Sports Law Year-In-Review
2019 Kansas Interscholastic Athletic Administrators Association Conference
Manhattan, Kansas

Legal Issues In Athletics Administration

Over the course of the last year, lawsuits were filed, court cases were decided, legislation was enacted, administrative agency rulings were released, state athletic association decisions were issued, and other legal pronouncements were handed down impacting school sports programs. In each instance, the principles established illustrate the importance for school administrators and athletics personnel of understanding contemporary issues in sports law and proactively applying that knowledge to policy development and day-to-day management of their athletics programs.

Liability for Sports Injuries

In June, in *Paolucci v. Sachem Central School District* (NY), a notice of claim was filed asserting that district and athletics personnel breached their promise to provide therapy services and mental health support to teammates of the late Joshua Mileto, a former football player at Sachem East High School, who died on August 10, 2017 when a 400-pound log he and four other players were carrying in a football camp drill simulating a training exercise for Navy SEALs fell and struck Mileto on the head. In September 2017, Mileto's family filed a $15 million negligence suit against the SCSD and the Sachem East football booster club that financially sponsored the camp, asserting violation of the duties of supervision and proper technique instruction, a case that has not yet been resolved. The more recent suit alleges that mental health counseling for the survivors was discontinued after two sessions and is badly needed by Mileto's teammates, many of whom are suffering Post Traumatic Stress Disorder-like symptoms.

In January 2018, a $10,000 settlement was reached in *Bars v. Starpoint Central School District* (NY), a lawsuit asserting violations of the duties of planning, supervision, safe playing environment, and immediate medical assistance related to frostbite and permanent damage to his right hand and fingers suffered by a 10-year-old Regan Intermediate School student when his P.E. class teachers organized an outdoor activity on a snowy February day in 2015 when the wind chill index was minus 14 degrees Fahrenheit.

In May, in *Maser v. Bound Brook Board of Education* (NJ), a state appellate court reversed a lower court summary judgment in favor of the Board and a JV baseball coach who during a game in 2016 was also serving as the third base coach and instructed Maser to slide on what appeared to be a close play during an attempt to stretch a double into a triple. The player's cleats snagged in the dirt during the slide and he sustained a serious ankle injury that required surgery to repair. The appeals court found that based on existing precedents, the Board and coach would be immune from liability unless the coach's conduct was "reckless," not merely "negligent," and that the issue had not been adequately addressed or resolved by the lower court. In its written opinion, the appellate court indicated that it did not believe that the coach had acted recklessly in instructing the player to slide, but that procedurally the question was one that must be resolved by the lower court.

In August, in *Robinson v. Polk County Public Schools* (FL), in a case superficially amusing based on its facts, but that reflects an important standard of practice regarding excessive disciplinary measures used by coaches, a jury awarded $125,000 for injuries – including alleged permanent disfigurement – suffered by a high school football player in what has become known as the "nipple twist lawsuit." The case addressed issues related to one of the punishment strategies apparently preferred by the Kathleen High School head football coach for any perceived failing by players during games, practices, or academics, which was to grab and violently twist their nipples. The practice was allegedly intended to inflict mental stress and humiliate players by assaulting their manhoods. Robinson was a player who had been repeatedly so punished by the coach, to the point where his oft-targeted left nipple became permanently misshapen. The standard of practice illustrated by the case is that it is a violation of the duties of supervision, selection and training of coaches, and proper technique instruction for schools to allow the use of extreme and unreasonable forms of discipline for student-athletes that foreseeably may cause injury to the players, including ones litigated in other suits such as bear crawls on hot asphalt and excessive exertion on high heat-index days.

In October, in *Bush v. St. Louis Convention and Sports Complex Authority* (MO), a professional sports lawsuit with implications for high school athletics programs, a jury returned a verdict of $4.95 million in compensatory damages and $7.5 million in punitive damages – $12.45 million total – to New Orleans Saint's running back Reggie Bush, whose momentum at the end of a punt return carried him out of bounds onto a hard surface encircling the synthetic turf field inside the Edward Jones Dome that was referred to by players as the "concrete ring of death" where he sustained a season-ending and career-affecting tear of his left ACL. The case addressed issues of premises liability and negligence parallel to the duty of school districts and high school athletics personnel to provide a safe playing environment for student-athletes, the violation of which has resulted in liability in suits when players have been injured in sports venues by falls on hard surfaces such as in the Bush case, by running into unpadded walls inside gymnasiums, by crashing through glass doors near playing surfaces inside indoor venues, by colliding with equipment stored immediately adjacent to fields or courts, or by running into spectators allowed to stand or sit too close to the playing surface.

Concussions

In April 2018, in *Council v. Grossmont Union High School District* (CA), a $7.1 million settlement was reached with a former Monte Vista High School football player, Rashaun Council, who in 2013 suffered a concussion in a freshman football game that was not recognized as such by his coaches, who did not remove him from the game despite being notified by a teammate during the contest that Council was exhibiting indicia of a head injury. The injured player's symptoms worsened postgame in the locker room, but the coaches nevertheless failed to call 911 and he received medical care only after his father transported him to the hospital where he underwent life-saving, emergency surgery and was placed in a medically-induced coma. Council suffered permanent brain damage from the incident, will never be capable of living on his own, and will incur significant ongoing medical expenses related to treatment of his condition. The lawsuit asserted that during the game in which he was injured, the coaches negligently failed to recognize the clear and obvious indicia that Council had suffered a concussion, to immediately remove him from play, and to summon appropriate medical assistance for him. The suit also claimed that none of the freshman team's coaches had completed the state's required concussion training program for high school athletics personnel, not technically a violation because a provision of the California concussion protocol law technically provided the coaches with a two-year window to complete the concussion education, but nevertheless illustrating the need for schools and athletic programs to adopt their own standards of practice that no coach should be permitted to begin their coaching duties until having completed such a program.

In May, in *Baker-Goins v. First Baptist School of Charleston* (SC), a former high school basketball player was awarded $5.87 million by a jury in a lawsuit related to two concussions he suffered five weeks apart in 2013. After sustaining the first head injury in a fall on the court and suffering headaches, dizziness, and cognitive issues, Baker-Goins was diagnosed with a concussion and placed in the "return to play" protocol mandated by the South Carolina Independent School Association, which mirrors the state RTP law. Despite the school's compliance with all of the technical requirements of the association's and state's RTP protocol, after suffering a second concussion five weeks later, Baker-Goins argued that he had been rushed through the RTP process, resulting in permanent brain damage from "second impact syndrome" following the second head injury five weeks later. The challenge for school athletics programs across the country is that such a result in a concussion suit may lead to other concussed student-athletes contesting the sufficiency of their states' concussion protocols. Although a district and its athletic personnel would almost certainly be found negligent for failing to follow all of the mandates in the applicable state's law, a case like that of Baker-Goins illustrates the need to err on the side of caution and, even if all the steps in the RTP protocol have been fulfilled, to refuse to allow participation if any indicia are present that an athlete is not fully recovered from a prior concussion.

In February 2018, in *Hoffman v. Borough of Sewickley* (PA), a jury awarded $1.7 million in compensatory damages to cover already-incurred and projected future medical expenses of a youth baseball player who suffered permanent brain damage when struck in the head by a foul ball during a game in the spring of 2015 that flew through a gap in the wire fencing that was supposed to protect those in the dugout, the only such gap in the protective fencing on any of the fields in the multi-venue complex owned by the Borough and used by the Quaker Valley Recreational Association. The issue focused on throughout the trial was the duty to provide a

safe playing environment and the lack of inspections of dugout fencing to ensure the safety of players and coaches therein.

Hazing

On Thursday October 31, in an incident that has received the most extensive national media coverage of any sports hazing occurrence in 2018, but which is representative of the dozens of such episodes that have taken place in recent years in high school athletic programs around the country, four juvenile football players were allegedly attacked and sodomized with a broomstick in an unsupervised locker room at Damascus High School, a sports powerhouse that is one of 25 high schools in the Montgomery County Public Schools, the largest district in Maryland and which serves 160,000+ students in its 205 schools.

On the following day, the incident was reported to school district officials after victims disclosed to their parents what had happened and after social media postings by members of the team attempting to apologize to the victims became public. Upon learning of the allegations, administrators immediately fulfilled their mandatory reporting duties under the Maryland Child Abuse Reporting Act and contacted law enforcement officials. According to the police report compiled through interviews with the five alleged perpetrators and the four victims – a document that as of the copy deadline for this article had not yet been released to the public, but a copy of which was obtained by the Washington Post – the "brooming" ritual was a hazing practice that allegedly went back many years in the football program at the school.

On November 26, four of the perpetrators were charged as adults with first-degree rape and other sexual assault charges and a fifth perpetrator was charged as a juvenile with second-degree rape. In an interview broadcast by sports and news networks across the country, the Montgomery County State's Attorney, John McCarthy, stated "I am offended by the term hazing … it is not merely hazing … these are crimes and these boys were victims of criminal acts … they were victims of first degree rape." The district has launched an investigation designed to determine whether hazing is endemic to its athletics programs and other activity programs and to identify the strategies that should be employed going forward to protect students from hazing, bullying, and harassment in any form.

In September, a settlement with confidential terms was reached in the case of *Doe v. Hamilton County Department of Education,* a federal civil suit filed against an East Tennessee school district, a high school principal, an athletic director, and a basketball coach related to a high school basketball hazing incident involving a former Ooltewah High School basketball player who required emergency surgery after his bladder was punctured in a hazing incident in which players were sodomized with pool cues. The plaintiff in *Doe* was a freshman on the Ooltewah High School basketball team, who as part of a hazing ritual, in the basement of a cabin in which the team was staying during a December 2015 road trip, was sodomized with a pool cue and sustained injuries so severe that he had to be rushed to a hospital for emergency surgery. Three other freshmen were also raped with the pool cue during the hazing.

The hazing led to the cancellation of the remainder of the team's 2015-16 basketball season. The three perpetrators of the attack were convicted in a juvenile court of aggravated rape

and aggravated assault and received sentences of varying lengths in juvenile detention. The school's athletic director pleaded guilty to failure to report child abuse and entered a diversion program which upon completion will permit his record to be expunged. The head basketball coach pleaded not guilty to similar charges, arguing that the Tennessee Child Abuse Reporting Law is too vague concerning who is required to report instances of sexual assault, to whom the reports should be made, and how timely such reports must be.

The pleadings in the civil suit alleged knowledge by school personnel of a long history of hazing incidents in Ooltewah's athletic program and a failure to develop and implement effective anti-hazing policies. Based on U.S. Supreme Court precedents, schools and personnel will be held strictly liable when someone in a position to take corrective action has knowledge that such harassment is occurring and exhibits deliberate indifference to remedying the situation, a two-prong analysis resulting in automatic liability if the criteria of *knowledge* and *deliberate indifference* are both established in a civil suit.

A 23-page report issued following an investigation by the Hamilton County District Attorney's Office and a 27-page report issued following an investigation by a law firm retained by the Hamilton County Board of Education set forth numerous recommendations regarding the strategies that schools should adopt when developing and implementing anti-hazing policies for athletic programs, including directives that schools should specifically define prohibited behaviors in the policy, that reporting and investigation protocols should be detailed in the policy, that all athletics personnel should be in-serviced regarding the policy, that all athletics personnel should receive education regarding the state's child abuse reporting law (because most high school sports hazing victims are minors), that all student-athletes and their parents should receive copies of and education regarding the policy, that anti-hazing educational efforts should be focused on student-athletes and changing any culture of hazing that might exist in a school sports program, that appropriate team-building activities should be substituted for now-prohibited hazing rituals, and that athletic personnel should focus on supervising environments where hazing tends to occur, including preseason training camps, hotels during away game overnight stays, aboard buses during road trip transportation, and in unsupervised locker rooms.

Sexual Harassment

In September, a class action lawsuit reminiscent of the Larry Nassar situation at Michigan State University was filed against the Custer County School District (MT) and numerous school and athletics officials alleging that James "Doc" Jensen, a man who claimed to be an athletic trainer although he was never certified and had no known medical training, sexually abused more than 100 males student-athletes at Custer County District High School during his 28-years of employment at the institution from the early 1970s to the late 1990s. The suit claims that school administrators and coaches were aware of the abuse and failed to take steps to prevent it from continuing. Based on U.S. Supreme Court precedents, the legal standard that will be applied to the case is whether someone in a position to take remedial action had knowledge the abuse was occurring and exhibited deliberate indifference to correcting the situation. *Knowledge plus deliberate indifference*. This rule of law illustrates the need for schools, both with regard to protecting the safety of students and with regard to limiting liability, to take immediate

corrective action whenever school personnel receive notification or through any means become aware that sexual harassment or violence is occurring on campus.

In June, based on the application of the "knowledge plus deliberate indifference" legal standard, a jury awarded $25.3 million to the victim in *Stephen W. v. Westerly School of Long Beach* (CA), a lawsuit involving a former school staffer, Scott Durzo, who began to abuse a teenage boy he met while running a sports camp and who he continued to abuse for years as part of a teacher-student relationship at Westerly before school officials – who allegedly had knowledge of the illicit relationship for years - reported it to law enforcement. Using California's comparative negligence system, the jury assigned 35 percent of the liability to the school and its personnel – $8, 855,000. Durzo is now awaiting trial on 20 felony counts of rape, statutory rape, and related sexual crimes.

A former soccer coach who fled halfway through his sexual assault trial involving a 14-year-old girl he coached on a non-school, youth soccer team became the subject of a nationwide manhunt. The criminal trial of Justin K. Smith of Germantown, Ohio began in a Dayton courthouse on Monday October 29 and the 41-year-old testified in his own defense on the morning of Wednesday October 31. After a recess for lunch, Smith failed to return to the courtroom and police later that day recovered his court-ordered ankle monitoring bracelet from the back of a pickup truck in Caesar Creek State Park, located 30 miles southeast of Dayton. Two days later, on Friday November 2, he was convicted *in absentia* of eight felony counts, including unlawful sexual contact with a minor, sexual battery, and sexual imposition. No evidence surfaced regarding his whereabouts until late November when Uber records indicated that he had been using the service in the Nashville, Tennessee area. On December 14, after using his real name on a dating website, he was taken into custody in Fort Walton Beach, Florida, when a woman with whom he had set up a rendezvous ran a background check on him, revealing his status as a wanted criminal, and reported him to authorities. Waiving an extradition hearing, he was returned to Dayton where on January 3, he was sentenced to 12 years in prison.

Title IX

In October, a settlement was agreed to in *Shields v. Lauderdale County School District* (MS), a Title IX lawsuit filed in April 2017 by the parents of two softball-playing daughters at West Lauderdale High School complaining of numerous inequities between the benefits flowing to the school's baseball team and those accruing to the softball team. As is typical of same-sport-inequities Title IX disputes across the country, the district attempted to defend itself by arguing that the financial resources responsible for the differences in facilities, equipment, access to quality coaching, travel opportunities, and marketing support were not funds from the athletic programs budget, but were provided by outside sources, in this case the baseball team's booster club. However, as has repeatedly been ruled by both the federal courts and the U.S. Department of Education's Office for Civil Rights (the federal agency charged with enforcing Title IX), schools are responsible for remedying inequities regardless of the source of the financial resources that created the differences, including outside funding from booster clubs, donors, fundraisers, and corporate sponsors. The 16-page consent decree finalizing the settlement includes a detailed listing of all the improvements that will be made by the district to the softball program and a timetable for the implementation of those changes.

In October, in an example of a school district not waiting for a dispute to arise, but instead exercising proactive leadership to ensure compliance with Title IX in its athletics programs, the Dexter Community School District (MI) released the results of a self-audit commissioned from its law firm to evaluate whether disparities existed between its boys' and girls' sports offerings. The review was conducted using the same analytical approach as that which would be used if the OCR was conducting an investigation pursuant to a formal Title IX complaint and the final report to the district set forth recommendations for improvements to its athletics programs to ensure equitable treatment of female and male student-athletes. Although the district incurred some level of expense in funding the review and implementing the necessary changes identified therein, the level of cost is certainly far less than would be incurred in responding to a formal Title IX complaint to the OCR or a federal Title IX lawsuit, along with the advantage of the district maintaining control over the process. It is highly likely that the administrators in any school system that has endured a multi-year Title IX investigation by the OCR and related federal litigation would endorse the approach employed by the Dexter Community Schools in attempting to do the right thing for its student-athletes.

Regulation of Athletic Trainers

On October 5, the *Sports Medicine Licensure Clarity Act* (*SMLCA*) was signed into law by President Trump. Under the new federal law, health care services provided by a covered sports medicine professional to an athlete, an athletic team, or a staff member of a team outside of the sports medicine professional's home state will be deemed to have occurred in the professional's primary state of licensure. Medical services provided in the secondary state will be treated as having occurred in the primary state, if the secondary state's licensure requirements are "substantially similar" to those in the primary state. The definition of "substantially similar" licensure requirements is set forth precisely in the language of the new statute. The purpose of the *SMLCA* is to empower sports medicine professionals to be able to engage in the treatment of injured athletes across state lines without fear of being prosecuted for practicing without a license or losing their licenses for practicing outside their licensure jurisdiction. They will also be protected from the threat of monetary loss possible from practicing outside the boundaries of their coverage by professional liability insurance. The new law will benefit high school athletics programs, especially those whose teams and athletes regularly compete in neighboring states and that have in the past struggled to hire athletic trainers because of jurisdictional barriers.

Constitutional Law: Freedom of Speech & National Anthem Protests

In January 2018, based on the ruling in *V.A. v. San Pasqual Valley USD* by a U.S. District Court in California in favor of a football player who knelt during the national anthem before a high school football game, the *SPVUSD* abandoned its plan to make permanent a policy banning political protests by all student-athletes at both home and away competitions. The temporary version of the policy was implemented following an October 2017 away-game played at Mayer High School (AZ) when V.A., a Native American player for San Pasqual Valley High School, took a knee during the anthem to protest racial and ethnic injustice, resulting in, after the game, several fans of the home team yelling racial and ethnic slurs at V.A.

Based on the U.S. Supreme Court's decision in *Tinker v. Des Moines Independent Community School District* (1969), a case in which students conducted an anti-Vietnam War protest that was just as controversial then as the national anthem protests are today, the U.S. District Court in the *SPVUSD* case concluded that schools do not have the authority to limit student speech unless it "materially and substantially" interferes with the educational process. Although V.A.'s protests at previous games were controversial and created a generalized buzz in the school and community, they had all been peaceful and, in the opinion of the federal court, the racial epithets hurled by a few of the fans at the Mayer High School game did not rise to the level of the "substantial disruption" required by *Tinker* to restrict student speech.

Constitutional Law: Freedom of Speech & Social Media

In February 2018, a Pennsylvania school district decided not to challenge in the U.S. Third Circuit Court of Appeals an October 2017 ruling by a U.S. District Court in *Levy v. Mahanoy Area School District* granting an injunction to a B.L., a cheerleader at Mahanoy Area High School, reinstating her to the cheer squad after she was dismissed for a profanity-laced posting on Snapchat. In May 2017, off-campus, B.L. took a photo of herself and a friend holding up their middle fingers and posted it on the social media platform with the caption "f*** school, f*** softball, f*** cheer, f*** everything." A few days thereafter, the cheer sponsor informed B.L. that she was being dismissed from the squad because the posting was "disrespectful to the coaches, the school, and the other cheerleaders." The U.S. District Court's decision that the cheerleader's free speech rights had been violated was based on the *Tinker* case – no substantial disruption had occurred as a result of the Snapchat posting – and another Supreme Court ruling, *Bethel School District v. Frasier,* through which the high court limited the control of schools over students for the use of profane language to that which occurs on campus.

Constitutional Law: Freedom of Religion

In January 2018, in *Kennedy v. Bremerton School District*, the U.S. Court of Appeals for the Ninth Circuit refused to grant a rehearing of its October 2017 ruling that a Washington school district was not required to allow a high school football coach to pray on the field at the end of each game, an activity that often involved players, coaches, and other students. The decision was based on the U.S. Supreme Court's ruling in *Santa Fe ISD v. Doe* (2000), in which the Court held that prayer at sports events sponsored by "state actors" violates the Establishment Clause. Although the ruling prohibited prayer sponsored by schools or school personnel, the Supreme Court made it clear in its written opinion that the Establishment Clause does not limit the ability of student-athletes or students to pray anytime they choose on school property, including before, during, or after school sports events. The First Amendment bars only government involvement in that prayer by state actors such as public school employees and athletic personnel. Therefore, spontaneous prayers initiated by players in a locker room or on a field are permissible as "private speech" – it is only the involvement, endorsement, and promotion of religion or a particular denomination by the government, including a public school, or a government employee, including a public high school coach, that is constitutionally impermissible.

In August, in *Matthews v. Kountze Independent School District,* the Texas Supreme Court upheld the September 2017 ruling by a Texas Court of Appeals that the display of Bible verses on run-through banners created and held aloft by cheerleaders at the beginning of Kountze High School football games was protected as "private speech." The decision by the Texas courts that the cheerleaders were engaged in private speech may not be representative of the analysis that would be used in federal courts or in most state courts towards such issues – the Texas courts sidestepped the fact that the cheer squad was a school-sponsored (government-sponsored) organization, that the cheer sponsor was a public employee (a government employee), and that the display of the Bible verses on the run-through banners carried the strong imprimatur of government-endorsed speech.

Constitutional Law: Due Process

In October, in another in a long line of precedents addressing with the issue whether students have a constitutional right to participate in school sports programs, a federal trial court judge ruled for the school in a case involving a high school soccer player cut from his team, *Doe v. Ladue Horton Watkins High School* (MO). The 16-year-old junior, identified in court documents as John Doe, didn't make the varsity squad at the school and was barred from returning to the JV team because younger players were given priority based on the coach's discretion. His family sued, claiming several constitutional and civil rights-related violations. However, in the court's written opinion in the case, U.S. District Judge John Ross stated, "[the school] argues that Doe will suffer no harm because he has no legal right to participate in high school sports … the Court agrees … Courts have long held that participation in interscholastic athletics is not a property right, but a privilege … accordingly, Doe suffers no legal harm by being excluded from the JV team."

Constitutional Law: Equal Protection & Transgender Students

In July, in *Doe v. Boyertown Area School District,* a three-judge panel of the U.S. Court of Appeals for the Third Circuit issued a written opinion, its second in the case, rejecting claims made by a conservative legal organization, the Independence Law Center, on behalf of six students at Boyertown Area Senior High School (PA), arguing that their rights were violated because of having to encounter transgender teens using the restrooms or locker rooms at the school consistent with their gender identity. The Appeals Court also denied the request of the appellants for an *en banc* rehearing of the case by all 12 judges who serve on the Third Circuit (*en banc* designates a hearing by all of the judges on an appellate court, rather than by a panel of three judges selected from among them).

In 2016, the Boyertown Area School District (BASD) implemented a new policy allowing students to use the restrooms or locker rooms consistent with their gender identity, including a procedure through which the transgender student applies and receives approval from a team of trained school counselors and administrators before receiving permission to use the gender-aligned facilities of their choice. The district also constructed numerous single-user bathrooms (eight at the high school), alternative dressing rooms attached to locker rooms, and private shower stalls, so that any student or student-athlete who felt uncomfortable in the presence of a transgender student could choose to use a private facility.

The decision joins a growing body of federal court case rulings nationwide affirming the rights of transgender students, a trend with clear implications for the development of policies by boards of education and school districts with regard to transgender students in the general school population and to student-athletes participating in school physical education and athletics programs.

Fair Labor Standards Act

In January 2018, the U.S. Department of Labor (DOL) issued an opinion letter addressing issues regarding the application of the Fair Labor Standards Act (FLSA) to compensating non-district employees who coach interscholastic sports teams, in particular questions related to how coaches should be classified for purposes of the FLSA's minimum wage and overtime requirements. The pronouncement focuses on the question whether coaches should be considered teachers. The FLSA specifically exempts teachers from its minimum wage and overtime requirements when they perform extra duties at their schools in support of activities such as sports, theatre, music, clubs, and other extracurricular pursuits designed to enrich the educational experience for students. In the opinion letter, the DOL analyzes FLSA regulations which exempt "any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed."

The DOL acknowledges in the opinion letter that coaches who are full-time teachers in a school satisfy the "primary duty" requirement and are exempt from the minimum wage and overtime requirements. The DOL also concludes in the letter that non-district employees who coach – community members who, for instance, work at another job and serve as a stipended coach simply because they desire to be involved in a school's athletic program – also qualify as teachers under the FLSA and are exempt from the minimum wage and overtime requirements because their "primary duty" while working with student-athletes is instructional in nature.

Regulation of Gambling on High School Sports

On May 14, 2018, the U.S. Supreme Court issued its decision in ***Murphy, Governor of New Jersey, v. National Collegiate Athletic Association***, a ruling which struck down as unconstitutional certain components of the *Professional and Amateur Sports Protection Act* (*PASPA*) – a 1992 federal law that barred most states (all but those grandfathered-in by *PASPA*) from allowing sports gambling – thereby opening the door to the enactment by states of legislation authorizing betting on sports events in a wide variety of forums and contexts. State laws authorizing sports gambling have been enacted or are pending in fifteen jurisdictions (NV, NJ, MS, DE, RI, WV, PA, NM, AR, NY, CT, KY, OH, TN, and VA), statutes that will lead to betting on professional sports contests and college sports events through the placement of bets at casino sportsbooks, race tracks, off-track betting (OTB) parlors, and – eventually – online methodologies such as websites, social media tools, and mobile apps.

Of concern as one possible outcome of the ***Murphy*** case is the possibility of legalized wagering on high school athletics and youth sports events such as interscholastic football and

basketball games, AAU basketball tournaments, 7-on-7 football competitions, Little League Baseball games, Pop Warner football contests, and other similar sports activities. However, to-date, all of the state laws enacted or proposed have barred betting on interscholastic sports and most have also banned gambling on youth sports. Going forward, the key to safeguarding high school and youth sports programs will be continued lobbying by state associations, school districts, and education organizations on state legislators to craft laws that will clearly and explicitly exclude interscholastic and youth athletics.

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