



NJPSAFE

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*Law, **E**thics and **G**overnance for **A**ll **L**eaders, including an
Overview of **N**ew and **E**merging Issues*

LEGAL ONE/NJSIAA: Defining Roles and Engaging in Progressive Supervision of Athletics Staff

September 30, 2026

Presenters

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Presentation Materials

Today's document(s) can be accessed at

<https://tinyurl.com/LO-NJSIAA-260930>



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LEGAL ONE and NJSIAA Series

- September 30 (In-Person) – **Defining Roles and Engaging in Progressive Supervision of Athletics Staff**
- October 26 (Zoom) – [Never Crossing the Line: Enforcing Clear Boundaries and Promoting Healthy Connection](#)
- November 17 (Zoom) – [Athletics and Students with Special Needs](#)
- January 11 (Zoom) [Building Support for the Athletics Program: From Perception to Budgeting](#)
- April 20 (In-Person) [Using Artificial Intelligence in Athletics](#)
- *All Session 9:30 am - Noon*

Today's Goals

- Understanding the need for clear expectations, feedback and accountability for athletics staff
- Defining key aspects of the roles of coach, athletic trainer and other athletics staff
- Providing a framework for evaluating athletics staff and engaging in progressive supervision and discipline when necessary
- Applying supervision and accountability principles to real-world situations
- Identifying strategies for moving your district forward

Group Discussion

- Why is it important to establish and enforce clear expectations for athletics staff?
- What are some of the benefits that come from establishing clear expectations? From having an evaluation system?
- What are some of the negative outcomes when clear expectations and evaluation systems are not in place?
- What is the role of the Athletic Director in relation to establishing expectations and evaluating athletics staff?
- What are the barriers that need to be overcome in order to put an effective evaluation system in place?

Small Group Activity

- In your group, define core expectations for persons serving in the following roles:
 - Group 1 - Head Coach
 - Group 2 – Assistant Coach
 - Group 3 – Athletic Trainer
 - Group 4 – Volunteer
 - Group 5 – School Security

Defining Sportsmanship

- **NJSIAA Sportsmanship Statement**
- Officials will read the following statement before every NJSIAA event at all levels (No Paraphrasing):
- The NJSIAA requires officials to enforce all rules regarding unsportsmanlike conduct by coaches and players. There will be no tolerance for any negative behavior, such as taunting, trash talking and verbal, written, or physical conduct related to race, gender, ethnicity, disability, sexual orientation, or religion. Such behavior will result in being ejected from this event. All participants must respect the game and respect their opponents.

Sample – Core Expectations for Head Coach

- Meet with team 6x per week
- Practice time 1.5 to 2.5 hours
- Create and follow a practice plan for each day
- Engage in clear, consistent and transparent communication with athletes that recognizes appropriate boundaries
 - E.g., Preseason meetings to establish expectations for athletes, parents
- Enforce Sportsmanship and Code of Student Conduct Standards
- Provide ongoing, constructive feedback for Assistant Coaches, Athletic Trainer, Volunteers, including through formal end-of-year evaluations
- Work with the Athletic Director and Administration to engage in progressive supervision and discipline of staff as needed
- Ensure timely communication with school administration, counselors, administrators, parents and other key stakeholders when student behavior or demeanor changes from the student's baseline

Evolving Expectations

- Job of coaching has changed, mirroring the society we live in.
- Coaches are asked to cover not only their athletic duties but also:
 - Numerous administrative tasks; and
 - Addressing the welfare of their players beyond the sports world (including dating violence, mental health, bullying, substance abuse, discipline from other areas where athletics is used for punishment, and much more)

Why Practice Plans?

- Many moving parts, promotes strategic approach to skill development and team building
- Demonstrates teaching of proper techniques and thoughtful means to reduce injury risk
- Provides means to hold all coaches accountable
- Important tool if litigation arises

THE LIGHT SYSTEM – A FRAMEWORK FOR EFFECTIVE COMMUNICATION

The LIGHT[©] System

- L **L**isten – what is the real issue?
- I **I**solate the conversation location for confidentiality and **I**nvestigate the issues raised – what are the facts?
- G **G**ive a plan to address and resolve the concerns
- H **H**elp them understand why this has to be handled in a certain way
- T **T**hank them for understanding and **T**ouch base with a follow-up within a reasonable amount of time. Information should be shared and ongoing, as needed.

WHAT WOULD YOU DO???

1. Coach and Parents

- Coach James and his HS football team are playing a game with their competitors on their home field. They lost last season's closer to this team and there are some bad feelings about that outcome. As the game progresses the parents in the audience become quite vocal. Some are yelling at the players and some are yelling at the coach, ridiculing students, including references one student's disability. Coach James tells his team to play the best they can and ignore all the chatter from the stands.
- A parent comes down from the seats and starts try to "coach" from the sidelines. Coach James asks him to please go back to his seat as he cannot be on the sideline. The players are uncomfortable and the other parents are encouraging the parent, and now yelling at the coach as it escalates into multiple shouting matches.
- What are Coach James options at this point? If Coach James allows the parent to remain on the sidelines for several minutes? What if Coach James takes no steps to address the behavior in the stands?
- Outline the steps that need to be taken now by the Athletic Director both immediately and long-term.

2. Lack of Progressive Supervision

- The boys' HS basketball coach is an experienced athletic coach for 15 years. He has had some winning seasons and some losing ones. He is usually liked by the students and the community, but is quite hard on players when they do not deliver a good game. After a recent loss, he meets with the team and tells them they are not playing up to their potential and they may be the worst team he has ever coached. He then addresses each player individually and tells them, in front of the entire team, all their shortfalls and their errors.
- They all go home and some share this "negative" team meeting with their folks who now have had it. They all decide to go to the BOE meeting, with their kids, to demand that the coach be relieved of his coaching position. While the parents and community love a winning season, they do not want it at the expense of their kids. When the Superintendent gets wind of this situation, he asks for the coach's Athletic HR file. Of course it is empty. In fifteen years, no one has ever written anything about this coach. There are no good nor bad documents. NOTHING! Now what?
- Outline the steps that the AD should take both short and long-term.

3. Rogue Athletic Trainer

- The girls' middle school baseball team has had an injury prone season. The new athletic trainer (hired after a long and difficult search) assigned to the team has NOT been proactive enough to prevent injuries. Her pre-hire reference check said she "makes her own rules." and has been too quick to let players return to the game after an injury. According to the parents and players, this is also happening now. The latest event involved a player's diagnosed concussion. The trainer told the player, "I disagree with the doctor's protocols. I know you better and I say you are OK to return to play. If you don't go back to play I will recommend you be taken off the team." Now what? There is nothing in the trainer's HR file regarding any past concerns. The BOE President says the community is very aware of previous problems.
- Outline the steps that need to be taken immediately and long-term by the Athletic Director.

4. Hiring and Renewal Decisions

- Busyville HS is a huge HS with many sports and seasonal coaching positions. Every May, the Athletic Director sends to the HR Department the list of seasonal coaches and assistant coaches to be reappointed for the year. Jobs get new appointees when someone resigns, moves, or an assistant coach is added based on numbers for team sign ups. This has been followed for over ten years. Busyville HS has a new Principal this year and he wants to change the procedure. He wants interviews, evaluations and committee recommendations to the Superintendent for each coaching job, each season, each year. Parents get wind of this and are upset. Now what?
- Outline the immediate and long-term steps that should be taken by the Athletic Director.

5. Finding Time to Evaluate

- The AD in Madison HS has the entire athletic department on his schedule for evaluations, as well as evaluation physical education teachers. Finding time to do this has created an eighteen-hour workday including evaluations, on site athletic work, and all the sports games and events after school. He has requested a better tool to evaluate his teachers and coaches. He has suggested another supervisor assist with evaluations, a checklist, less evaluations, seasonal evaluations and other ideas that have all been ignored. He is stretched so thin. He feels unsupported by the district. Suggestions?
- Outline the steps that should be taken by the Athletic Director both short and long-term.

ESTABLISHING AN EVALUATION SYSTEM

Key Elements of Evaluation System

- Clear Expectations
- Rubric
- Observations – Announced and Unannounced
- Post-Observation Conferences as needed
 - *Some issues require immediate conference!*
- End of Season Summative Evaluation and Conference
- *No Automatic Assumption of Coaching Renewal*
- Progressive Supervision as Needed
 - *Distinguish Performance Issues from Discipline Issues*

Rubric Example - Student Behavior

NOT ADDRESSED - You have not established clear expectations for student behavior.

EMERGING - You have established clear expectations for student behavior. Expectations are not reinforced consistently. Discipline is not fairly and consistently applied.

DEVELOPING - You have established clear expectations for student behavior. Expectations are reinforced consistently. Discipline is fairly and consistently applied.

SUSTAINING - You have established clear expectations for student behavior that are part of a larger plan to address students' social and emotional learning and character development. The expectations are connected to the student code of conduct and Sportsmanship standards. Coaches have collaboratively established consistent and sport-specific rules that are aligned to the school's code of conduct and Sportsmanship standards.

Observation Examples

- Athletic Director sits in on initial meeting of Coach with team, reviews whether or not expectations are clearly communicated, questions effectively answered
- Athletic Director makes unannounced visit to practice, observes skills being taught, asks to see coaching plans after visit to review alignment between plan and what occurred
- Athletic Director reviews video footage from school bus, assesses level of coaching supervision of students, whether behavior issues addressed

End of Season Summative Evaluation and Conference

- With Head Coach and Assistance Coaches (with head coach present for assistant coaches)
- Occurs within 30 days of end-of-season
- Includes review of performance expectations and any behavior/disciplinary issues

Coaching Renewal

- Move away from assumption of automatic renewal
- Include review of summative evaluation in process
- Post internally all seasonal coaching position
- Have AD engage in at least a review of applications received
- Determine when/if other applicants will be interviewed
- Work the Central/High School Administration when need determined to interview, make recommendations for new coach

Developing Rubric Language

- Explain rationale, benefits to developing rubrics
 - Including protection of coaches
- Invite participation from all coaches/assistant coaches in the process
- Ensure Central Office/High School Administration are aware/supportive
- Finalize and communicate language well in advance of season

Model Athletic Trainer Instrument

- The New Jersey Department of Education has worked with a team of accomplished professionals from the [Athletic Trainers' Society of New Jersey](#) to develop an evaluation instrument that districts may choose to adopt. While the Department does not require the use of these documents, it supports the ATSNJ in its efforts to promote the use of an evaluation tool that addresses the specific job responsibilities of athletic trainers. As the Department continues to develop guidance for staff members in specialized roles, it will continue to learn from the ATSNJ and its partner districts during their first year piloting this evaluation model.
- Below are three documents which describe and implement the process.
 - [Cover Memo Regarding the Evaluation Process](#)
 - [Athletic Trainer Observation Form](#)
 - [Licensed Athletic Trainer Summative Performance Report](#)

ENGAGING IN PROGRESSIVE SUPERVISION

Weingarten Rights

- An employee's right to representation in an interview applies to situations where the employee reasonably believes the investigation at the interview will result in disciplinary action.
- An investigatory interview is one in which a supervisor questions an employee to obtain information which could be used on a basis for discipline or asks an employee to defend his/her conduct.

Weingarten Rights

- If the Supervisor denies the request and continues to ask questions, this is an unfair labor practice and the employee has a right to refuse to answer any questions.
- The employee must clearly request representation before or during the interview in order to claim this right.
- The employer/supervisor has no duty to inform the worker of this right.

Just Cause Test

- 1. FAIR NOTICE** Did management make the worker aware of the rule or policy which they are being accused of violating?
- 2. PRIOR ENFORCEMENT** Has management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?
- 3. DUE PROCESS** Did management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?
- 4. SUBSTANTIAL PROOF** Was management's decision to accord discipline based on credible and substantial evidence?
- 5. EQUAL TREATMENT** Is the punishment management is proposing consistent with the punishment other workers received for the same or substantially similar offense?
- 6. PROGRESSIVE DISCIPLINE** During the disciplinary process, did management issue at least one level of discipline that allowed the employee an opportunity to improve?
- 7. MITIGATING AND EXTENUATING CIRCUMSTANCES** Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating or aggravating circumstances?

Progressive Discipline

Definition: The actions are remedial, increasingly more severe, proportionate and appropriate to the nature of the problem.

Examples:

- Verbal warning/discussion
- Letter of reprimand
- Recommendations to withhold increment
- Recommendation for suspension/dismissal

Things to consider when weighing degree of discipline:

- Intention
- Number of occurrences
- Previous corrective measures
- Time frame
- Severity

Avoiding Legal Landmines

- Sexual Harassment
- Discrimination
- Whistleblowing
- Retaliation
- Anti-Union Animus
- Selective Enforcement
- Lack of Due Process



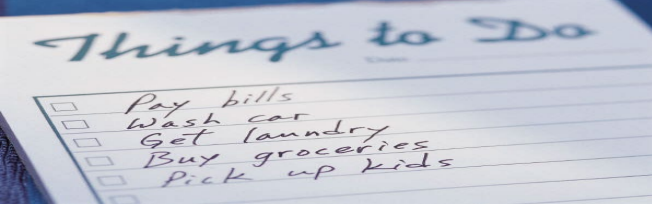
Whistleblowing / Retaliation

- NJ Law – Conscientious Employee Protection Act or CEPA
 - Examples?
- State and Federal Discrimination Law also includes protections from retaliation for those who report alleged discrimination
 - Examples?
- Key Question – Was employee held to a different standard as a result of reporting improper behavior of the employer or other employees?



Progressive Supervision Model

- Consider use of FRISK Model or other model that allows for clear system of communication of behavior/discipline issues
- Ensure that model has support from Central Office/High School Administration
- Communicate model to all coaching staff
- Apply model consistently – no favoritism or selective enforcement!



Facts

- Critique the following excerpt from a memo written to head coach after major student athlete awards ceremony the previous evening:
 - When I showed up to view the awards ceremony, it was a chaotic scene. Nobody seemed to know the order of events of their role. This was supposed to be a very positive experience and everyone left frustrated. You did not follow the protocol that we had discussed for the evening.

Rule

- Critique the following excerpt from a memo written to a head coach:
 - I understand that student athletes were being quite rude to each other on the bus after the game, according to several parents who called me. I am told that you and the assistant coaches were huddled together at the back of the bus, oblivious to what was happening. You know that we don't tolerate disrespectful behavior and I am disappointed that you allowed it to go on for so long.

Impact

- Critique the following excerpt from a memo written to the head baseball coach:
 - Do you have any idea how much time harm has occurred from your players running through the school in their cleats after practice. The floors were ruined and one of the players twisted his ankle while running. As usual, you and the Assistant Coaches were no where to be found. Where was the staff supervision? Even worse, I looked foolish as the AD since I was escorting several board of education members through the school, trying to build support for our budget when this fiasco occurred. I expect more from you.

Suggestions / Directions

- Critique the following excerpt from a memo written to an assistant coach regarding an incident after a recent game:
 - You are hereby directed to refrain from any inappropriate comments while responding to parents after a game. You need a better system for responding to parents and need to keep your personal comments to yourself, rather than criticizing the parent's child right after a game.

Knowledge

- Critique the following excerpt from a memo to the head coach of the women's lacrosse team.
 - We sent you the updated Athletics Handbook four days ago. On page 98, it clearly spells out that you are supposed to review the prohibition on Hazing with your team. I hear that there was a hazing ritual after practice yesterday and a student was very embarrassed. This could have been prevented if you read the handbook and applied the new rule on the first day of practice.

LEARNING FROM CASE LAW

Coaching Liability

Jake Mesar v. Bound Brook Bd. of Ed. and John Suk

- Player, in JV baseball game, injured ankle sliding into third base; surgery required.
- Suit alleged that defendants “negligently” and “carelessly” supervised JV baseball game.
- Judge determined that “recklessness” was the appropriate standard and granted motion to dismiss; recklessness not pleaded. No analysis as to whether conduct met recklessness standard.
- App. Div. reversed and remanded. Judge to analyze whether plaintiffs proffered sufficient evidence of recklessness.

Facts

- Plaintiff Jake Mesar, a ninth-grade freshman at Bound Brook High School, injured his right ankle while sliding into third base during a junior varsity baseball game . The slide occurred in the second inning with runners on second and third. Mesar hit a long drive, reached first and second safely, and was rounding toward third when the opposing outfielder attempted a throw. The third-base coach, John Suk, told Mesar to slide, believing it would be a “bang-bang” play.
- During the slide, Mesar’s cleat dug into the dirt, and the force of the slide rolled him over his right ankle, requiring surgery. Mesar alleged the coach and school negligently and carelessly supervised the game.

Procedural History

- **Trial court (2017):** Summary judgment for defendants, applying the *Crawn v. Campo* “heightened recklessness” standard — an “extreme departure from ordinary care” with a high degree of apparent risk.
- **Appellate division (May 2, 2018):** Affirmed in part, reversed in part, and held that the heightened recklessness standard applied to recreational sports. The court found the trial court’s summary judgment order improper, leaving the issue for a jury.
- **Trial (Nov 2019):** The jury, 7-1, found **no cause**, concluding Suk’s instruction to slide was not reckless.

Implications

- No liability will be imposed for split second decisions.
- Other types of decisions involving more time will be judged under the “recklessness” standard. Key factors will be:
 - Whether a “conscious choice of action” is involved.
 - Whether the injury involved a “play call.”
 - **Whether proper training and instruction occurred.**
- The use of injury waivers is likely an exercise in futility as they will unlikely be enforced. See Hojnowski v. Vans Skate Park, 187 N.J. 323 (2006).

New Jersey Anti-Bullying Case Law

Dickerson v. Wallkill Valley Regional Bd. of Ed., U.S. Dist. Ct. N.J., 6/1/2020

- Allegations that BOE, principal and superintendent violated NJLAD, U.S. Civil Rights Act and N.J. Civil Rights Act. Defendants motion to dismiss denied.
- HS basketball game at which it was alleged that spectators made monkey sounds, shouted the “n” word and “monkey” at student during the game. Student allegedly suffered psychological distress, PTSD, anxiety and depression.
- **Principal/superintendent’s failure to respond to fans and decision to eject student’s father may have been so unreasonable so that one could infer that principal/superintendent acted with deliberate indifference.** BOE/adm allegedly not HIB compliant.

Duty of Care at School - *Dickens v. Township of Irvington*
Irvington BOE and Derek Strong Docket No. ESX-L-006221-
15 (N.J. Super. Ct. Sept. 18, 2017)

- **Facts:** 13 year-old girl fell and severely injured her left arm after jumping over a cable on her way to an athletic field for gym class.
- The cable had been erected to prevent vehicles from entering the athletic field
- Girl claimed that she had never been warned by teacher not to jump over cable, which she and her classmates had done previously on numerous occasions without incident

Dickens v. Irvington BOE cont'd

- **Outcome:** Jury found plaintiff 25 percent liable for her injuries and the district 75 percent liable. \$8 million award reduced accordingly to \$6 million. No liability was found against the teacher

Access to Electronic Communications in Discovery

DeFranco v. So. Orange-Maplewood BOE, et als., App. Div. 5/12/2023

- **App. Div. vacated Law Division 3/16/21 order.** *Lawsuit brought by DeFranco, former student and baseball team member; alleged coaches, athletic director and others violated NJLAD. In discovery, text messages between AD and coaches turned over, involved racially and religiously insensitive comments about students.*
- *Case settled, settlement allowed school district to destroy text messages.*
- *Another parent filed suit, demanded access to text messages. Appellate Division held that despite prior settlement, text messages had to be maintained and made available in future litigation.*

Tenure Dismissal

Certificate Suspension/Revocation

- **In the Matter of the Suspension of the Certificates of James Smith**
Commissioner 12/2/2020 – State Board of Examiners (SBE) suspended tenured Athletic Director's Supervisor Certificate and Principal's Certificate of Eligibility for four months. Appellant's teacher of social studies certificate was not suspended. SBE found failure to complete required coach and teacher evaluations over a five-year period, even after placement on a corrective action plan and increment withholding; progressive discipline was properly imposed.
- *AD also failed to report a parent's HIB complaint as required by the district's HIB policy. SBE concluded that this conduct amounted to inefficiency and unbecoming conduct.* No tenure dismissal proceedings as employee resigned before prepared tenure charges could be filed. BOE went directly to SBE. Commissioner concurs with BOE on unbecoming conduct and four-month suspension of his supervisory certificates.

QUESTIONS???

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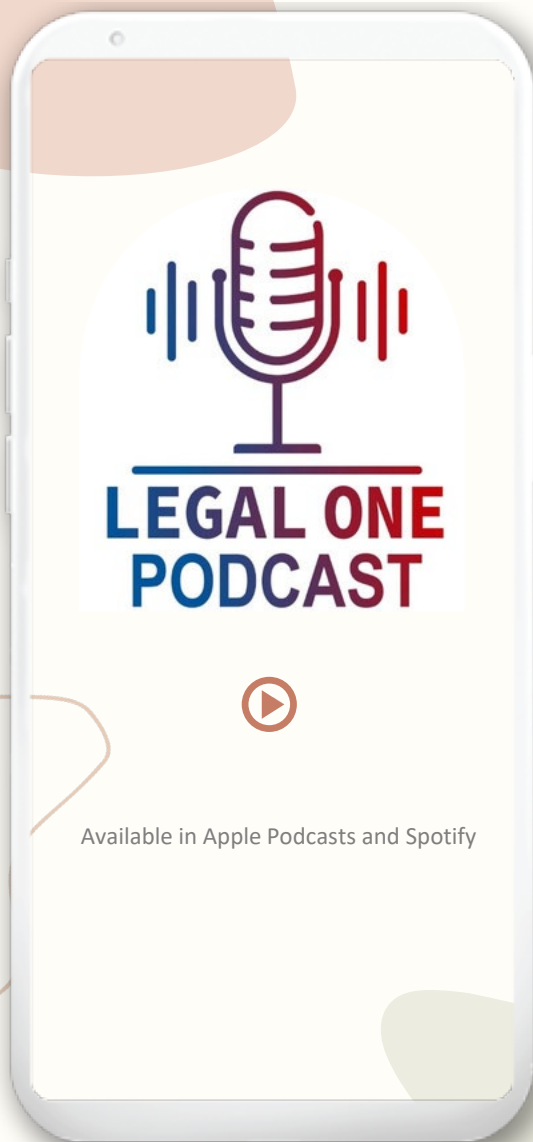
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TIME

9AM TO 3PM



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WORKSHOP



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