



# 2014 NIAAA CONFERENCE



## ***WORKSHOP***

# ***2014 SPORTS LAW YEAR-IN-REVIEW***

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

**National Interscholastic  
Athletic Administrators Association**



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# **LIABILITY FOR SPORTS INJURIES**

***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.**



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# **LIABILITY FOR SPORTS INJURIES**

***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.**





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# **LIABILITY FOR SPORTS INJURIES**

***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.**



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# **LIABILITY FOR SPORTS INJURIES**

***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.**



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# **LIABILITY FOR SPORTS INJURIES**

***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.**

**Full-text of document: [www.nata.org](http://www.nata.org).**





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# **LIABILITY FOR SPORTS INJURIES**

***NATA August 2014 Position Statement  
“National Athletic Trainers’ Association  
Position Statement: Lightning 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.**

**Full-text of document: [www.nata.org](http://www.nata.org).**



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## CONCUSSION PROTOCOLS

*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.





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## **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.**



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## **CONCUSSION PROTOCOLS**

*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.



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# CONCUSSION PROTOCOLS







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# CONCUSSION PROTOCOLS

## *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.



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# **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.**

**Full-text of document: [www.nata.org](http://www.nata.org).**



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## TITLE IX COMPLIANCE

*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 high schools. Full-text: [www.las-elc.org](http://www.las-elc.org).





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## TITLE IX COMPLIANCE

*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](http://www2.ed.gov).



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# 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.



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# **CONSTITUTIONAL LAW: FREEDOM OF SPEECH & SOCIAL MEDIA**

*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.**





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# **CONSTITUTIONAL LAW: FREEDOM OF SPEECH & SOCIAL MEDIA**

## *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.**



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## **CONSTITUTIONAL LAW: FREEDOM OF EXPRESSION**

*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.**



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# CONSTITUTIONAL LAW: FREEDOM OF RELIGION

*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.





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# CONSTITUTIONAL LAW: FREEDOM OF RELIGION

*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.



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# CONSTITUTIONAL LAW: FREEDOM OF RELIGION

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# CONSTITUTIONAL LAW: FREEDOM OF RELIGION

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## *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.





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## CONSTITUTIONAL LAW: PRIVACY 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:*

Civil liability for school? Knowledge + deliberate indifference standard. Fairfield H.S. officials took immediate investigatory action.



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# CONSTITUTIONAL LAW: EQUAL PROTECTION & PREGNANCY

*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](http://www2.ed.gov)).



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# CONSTITUTIONAL LAW: EQUAL PROTECTION & TRANSGENDERS

## *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.nclrights.org](http://www.nclrights.org)).





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# HAZING ISSUES IN ATHLETICS

*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.



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# HAZING ISSUES IN ATHLETICS

*Issues Courts Address In The Many Hazing Criminal & Civil Suits Every Year*

- Strong and effective written policy?
- Reporting and investigation protocols?
- Athletics personnel in-service 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?



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# SEXUAL HARASSMENT

*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.**





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## SEXUAL HARASSMENT

*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.**



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## SEXUAL HARASSMENT

*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?



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# **FAILURE TO REPORT CHILD ABUSE**

*Smith v. State of Indiana*  
*March 2014 – Indiana Supreme Court*

*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.





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# CRAZY SPORTS LAWSUITS

## ***Coomer v. Kansas City Royals Baseball Club, Inc.***



**Sluggerrr & The  
Affair Of The  
Misfiring Hot  
Dog Cannon!!**





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# CRAZY SPORTS LAWSUITS

## *University of Oklahoma v. NCAA*



**Pasta  
&  
Pocket Dials!!**







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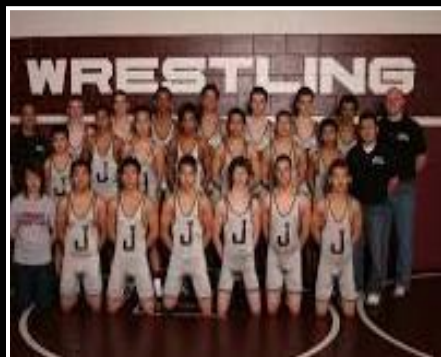


# CRAZY SPORTS LAWSUITS

## *Allen v. Greene County Schools & Myers*



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







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# CRAZY SPORTS LAWSUITS

## *Ozzie & Daniel Silna v. National Basketball Assoc.*



**The Gift That  
Keeps On Giving:  
The Greatest Deal  
In Sports History!!**





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# CRAZY SPORTS LAWSUITS

## *Andrew Rector v. ESPN, John Kruk & Dan Schulman*



**Snore Loser:  
Sleeping Yankees  
Fan Sues ESPN  
For \$10M!!**





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# ***Thanks For Attending The Presentation!!***

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