donkor v. Manchester Public Schools
Feb 2014 – Settlement – Connecticut

Terms Of Settlement:
$1.7 million settlement in P.E. class drowning death of 14-year-old.

Standard Of Practice:
Duty to develop swimming safety protocols and to provide supervision, technique instruction, and emergency medical response. Note new CT law.
Cross v. Wood County Schools
July 2014 – West Virginia

Decision Of The Court:
Jury award of $136,030 to football player injured in locker room fight encouraged by asst. coach who also failed to stop fight as victim injured.

Standard Of Practice:
Duty to plan; duty to train-supervise-evaluate coaches; statutory immunity doesn’t shield acts of gross negligence.
Roberts v. Broward County Schools
Pre-Trial Discovery During 2014 - FL

Issues Presented By Case:
Miramar H.S. football player with sickle cell trait (more susceptible to heatstroke-exertional issues) died from heatstroke during a preseason practice.

Standard Of Practice:
Duties to evaluate for injuries and incapacities, supervise, provide medical response, and select and train coaches.
NATA June 2014 Position Statement
“Executive Summary of National Athletic Trainers’ Association Position Statement on Exertional Heat Illnesses”
Journal of Athletic Training (Aug Issue)

Content Of Position Statement:
Updates guidelines/protocols regarding prevention, recognition, and treatment of exertional heat illnesses in athletes.

NATA August 2014 Position Statement
“National Athletic Trainers’ Association Position Statement: Lightening Safety for Athletics & Recreation”

Content Of Position Statement:
Reissuance of guidelines previously released by NATA setting forth recommendations for establishing all of the components of a lightning-specific action plan for an athletics program.

Rouchleau v. Three Forks School Dt.
Settlement - July 2014 - Montana

Terms Of The Settlement:
$300,000 to cover medical expenses to a football player prematurely returned to action after suffering a concussion and suffering “Second Impact Syndrome.”

Standard Of Practice:
Duty to follow concussion protocols as mandated by state concussion law.
CONCUSSION PROTOCOLS

M.U. v. Downingtown Area School Dt. Filed - August 2014 - Pennsylvania

Allegations In Complaint:
“Second Impact Syndrome” TBI for 14-year-old female soccer player returned to action after brief removal from game following initial concussion (header).

Standard Of Practice:
Duty to follow concussion protocols as mandated by state concussion law.
Mehr v. FIFA, U.S. Soccer, et al.
Filed Federal Ct. - August 2014 - California

Allegations In Complaint:
Inadequate protections for safeguarding teenage and youth soccer players against traumatic brain injuries; lawsuit asks not for money damages, but for injunctions mandating rules changes and enhanced concussion management protocols for the sport.
Jan 30, 2014
Mississippi Law Enacted
All 50 States & DC Now Have Concussion Laws
3 Common Tenets Of The State Concussion Statutes Already Enacted:

① Immediate removal from play.
② Same-day return to action prohibited.
③ Return to action only after clearance by licensed medical professional.

Other Common Features Of State Laws:

● Mandatory education programs for coaches, student-athletes, parents.
● Baseline testing for student-athletes.
LIABILITY FOR SPORTS INJURIES

NATA June 2014 Reissuance
“Preventing Sudden Death In Secondary School Athletics Programs: Best Practices Recommendations”
Journal of Athletic Training (Aug ‘13 Issue)

Content Of Position Statement:
Addresses catastrophic brain and neck injuries, exertional heat stroke, sudden cardiac arrest, and exertional sickling.

Ollier v. Sweetwater Union H.S. Dt.
Sept 2014 – U.S. Ninth Cir. Ct. Appeals
Feb 2012 (& May 2009) – Dt. Ct. CA

Ruling By The Appellate Court:
Upheld two lower court decisions finding
Title IX violations in 8 of the 11
categories of “other athletics benefits
and opportunities” and three-prong test
participation opportunity inequities.

Standard Of Practice:
Blueprint for Title IX compliance by
In Re Indianapolis Public Schools
Feb 2014 – OCR Resolution Agreement

Terms Of The Settlement:
Sets forth timetable to remedy Title IX three-prong test participation opportunity inequities and violations in 6 of the categories of “other athletics benefits and opportunities.”

Standard Of Practice:
OCR blueprint for Title IX compliance by high schools. Full-text: www2.ed.gov.
CONSTITUTIONAL LAW:
FREEDOM OF SPEECH & SOCIAL MEDIA

*Harper v. Scappoose School District*
Settlement - June 2014 - Oregon

**Terms Of The Settlement:**
Social media policy discontinued as written; required dance squad members to allow all online posts to be screened and approved by team sponsor.

**Standard Of Practice:**
Overly broad/vague policies likely violate free speech; narrow policies focused on substantial disruption or lewd speech on campus likely to be held constitutional.
Louisiana HB 340 – Personal Online Account Privacy Protection Act
May 2014 – Signed Into Law

Requirements Of The Law:
Prohibits universities and K-12 schools from requiring students to disclose social media usernames and passwords to school officials as a condition of attendance or participation in extracurricular activities.

Exceptions for hardware, software, and email services provided by the school.
School Authority To Limit Student Speech On Social Media

Since 2011: 6 U.S. Court of Appeals Cases & 12+ U.S. District Court Decisions

Prevailing Legal Standards:
Schools may sanction students only when:

- on-campus lewd/obscene postings
- on-campus substantial disruption (including bullying or true threats)

Social media policies must be precise and narrowly-tailored to be enforceable.
Hayden v. Greensburg (IN) CSD
U.S. Seventh Circuit – Feb 2014
U.S. District Ct – March 2013

Ruling By The Appellate Court:
Struck down boys’ basketball team’s grooming policy (hair length) as a violation of Equal Protection & Title IX.

Standard Of Practice:
Dress codes/grooming policies should set forth comparable (not identical) stds for boys and girls; equally burdensome.
Matthews v. Kountze ISD
Appeal To State Supreme Ct. - Oct 2014
State Trial Court - May 2013 - Texas

Ruling By The Trial Court:
Upheld on free speech and free exercise grounds right of cheerleaders to display run-through banners bearing Bible verses at Kountze HS. Football games.

Standard Of Practice:
Prevailing legal standard: school-sponsored religious messages violate Establishment Cl.
Overland High School (CO) Girls’ Soccer
Support For Free Exercise Of Religion Rights Of A Teammate – March 2014

The Incident:
Samah Aidah barred from game by ref for wearing a hijab; FIFA & U.S. sport governing bodies allow hijabs/headscarves.
Overland High School (CO) Girls’ Soccer Support For Free Exercise Of Religion Rights Of A Teammate – March 2014
Overland High School (CO) Girls’ Soccer
Support For Free Exercise Of Religion Rights Of A Teammate – March 2014

The Incident:
Samah Aidah barred from game by ref for wearing a hijab; FIFA & U.S. sport governing bodies allow hijabs/headscarves.

Standard Of Practice:
Unless justified by safety, rules on uniforms, dress, hairstyles, etc. cannot violate religious rights and other protected class rights.
U.S. v. Timothy C. Going
U.S. District Court - Sept 2014 - Illinois

Plea Deal In Criminal Prosecution:
Former Fairfield H.S. X-C coach pleaded guilty to multiple charges of sexual exploitation of minors for hiding video camera in girls’ locker room; 20-year prison sentence.

Standard Of Practice:
Enforcement Guidance On Pregnancy Discrimination & Related Issues
U.S. EEOC - July 2014

Policy Guidance:
Focuses on rights of pregnant/parenting workers but also deals with the broader application of the federal Pregnancy Discrimination Act. Interfaces with the June 2013 OCR policy titled Supporting The Academic Success Of Pregnant & Parenting Students (www2.ed.gov).
Inclusion Of Transgender Student-Athletes In School Sports Programs

State Association Policies:
33 state associations have a policy in place with criteria for determining the eligibility of MTF and FTM transgender student-athletes and addressing issues of locker room-shower-bathroom access.

On The Team: Equal Opportunity For Transgender Student-Athletes

57-page position paper with policy ideas; endorsed by NFHS (www.ncrlrights.org).
Sayreville Public Schools (NJ) & War Memorial H.S. Football Hazing
Criminal Prosecutions & Potential Civil Suits

The Incident:
October cancellation of football season following allegations of hazing involving sexual assault and sexual battery. 7 players charged and will be tried in juvenile court. Coaches suspended pending investigation.

Std Of Practice For Potential Civil Suits:
U.S. Supreme Court’s “knowledge plus deliberate indifference” legal standard.
Issues Courts Address In The Many Hazing Criminal & Civil Suits Every Year

- Strong and effective written policy?
- Reporting and investigation protocols?
- Athletics personnel in-serviced re policy?
- In-service re child abuse reporting reqs?
- Student-athletes and parents informed?
- Educational efforts focused on athletes?
- Alternative team-building activities?
- Substantive efforts to enforce policy?
- Supervision over all environments and situations where hazing might occur?
State v. Robert Garza
Westlake High School Softball Coach Case
April 2014 - California

Allegations In The Case:
37-year-old softball coach charged with multiple felonies for sexual relationship with 15-year-old female student-athlete. Intent-to-sue paperwork filed re civil suit against district and personnel.

Standard Of Practice:
Knowledge + Deliberate Indifference.
People v. Stephen Amador
Basketball Referee Case
Feb 2014 - Colorado

Jury’s Verdict In The Case:
52-year-old basketball referee convicted of nine counts of unlawful sexual contact for inappropriately touching female players during games. After case, CHSAA enacted rules mandating criminal background checks on officials (the ref had sex priors).

Standard Of Practice:
Knowledge + Deliberate Indifference.
Issues Courts Address In The Many Sexual Harassment Suits Filed Every Year

- Strong and effective written policy?
- Reporting and investigation protocols?
- Promptness of response to reports?
- Athletics personnel in-serviced re policy?
- In-service re child abuse reporting reqs?
- Student-athletes and parents informed?
- Substantive efforts to enforce policy?
Decision Of The State Supreme Court:
Upheld the conviction of Muncie Central H.S. principal for failing to report a student-on-student rape as mandated by state child abuse reporting law (he misinterpreted the law, believing that the situation was not covered by the language of the statute).

Standard Of Practice:
Need to have accurate and thorough knowledge of the reqs of the state law.
CRAZY SPORTS LAWSUITS

Coomer v. Kansas City Royals Baseball Club, Inc.

Sluggerrrr & The Affair Of The Misinging Hot Dog Cannon!!
CRAZY SPORTS LAWSUITS

University of Oklahoma v. NCAA

Pasta & Pocket Dials!!
CRAZY SPORTS LAWSUITS

Allen v. Greene County Schools & Myers

Awash In Liability: The Case Of The Naked Alum On The Road Trip!!
2014 NIAAA

CRAZY SPORTS LAWSUITS


The Gift That Keeps On Giving: The Greatest Deal in Sports History!!
CRAZY SPORTS LAWSUITS

Andrew Rector v. ESPN, John Kruk & Dan Schulman

Snore Loser: Sleeping Yankees Fan Sues ESPN For $10M!!
Thanks For Attending The Presentation!!

Lee E. Green, J.D. - Baker University
618 Eighth Street  P.O. Box 65
Baldwin City, Kansas 66006
Office: 785.594.8336
Email: Lee.Green@BakerU.Edu

National Interscholastic Athletic Administrators Association